



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 08/25/2014
Jurisdiction: City of Rockaway Beach
Local file no.: 1-TA-14
DLCD file no.: 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 08/18/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE 2014
File No: LAND CONSERVATION AND DEVELOPMENT Received:

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Rockaway Beach

Local file no.: **1-TA-14**

Date of adoption: 8/13/2014

Date sent: 8/14/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 2/14

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No

Local contact (name and title): Jay Sennewald, City Planner

Phone: 541 355-2291

E-mail: jay@oliviabeach.com

Street address: 276 S. Hwy 101

City: Rockaway Beach

Zip: 97136-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

RBZO Sections 3.092 Flood Hazard Overlay Zone, 3.093 Definitions, 3.096, 3.095 Administration, 3.096 Provisions for Flood Hazard Reduction

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: FEMA Region X, DLCDC staff (Christine Shirley)

Identify supplemental information that is included because it may be useful to inform DLCDC or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

CITY OF ROCKAWAY BEACH, OREGON

ORDINANCE NO. 14-422.

AN ORDINANCE AMENDING THE ROCKAWAY BEACH ZONING ORDINANCE, SECTIONS 3.093, 3.094 AND 3.096 RELATING TO FLOOD HAZARD OVERLAY.

RECITALS / FINDINGS:

R/F 1. On May 14, 2014, the Rockaway Beach City Council held a duly-noticed, public hearing on the changes proposed to the RBZO sections 3.093, 3.094 and 3.096. One of the primary purposes of the proposed changes was to enact law necessary to allow Rockaway Beach citizens and businesses to qualify for the national flood insurance program offered by, or otherwise administered through, the Federal Emergency Management Administration (FEMA). On that date, City Planner Jay Sennewald presented to this Council the findings and recommendations of the Rockaway Beach City Planning Commission and city staff in City Planner=s report entitled ACity of Rockaway Beach City Council Post-Acknowledgement [sic] Plan Amendment for Rockaway Beach Zoning Ordinance Text@ [undated, but stating APublic Hearing Date: May 24, 2014@], which report is incorporated here by reference. These findings and recommendations were adopted by the Rockaway Beach City Planning Commission and referred by the Planning Commission to the Rockaway Beach City Council.

R/F 2. The Flood Hazard Overlay (FLO) Zone land use requirements and restrictions, RBZO sections 3.092 - 3.097, inclusive, are presented in **Exhibit A**. Sections 3.093 (Definitions), 3.094 (General Provisions) and 3.096 (Provisions for Flood Hazard Reduction) are presented in their final amended form as proposed. **Exhibit A** is attached and incorporated here by reference.

R/F 3. The Rockaway Beach City Council on the recommendations of the Rockaway Beach Planning Commission and city staff finds it is in the general health, safety and welfare interests of the citizens of Rockaway Beach, Oregon, to amend the Rockaway Beach Zoning Ordinance (RBZO), specifically Sections 3.093, 3.094 and 3.096 (relating to City=s Flood Hazard Overlay Zone).

NOW, THEREFORE, THE CITY OF ROCKAWAY BEACH, OREGON, ORDAINS AS FOLLOWS:

Section 1. RBZO sections 3.093, 3.094 and 3.096 relating to certain requirements and restrictions made necessary for the known flood hazard areas as presented in **Exhibit A**, attached and incorporated here by reference, are hereby adopted as amended and the prior text of those same sections is repealed.

Section 2. **Savings.** Should any clause or section of this ordinance and/or amendment be declared by a court to be void or voidable, the remainder of this ordinance and/or amendment shall remain in full force and effect.

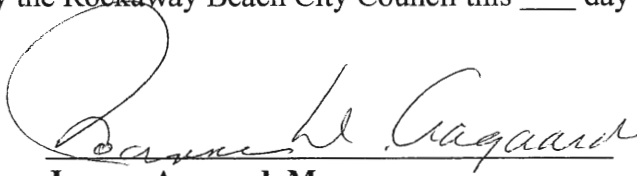
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Section 3. Effective Date. This ordinance and/or amendment shall take effect 30 days after the date of adoption and approval by the Rockaway Beach City Council.

PASSED 1st reading by the Rockaway Beach City Council this ____ day of July 2014.

PASSED 2nd reading by the Rockaway Beach City Council this ____ day of August 2014.

ADOPTED and APPROVED by the Rockaway Beach City Council this ____ day of August 2014.



Joanne Aagaard, Mayor

Adoption Roll Call Vote:

(Aye / Nay)

City Council:

Sue Wilson

X / .

Mardi Wing

X / .

Rich Riley

X / .

Terry Walhood

X / .

James Doyle

X / .

ATTEST:



Lars Gare, City Manager

STAFF REPORT

Case File: #TA-01-14

City of Rockaway Beach City Council Post-Acknowledgement Plan Amendment for Rockaway Beach Zoning Ordinance Text

Public Hearing Date: May 14,
2014

NATURE OF THE REQUEST: Last year the Federal Emergency Management Agency (FEMA) conducted a Community Assistance Visit (CAV) to the City of Rockaway Beach. The purpose of the CAV was to evaluate the City's floodplain management ordinances and procedures, to determine if the City's management of the regulatory floodplain is consistent with federal regulations under the National Flood Insurance Program (NFIP). The results of the CAV identified deficiencies in the City's floodplain-related ordinances and FEMA has notified the city of specific zoning ordinance amendments necessary to maintain good standing in the NFIP.

The proposed amendments are mandatory in nature, and the language proposed is unfiltered from the specific language that FEMA has provided to the city as necessary to update the Rockaway Beach Zoning Ordinance consistent with NFIP requirements.

PROCESS:

Notice of the proposed amendments process has been mailed to each potentially affected property owner within the Rockaway Beach City Limits and the Urban Growth Boundary. Notice of the City Council public hearing was published in the Headlight Herald. Notice of these proposed amendments has been mailed to the Department of Land Conservation and Development (DLCD) 35 days prior to the first public hearing.

On March 11, 2014 the Rockaway Beach Planning Commission held a public hearing to consider these amendments, and accepted written and oral testimony which is part of the record. On March 25, 2014 the Planning Commission voted to recommend to the City Council that the proposed amendments be approved. Attached to this report are the findings and recommendation of the Planning Commission.

The City Council will hold a separate public hearing and invite comments and testimony from interested parties. If the City Council is satisfied that findings of fact support an approval of the amendments, a motion should be made, followed by a second, then a vote on the matter will result in a decision. The decision will then need to be implemented by adoption of an ordinance, which will be prepared by staff if the amendments are approved.

There is no specific time limit within which the City Council is required to complete their review of the amendments; however, FEMA has informed staff that the amendments must

be adopted in order to be compliant in the NFIP, which affects local homeowner's and business flood insurance rates.

Because these amendments are mandatory in nature and necessary to bring Rockaway Beach ordinances into compliance with NFIP regulations, staff recommends that the City Council avoid efforts to modify the language contained in the draft.

A. EVALUATION OF THE REQUEST:

CRITERIA FOR APPROVAL:

Rockaway Beach Zoning Ordinance

Article 9. Amendments.

Section 9.010. Authorization to Initiate Amendments. An amendment to the text of this ordinance or to a zoning map may be initiated by the City Council, Planning Commission, or by application of the property owner(s), contract purchaser(s), or his/her/their authorized agent.

Section 9.015. Burden of Proof. The burden of proof is placed upon the initiator of the amendment. That burden shall be to prove:

- (1) The proposed amendment fully accords with applicable Comprehensive Plan goals and policies; and
- (2) The proposed amendment is required to meet a land use need.

Section 9.020. Amendment Procedures. The following procedures shall be observed in consideration of an amendment request:

- (1) A request shall be initiated by filing an application with the City pursuant to Section 11.030.
 - (2) Notice of a public hearing shall be given pursuant to Section 11.040.
 - (3) The Planning Commission shall hold a public hearing on the request pursuant to Section 11.060.
 - (4) The Planning Commission will forward its recommendation to the City Council and the City Council will hold a public hearing pursuant to Section 11.060.
 - (5) The City Council will make a decision on the request pursuant to Section 11.060(6).
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B. PROPOSED TEXT AMENDMENTS:

Proposed deletions are shown as ~~striketrough~~ text.
Proposed new language is shown in **bold** text.

Section 3.092. Flood Hazard Overlay Zone - FHO Zone Purpose and objectives: It is the purpose of this Flood Hazard Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the Rockaway Beach Comprehensive Plan and Zoning Ordinance, all new construction and substantial improvements in the Flood Hazard Overlay Zone shall ensure that the specific objectives of this zone are met.

- (1) To combine with the present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the City.
- (2) To prevent the establishment of certain structures and land uses in areas 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 ensure that potential home and business buyers are notified that property is in a flood area.
- (7) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 3.093. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

(1) 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. AO is characterized as sheet flow and AH indicates ponding.

(2) Area of Special Flood Hazard.

The land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always include the letter A or V.

(3) Base Flood.

A flood having a one percent chance of being equaled or exceeded in any given year.

(4) Breakaway Walls.

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.

(5) Coastal High Hazard Area.

~~The area subject to high velocity water, ocean undercutting, or wave overtopping including but not limited to, storm surge or tsunamis. The map is designated on a FIRM as Zone V1-30 or VE Zone.~~

Coastal High Hazard Area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

(6) CRITICAL FACILITY

Critical Facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

(6) 7 Development.

Any man-made 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, and the storage of equipment and material located within the area of special flood hazard.

(8) ELEVATED BUILDING

means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

(7) (9) Flood or Flooding.

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters, and/or
- (b) The unusual and rapid accumulation of runoff of surface waters from any source.

~~(8)~~ **(10)** Flood Insurance Rate Map (FIRM).

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

~~(9)~~ **(11)** Flood Insurance Study.

The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

~~(10)~~ **(12)** Lowest Floor.

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non elevation design requirements of this ordinance found in Section 3.096(6) (a).

~~(11)~~ **(13)** Manufactured Home.

A structure, transportable in one or more sections, which is built on permanent chasses and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term manufactured home does not include park trailers, travel trailers, and other similar vehicles.

~~(12)~~ **(14)** Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(a) Existing manufactured Home Park or Subdivision:

is 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 Rockaway Beach's floodplain management regulations. (July 25, 1978) The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

~~(13)~~ **(15)** Mean Sea Level (MSL).

The average height of the sea for all stages of the tide.

~~(14)~~ **(16)** New Construction.

Structures for which the start of construction commenced on or after the effective date of this amendment to the Zoning Ordinance.

~~(15)~~ **(17)** Recreational Vehicle.

A vehicle which is (1) built on a single chassis, (2) 400 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 camping, travel or seasonal use.

~~(16)~~ **(18)** Recreational Vehicle, Highway Ready.

A recreational vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

~~(17)~~ **(19)** Reinforced Pier.

At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

~~(18)~~ **(20)** Start of Construction.

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for 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.**

~~(19)~~ **(21)** Structure.

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

~~(20)~~ **(22)** Substantial Improvement.

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started, or

(b) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or

not that alteration affects the external dimensions of the structure. The terms do not, however, include either:

~~(i) any project for improvement of a structure to comply with existing state or local health sanitary or safety code specifications which are solely necessary to assure safe living conditions, or~~

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

(ii) any alteration of a structure, listed on the National Register of Historic Places or a State Inventory of Historic Places.

~~(21)~~ **(23)** Substantial Damage.

~~Pertains to flood related damage where the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred.~~

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

~~(22)~~ **(24)** Special Flood Hazard Area (SFHA).

Areas subject to having a one percent or greater chance of a flood exceeding the base flood in any given year.

Section 3.094. General Provisions.

(1) Lands To Which This Ordinance Applies. This ordinance shall apply to all areas of special flood hazards (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the City of Rockaway Beach.

[Amended by Ordinance #251, May 12, 1987]

(2) Basis For Establishing The Areas Of Special Flood Hazard. ~~The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled 'The Flood Insurance Study for the City of Rockaway Reach', dated January 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps and any revision thereto is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at Rockaway Beach City Hall.~~

(2) Duties and Responsibilities.

The duties of the City shall include, but not be limited to permit review:

- (a) Review of all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (b) Review all development permits to require that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (c) Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.

(3) Uses of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 3.094 (2), Basis for Establishing the Areas of Special Flood Hazard, the City shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 3.096(6) (a), Specific Standards, Residential Construction, and Section 3.096(6)(b), Specific Standards, Non-residential Construction.

(4) Information to be Obtained and Maintained. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 3.095(3) the city shall:

- (a) Verify and record actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.
- (b) For all new or substantially improved floodproofed structures:
 - (i) verify and record the actual elevation (in relation to Mean Sea Level), and
 - (ii) maintain the floodproofing certifications required in Section 3.096(i)(c).
- (c) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (d) 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.

(5) Alterations of Watercourses. The City shall:

- (a) Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate federal and state agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the city of Rockaway Beach, Oregon, dated March 1978, with accompanying Flood Insurance Rate Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Rockaway Beach City Hall 276 Highway 101 South, Rockaway Beach, Oregon. The best available information for flood hazard area identification as outlined in Section 3.095(3) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 3.095(3).

(3) Compliance. No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

(4) Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. The ordinance shall not create liability on the part of the City of Rockaway Beach, or any officer or employee thereof, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 3.095. Administration.

(1) Establishment of Building/Development Permit.

A Building/Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.094(2). The permit shall be for all structures including manufactured homes, as set forth in the "definitions" and for all developments including fill and other activities, also as set forth in the "definitions". Application for a Building/Development Permit shall be made to the City and shall specifically include the following information:

- (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- (b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- (c) Certification by an appropriately qualified registered professional engineer or architect that the floodproofing method for any non-residential structure meets the floodproofing criteria in Section 3.096(6) (b).
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (e) An engineered or City approved stormwater drainage site plan designed to prevent the increase of adverse impacts caused by development in the flood zone.

(b) Require that an engineered stormwater drainage plan and maintenance plan is provided within the altered or relocated portion of said watercourse, so that the flood carrying capacity is not diminished.

(6) Interpretation of FIRM Boundaries.

The City shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in Section 3.095(7).

(7) Appeals and Variance Procedures.

(a) An appeal of a ruling or interpretation regarding a requirement of this ordinance shall be as established in Section 11.030(1).

(b) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision, or determination in the enforcement or administration of this ordinance.

(c) An action or ruling of the Planning Commission may be appealed pursuant to Section 11.030(2).

(d) Variances shall be issued or denied in accordance with Article 8 and any amendment thereto.

(e) The administrative procedure for hearing a variance shall be as established in Section 8.120.

(f) When a variance is granted, the City shall give written notice that 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 that:

(i) 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 \$25 for every \$100 of insurance coverage; and

(ii) Such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions.

Section 3.096. Provisions for Flood Hazard Reduction.

A. General Standards:

In the Flood Hazard Overlay Zone (FHO Zone) the following provisions are required:

(1) Anchoring.

(a) All new construction and substantial improvement shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.

(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 a minimum of one (1) foot above base flood elevation 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; and

(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 provide engineered plans 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) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

(5) Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Study or from another administrative source (Section 3.095(3)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(6) Specific Standards.

In all areas of special flood hazards (FHO Zone) where base flood elevation data has been provided as set forth in Section 3.094(2), Basis For Establishing The Areas of Special Flood Hazard, or Section 3.095(3), Use of Other Base Flood Data, the following provisions are required:

(a) Residential Construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect and must meet or exceed the following minimum criteria:

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

(ii) The bottom of all openings shall be no higher than one foot above grade.

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

(b) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(i) Be floodproofed so that the portion of the structure that lies below the base flood level is watertight with walls substantially impermeable to the passage of water.

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the City as set forth in Section 3.095 (4)(b)(ii).

(iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 3.096(6)(a).

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

(c) Manufactured Homes.

~~(i) All manufactured homes to be placed or substantially improved within areas of special flood hazard Zones A1-30, AH and AE shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to a minimum of one (1) foot above the base flood elevation and securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 3.096(1)(b).~~

~~(ii) All manufactured homes placed or substantially improved in existing manufactured home parks or subdivisions shall be elevated on reinforced piers or other foundation elements that are no less than 36 inches in height above grade or have their lowest floor elevated to a minimum of one (1) foot above the base flood elevation, if this allows for the use of a lower foundation.~~

~~—A manufactured home which incurs substantial damage as the result of a flood must be elevated to or above the base flood elevation.~~

All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam shall be at or above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement. Electrical crossover connections shall be a minimum of 12 inches above the Base Flood Elevation. Crossover ducts are allows below BFE, but shall be constructed to prevent floodwaters from entering or accumulating within system components. This may require and engineers certification.

(d) Recreational Vehicles.

~~Recreational vehicles may occupy a site in a Special Flood Hazard Area for periods of 180 consecutive days or greater providing they are fully licensed and highway ready. Recreational vehicles that do not meet these criteria become manufactured homes and must be anchored and elevated pursuant to Section 3.096(b)(c) of this ordinance.~~

Recreational vehicles placed on sites are required to either:

- (i) Be on the site for fewer than 180 consecutive days,**
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or**
- (iii) Meet the requirements of 3.096(A)(1)(b) above and the elevation and anchoring requirements for manufactured homes.**

(e) Equipment and Materials Storage.

Notwithstanding the provisions of this section, the nonpermanent storage of materials and equipment shall be permitted between April 15 and October 15 in Special Flood Hazard Areas, when such storage is for construction of a building for which permit has been issued.

(7) Coastal High Hazard Area.

Coastal high hazard areas (V Zones) are located within the areas of special flood hazard established in Section 3.094. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

- (a) All new construction and substantial improvements in Zones V-1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
 - (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least one foot above the base flood elevation; and
 - (ii) 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 (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect licensed in the State of Oregon shall certify 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 (i) and (ii) of Section 3.096(7)(a).

(b) 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 in zones V1-V30 and VE, and whether or not such structures contain a basement. The City shall maintain a record of all such information.

(c) All new construction shall be located landward of the reach of mean high tide.

(d) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or screened with nonsupporting open wood lattice-work 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.

(i) 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 non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(e) Space below the lowest horizontal structural member of the elevated structure shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

(f) Prohibit the use of fill for structural support of buildings.

(g) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

(h) All manufactured homes to be placed or substantially improved within Zones V1-V30, V and VE on the community's FIRM on sites shall meet the standards of paragraphs 3.096(A)(7)(a) through (g) of this section. Also the electrical connection shall be a minimum of 12 inches above the Base Flood Elevation.

(I) Recreational vehicles placed on sites within Zones V1-30, V and VE on the community's FIRM either:

i) Be on the site for fewer than 180 consecutive days,

ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

iii) Meet the requirements of 3.096(A)(8)(b) above and the elevation and anchoring requirements for manufactured homes (Section 3.096(A)(1)(b).

(8) Areas of Shallow Flooding (AO Zone).

Areas of shallow flooding appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable usually characterized as sheet flow. In these areas, the following provisions apply:

(a) New construction and substantial improvements of residential structures within AO Zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the

building site, a minimum of one (1) foot above the depth number specified on the FIRM (at least two (2) feet if no depth number is specified).

(b) New construction and substantial improvement of nonresidential structures shall, either:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, a minimum of one (1) foot above the depth number specified on the FIRM (at least two (2) feet if no depth number is specified) or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

(c) Require the installation of an engineered or City approved stormwater drainage plan to ensure adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures to prevent adverse impacts to surrounding properties.

(d) **Recreational vehicles placed on sites within AO Zones on the community's FIRM either:**

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(iii) Meet the requirements of 3.096(A)(8)(b) above and the elevation and anchoring requirements for manufactured homes (Section 3.096(A)(1)(b)).

9) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1 – A30 and AE on the community's FIRM, 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 within the community.

10) CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available.

Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or

released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 3.097. Restrictions and Prohibited Uses.

(1) Restrictions. Restrictions regarding height, rear yards, side yards, front yard setbacks, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the Flood Hazard Overlay Zone area.

(2) Prohibited Uses. It shall be unlawful to erect, alter, maintain or establish in a flood hazard overlay zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Article 7.

C. STAFF SUMMARY AND ANALYSIS: The City has initiated the proposed zoning ordinance amendment process, as necessary to bring the Rockaway Beach Zoning Ordinance into compliance with the requirements of the National Flood Insurance Program. The Planning Commission has already considered the amendments at a public hearing in March, and has recommended to the City Council that the amendments be adopted. At the public hearing of May 14th, the City Council should take testimony from the public as it relates to the criteria identified in this report, as well as other criteria the party providing testimony believes is applicable to the request.

Findings will be a necessary component of a decision to amend the text of the Rockaway Beach Zoning Ordinance. To assist in arriving at a decision, staff suggests that the City Council consider the following proposed findings to support approval of the amendments. These findings can be replaced or modified at the discretion of the City Council if deemed necessary.

Criterion 1) The proposed amendment fully accords with applicable Comprehensive Plan goals and policies

Coastal Shorelands Policy #7 of the Rockaway Beach Comprehensive Plan states: “The City will rely on the requirements of its flood hazard overlay zone to regulate development in flood hazard areas to ensure that provisions of the National Flood Insurance Program are met.”

Hazards Policy #3 of the Rockaway Beach Comprehensive Plan states: “The City will rely on the requirements of its flood hazard overlay zone to regulate development in flood hazard areas”.

Proposed Finding: *FEMA has notified the City of Rockaway Beach that its flood hazard overlay requirements are inconsistent with new requirements of the National Flood Insurance Program. The proposed amendments are necessary to bring the Rockaway Beach*

Zoning Ordinance standards into compliance with the requirements of the National Flood Insurance Program, consistent with the Rockaway Beach Comprehensive Plan Coastal Shorelands Policy #7 and Hazards Policy #3.

Criterion 2) *The proposed amendment is required to meet a land use need.*

Proposed Finding: *The City of Rockaway Beach is a participating community in the National Flood Insurance Program. The Federal Emergency Management Agency has informed The City of Rockaway Beach that its ordinances pertaining to floodplain development are out of date and need to be updated in order to remain consistent with NFIP requirements.*

In order to protect life and property, to minimize losses from flood hazards, and in order to maintain its good standing in the National Flood Insurance Program, there is a public need to amend its flood hazard ordinance requirements to be consistent with the provisions of the National Flood Insurance Program.

D. CONCLUSION: If the City Council determines that the proposal meets the standards of the Rockaway Beach Comprehensive Plan and Zoning Ordinance pertaining to amendments, it can move to approve the proposed amendments with reliance on the above proposed findings and/or the findings of the Planning Commission to support the decision.

If the City Council moves to approve the amendments, it should direct staff to prepare an implementing ordinance for subsequent adoption.

Submitted by:

Jay C. Sennewald
City Planner

City of Rockaway Beach
P.O. Box 5
Rockaway Beach, OR 97136



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

DEPT OF

AUG 18 2014

LAND CONSERVATION
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