



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

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Salem, Oregon 97301-2540

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: June 15, 2015

Jurisdiction: City of Burns

Local file no.: 15-1

DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/08/2015. 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 less than 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.

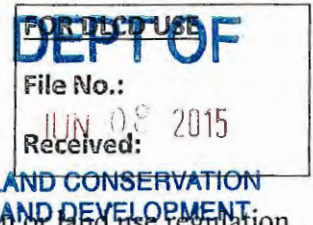
### DLCD Contact

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

DLCD FORM 2



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



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 1 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: City of Burns

Local file no.: #15-1

Date of adoption: 5-27-2015      Date sent: 6-5-2015

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

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

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:

Local contact (name and title): Irene Madarieta-Planning Commission Secretary

Phone: 541-573-5255

E-mail: imadarieta@ci.burns.or.us

Street address: 242 S. Broadway

City: Burns

Zip: 97720

### 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 Sec. 1 (1.03, 1.04, 1.05, 1.06). Sec. 2 fence interpretation & add Medical Marijuana Dispensary. Sec. 3 (3.08). Sec. 4 (4.1, 4.4). Delete pg. 69c

#### For a change to a comprehensive plan map:

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

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
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: Sec.1 (1.03,1.04, 1.05,1.06). Sec.2 interpretation (fence), add (medical marijuana dispensary). Add text to sec. 3, (3.08). Change text to sec4, (4.1,4.4). Delete pg. 69C (Motor Vehicle Parts Manufacturing).

**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:

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

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List affected state or federal agencies, local governments and special districts: City of Burns

Identify supplemental information that is included because it may be useful to inform DLCD 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.

**ORDINANCE NO. 15-834**

**AN ORDINANCE AMENDING CITY OF BURNS MUNICIPAL CODE CHAPTER 17.10 AND THE CITY OF BURNS ZONING ORDINANCE RELATED TO LAND USE REGULATIONS.**

WHEREAS, the City of Burns ("City") adopted the Zoning Ordinance in April of 1997, which has been amended several times since its adoption ("Zoning Ordinance");

WHEREAS, pursuant to Section 5.4 of the Zoning Ordinance, the Burns City Council ("City Council") or the City of Burns Planning Commission ("Planning Commission") may initiate a legislative change to the Zoning Ordinance;

WHEREAS, the Planning Commission found that the Zoning Ordinance is in need of revision and initiated a legislative change by proposing several amendments to the City Council;

WHEREAS, City provided the Department of Land Conservation and Development appropriate notice of the proposed amendments;

WHEREAS, the Planning Commission published notice of a public hearing on the proposed amendments in the Burns Times-Herald on April 22, 2015 and held a public hearing on the proposed amendments on April 28, 2015;

WHEREAS, the Planning Commission recommended adoption of the proposed amendments;

WHEREAS, the City Council published notice of a public hearing on the proposed amendments in the Burns Times-Herald on April 29, 2015 and held a public hearing on the proposed amendments on May 13, 2015; and

WHEREAS, the City Council finds that the proposed amendments are consistent with applicable land use goals, statutes, regulations, comprehensive plans, and ordinances.

NOW, THEREFORE, the City of Burns ordains as follows:

1. Findings. The above-stated findings are hereby adopted.

2. Amendment No. 1. The amendments to the Zoning Ordinance depicted on the attached Exhibit A, incorporated herein by reference, are hereby adopted. Those provisions of the Zoning Ordinance unaffected by the amendments shall remain the same.

3. Amendment No. 2. Section 17.10.010 of the Burns Municipal Code reads as follows:

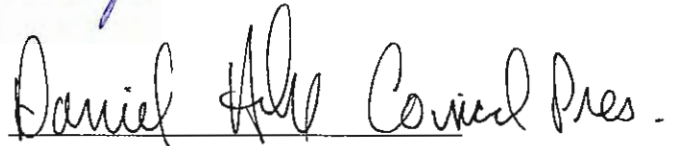
"The provisions of the document marked and designated as "The City of Burns Comprehensive Plan and Development Regulations," attached hereto, are hereby enacted as the law of the City of Burns, Oregon."

Section 17.10.010 of the Burns Municipal Code is hereby restated in its entirety as follows:

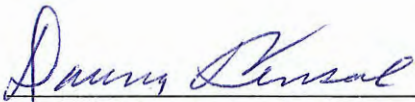
“The City of Burns Zoning Ordinance adopted April, 1997, as amended, governs land use and development within the City of Burns. The Zoning Ordinance shall be maintained as a separate document, with its own organization and numbering system. The Zoning Ordinance may be amended from time to time through the procedures set out in the Zoning Ordinance.”

4. Severability; Corrections. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law; and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors. Nothing in this Ordinance affects the validity of any criminal or civil enforcement actions commenced prior to the adoption of this Ordinance; all City ordinances existing at the time that such actions were filed will remain valid and in full force and effect for purposes of those actions.

This Ordinance was PASSED and ADOPTED by the Burns City Council by a vote of 5 for and 0 against and APPROVED by the mayor on this 27<sup>th</sup> day of May, 2015.

  
Craig J. LaFollette, Mayor

ATTEST:

  
Dauna Wensenk, City Manager

## EXHIBIT A

(Note: underlined/double underlined is new text, ~~strikethrough~~ text are deletions)

### Amendment #1

#### 1.03 COMPLIANCE AND ENFORCEMENT

Land may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this ordinance permits. Failure to comply with all of the terms and conditions attached to any land development, zone change, conditional use, variance, site plan, or similar approval, shall constitute a violation of this ordinance and is hereby deemed a nuisance. The Manager shall have the power and duty to enforce the provisions of this ordinance. An appeal from a filing of the Manager shall be made to the Commission, and thereafter to the Council.

It shall be unlawful for any person to violate any provision of this ordinance, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision, except as variation may be allowed under this ordinance. Such violations are hereby deemed a nuisance. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof either of the owner or of the occupant shall not be deemed to relieve the other. A person violating ~~any~~ provision of this ordinance shall, upon conviction, be punished by a fine of not more than one thousand ~~(\$1,000~~1,000.00) dollars. ~~A Each violation of this ordinance shall be considered a separate offense for and each day that a violation continues-~~ shall constitute a separate offense.

Where a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered, or used, or land is, or is proposed to be, used in violation of this ordinance, the City may, as an alternative to any other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use. In addition, the City may seek abatement of the violation through ~~Ordinance #637.~~Burns Municipal Code Chapter 8.10. Further, the City may seek reimbursement for all costs, including staff time, legal fees, and public notice costs associated with the enforcement action from the property owner(s) through ~~Ordinance #637.~~Burns Municipal Code Chapter 8.10.

### Amendment #2

#### 1.04 BUILDING PERMIT REQUIRED

Except as provided in Section ~~1.6,~~1.05, no person, firm, or corporation shall erect, construct, alter, repair, move, improve, remove, convert, or demolish any building or structure in the City, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the City Building Official.

Amendment #3

1.05 EXEMPTION FOR MINOR BUILDING ACTIVITIES

It is not the purpose of this ordinance to require that building permits be obtained or fees be paid for repairs or maintenance which do not violate the intent of this ordinance, when such repair maintenance is done on a single-family residence, or a private garage, carport or storage shed that is accessory to a single-family residence. The following items in or appurtenant to single-family residences, which do not encroach over subsurface sewer disposal systems or into required yards, are exempt from permits and fees required by this ordinance: concrete slabs, driveways, sidewalks, masonry repair; porches, patio covers; painting; interior wall, floor or ceiling covering; non-bearing partitions; shelving, cabinet work; gutters, downspouts; small accessory building not over ~~120~~200 square feet

Amendment #4

1.06 SURVEY REQUIRED FOR EXTERIOR ENLARGEMENT

Prior to obtaining a building permit for construction of ~~an~~any improvement ~~requiring a permit, and which that~~ would ~~result in a change in the portion of the property covered by improvements~~expand the footprint of an existing structure or otherwise increase lot coverage, the estimated cost of which, including labor, materials, incidentals, is expected to exceed ~~\$1,000,3,000.00~~, the applicant for such ~~a~~ permit shall have the real property surveyed by a registered professional surveyor, locating by appropriate monuments all corners, and submit a diagrammatic plan with the building permit application describing and showing the location of the present and proposed improvements on said property.

Amendment #5

2.0 INTERPRETATION

Words used in a singular include the plural, and words used in the plural include the singular. The word "shall" is mandatory and the word "may" is permissive. The masculine includes the feminine and the neuter. Words used in the present tense include the future, and the future tense includes the present.

For the purposes of this Ordinance, the following words and phrases shall mean:

...

FENCE

An unroofed barrier such as masonry, ornamental iron, woven wire (chain link), wood pickets, solid wood, or any other material used as an unroofed barrier to light, sight, air or passage. Fences of barbed wire are prohibited in the City. The maximum height of fences in any required front yard

shall be ~~48~~72 inches for wire fences, and 36 inches for solid fences (wood, masonry). The maximum height for any fence located other than in a required front yard shall be 6 feet. Notwithstanding these maximum heights, all fences are subject to the height limitations of vision clearance areas. All fences must be placed on or inside the property line. Fences built in the City right of way are prohibited.

### MEDICAL MARIJUANA DISPENSARY

Any structure or use of property subject to registration through the Oregon Health Authority under ORS 475.300 to 475.346, as may be amended from time to time, involving the sale, distribution, transmittal, gift, dispensing, and/or otherwise provides medical marijuana or medical marijuana products to medical marijuana qualifying patients excluding the wholesaling or production of medical marijuana or medical marijuana products.

#### Amendment #6

### 3.08 GENERAL COMMERCIAL (CG) ZONE

...

#### 3. Use Permitted Conditionally

- A. Auction house.
- B. Vehicle and machinery repair establishment.
- C. Monument sales.
- D. Trailer or truck rental and sales;
- E. Farming or logging materials, Implements or machinery sales and service;
- F. Outdoor storage of merchandise;
- G. Mobile home sales;
- H. Drive-in theater;
- I. Drive-in restaurant; and
- J. Residential uses on second floor above an existing commercial use.
- K. Dwelling units, including mobile homes, and associated improvements, provided that a dwelling unit was an existing use at the time of the adoption of the Reformatted and Revised Zoning Ordinance for the City of Burns, Oregon, on August 27, 1997.
- L. Schools, including private schools, youth clubs, and associated improvements.



M. Owner operated cabinet, carpenter, or wood working shop including furniture and similar products with the manufacture and assembly done within an enclosed building, upon the condition that such use shall not create, permit, or continue any loud, disturbing or unreasonable noise.

N. Recreational vehicle or trailer park, excluding mobile home parks.

O. Animal Kennels

P. Medical Marijuana Dispensary

Amendment #7

4.1 MOBILE HOME SITING STANDARDS

1. The mobile home unit shall be manufactured after June 15, ~~1976~~, 1996, and bear the Oregon Department of Commerce "Insignia of Compliance." All preowned and pre-occupied units (i.e. used) shall be inspected by a certified Building Official prior to installation and occupancy to insure compliance with applicable standards required for the "Insignia of Compliance" and to insure that such units are in such a condition as to not be detrimental to the public health, safety and general welfare or to adjoining properties. The applicant shall provide such certification, at the applicant's expense, to the City prior to receiving the City's approval of a Mobile Home Movement Permit or a Mobile Home Placement Permit.

Amendment #8

4.4 OFF-STREET PARKING

1. Parking

At the time of erection of a structure, or at the time of enlargement, increase in capacity, or change from one of the following classifications to another of the following classifications, off-street parking spaces shall be provided as follows:

...

- I. ~~Handicap Spaces~~ Accessible Parking. Parking lots, ~~which that~~ contain less than ten or more parking spaces ~~but less than twenty~~ shall provide ~~one space for restricted use by the handicapped in addition to the standard requirements~~ at least one American with Disability Act ("ADA") compliant accessible space. Parking lots, ~~which that~~ contain ~~twenty~~ ten or more spaces shall designate ~~spaces for restricted use by the handicapped in an amount equal to not~~ no less than ten percent of the total number of spaces required under this Ordinance as ADA compliant accessible parking spaces.

...

( 13) Design requirements for parking and load facilities should be:

- (a) All areas used for off-street parking and maneuvering of vehicles, including driveways and truck loading areas, shall have either concrete or asphalt surfaces, and be drained so as to avoid flow of water across sidewalks.
- (b) Parking and loading facilities adjacent to residential zones or uses shall be designed to minimize disturbance of residents.
- (c) Parking spaces along the outer boundaries of a parking area shall be contained by a bumper rail or curb at least four inches high and set back a minimum of four feet from the property line.
- (d) Access aisles, which provide for two-way traffic shall be a minimum of 25 feet in width, and those which provide one-way traffic shall be a minimum of 15 feet in width.
- (e) Directional signs and pavement markings shall be used to control vehicle movement within parking and loading facilities.
- (f) ~~Parking~~Accessible parking spaces ~~assigned for restricted use by the handicapped~~ shall be a minimum of nine feet wide by twelve feet in width~~length~~ with an 8 foot wide travel lane per direction of travel. Each space shall be marked by ~~a handicapped~~an ADA compliant sign placed at the front of the space.

Amendment #9

City of Burns Comprehensive Plan, p.69

~~e. Motor Vehicle Parts Manufacturing~~

~~A major employer for Harney County is Monaco Coach, which manufactures fiberglass at a plant in Hines, Oregon. Monaco Coach has operated the plant since its acquisition of SMC Corp. in 2001. Monaco Coach cites a "strong work ethic" among the over one hundred employees as the plant's primary asset, indicating a highly marketable local labor force. Oregon's sales tax free environment has also contributed to the high-end motor home industry in the state.~~

Table 9.14

~~[image]~~

**ORDINANCE NO. 15-833**

**AN ORDINANCE AMENDING CHAPTER 15.30 OF THE CITY OF BURNS MUNICIPAL CODE AND THE CITY OF BURNS ZONING ORDINANCE RELATED TO FLOOD PLAIN DEVELOPMENT REGULATIONS.**

WHEREAS, the City of Burns ("City") adopted the City of Burns Zoning Ordinance in April of 1997, as amended ("Zoning Ordinance"), which contains regulations governing development within the flood plain;

WHEREAS, City also adopted Ordinance No. 45 to regulate development within the flood plain, numbered as Chapter 15.30 of the City of Burns Municipal Code ("BMC");

WHEREAS, the Department of Land Conservation and Development ("DLCD") identified needed updates to City's flood plain development regulations;

WHEREAS, pursuant to Section 5.4 of the Zoning Ordinance, the Burns City Council ("City Council") or the City of Burns Planning Commission ("Planning Commission") may initiate a legislative change to the Zoning Ordinance;

WHEREAS, the City Council desires to initiate a legislative amendment to the Zoning Ordinance to update City's flood plain development regulations and consolidate all such regulations in the Zoning Ordinance;

WHEREAS, City provided DLCD appropriate notice of the proposed amendments to the Zoning Ordinance and BMC Chapter 15.30;

WHEREAS, the Planning Commission published notice of a public hearing on the proposed amendments in the Burns Times-Herald on April 22, 2015 and held a public hearing on the proposed amendments on April 28, 2015;

WHEREAS, the Planning Commission recommended adoption of the proposed amendments;

WHEREAS, the City Council published notice of a public hearing on the proposed amendments in the Burns Times-Herald on April 29, 2015 and held a public hearing on the proposed amendments on May 13, 2015; and

WHEREAS, the City Council finds the proposed amendments consistent with applicable land use goals, statutes, regulations, comprehensive plans, and ordinances.

NOW, THEREFORE, the City of Burns ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Amendment No. 1. The amendments to the Zoning Ordinance and BMC Chapter 15.30 depicted on the attached Exhibit A, incorporated herein by reference, are hereby adopted. Those provisions of the Zoning Ordinance and the BMC unaffected by the amendments shall remain the same.

3. Severability; Corrections. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law; and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors. Nothing in this Ordinance affects the validity of any criminal or civil enforcement actions commenced prior to the adoption of this Ordinance; all City ordinances existing at the time that such actions were filed will remain valid and in full force and effect for purposes of those actions.

This Ordinance was PASSED and ADOPTED by the Burns City Council by a vote of 5 for and 0 against and APPROVED by the mayor on this 27<sup>th</sup> day of May, 2015.

Daniel Hoke Council Pres.  
Craig J. LaFollette, Mayor

ATTEST:

Dauna Wensenk  
Dauna Wensenk, City Manager

EXHIBIT A

(Note: double underlined is new text, ~~strikethrough~~ text are deletions)

AMENDMENT #1: ZONING ORDINANCE SECTION 3.13

3.13 FLOOD HAZARD REGULATIONS

~~1.0 Statutory Authorization. Findings of Fact, Purpose and Objectives~~

~~1.1. Statutory Authorization~~

~~The Legislature of the State of Oregon has in the Oregon Revised Statutes (ORS) delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Burns does ordain as follows:~~

~~1.2 Findings of Fact~~

~~(1) The flood hazard areas of Burns are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.~~

~~(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.~~

~~1.3~~ 1. Statement of Purpose

It is the purpose of this ~~ordinance~~ Section 3.13 to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- ~~(1)~~ A. To protect human life and health;
- ~~(2)~~ B. To minimize expenditure of public money and costly flood control projects;
- ~~(3)~~ C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- ~~(4)~~ D. To minimize prolonged business interruptions;
- ~~(5)~~ E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- ~~(6)~~ F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

~~(7)G.~~ To ensure that potential buyers are notified that property is in an area of special flood hazard; and,

~~(8)H.~~ To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### 1.42. Methods of Reducing Flood Losses

~~In order to accomplish its purposes, this ordinance includes methods and provisions for:~~

~~(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~

~~(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~

~~(3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;~~

~~(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and~~

~~(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.~~

The City of Burns has over the years recognized the need for improvement and protection for the community from the high water from snow melt occasionally occurs. Here are some of the preventive measures that have been taken:

- (1) Dike construction along west of Silvies River, April 1938, (W. P. A.) Work Projects Administrator Project
- (2) Maintenance to raise the dike Silvies River, June 1942, United States Dept. of the Interior, Grazing Service.
- (3) Preliminary examination of Silvies River and tributaries by War Department, Office of the Chief of Engineers, December 1945.
- (4) Silvies River Flood Control Project, 1952, by Lankford Brothers, Nyssa, Oregon. Engineered dike improvements/ levee along west side of Silvies River.
- (5) Drainage Study for City of Burns, December 1957 by Clark & Groff Engineers, Salem, Oregon
- (6) Burns-Hines Flood Plain Study, Harney County, Oregon, December 1968, State Water Resources Board, Salem, OR
- (7) Operation and Maintenance Plan for slide gates, north Burns drainage, Burns, by Tourangeau NorWes, Inc. Beaverton, Oregon and Waterman industries, Inc. Exeter, CA
- (8) North Burns Drainage Ditch Project, Foley Drive to Silvies River, City of Burns, August 1986. Prepared by: M. A. Palmer & Sons, Engineering and Surveying, Burns, OR
- (9) City of Burns, Emergency Operations Plan, September 2014, especially section "1A 4 Flood: which mentions: storm drains, bridge viaducts, main arterial routes, public rights-of-way, and dams. These involve existing infrastructure.
- (10) Levee System and Storm Water Structures Operations and Maintenance Manual, 2015

(11)ODOT installed 4 36" culverts in April 2011 under highway 20/395 to help divert water away from town

### 2.03. Definitions

Unless specifically defined below, words or phrases used in ~~this ordinance~~Section 3.13 shall be interpreted so as to give them the meaning they have in common usage and to give this ~~ordinance~~Section 3.13 its most reasonable application.

"APPEAL" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

"AREA OF SHALLOW FLOODING" means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range 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.

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

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

"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 part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"CRITICAL FACILITY" 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.

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

"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.

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

~~"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR~~

~~SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

"FLOOD" OR "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this [ordinance Section 3.13](#) found at Section ~~5.2-1~~ [\(213.3\(7\)\(B\)\(1\)\(ii\)\)](#).

"MANUFACTURED [HOMEDWELLING](#)" 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 attached to the required utilities. The term "manufactured [homedwelling](#)" does not include a "recreational vehicle.

"MANUFACTURED [HOMEDWELLING](#) PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured [homedwelling](#) lots for rent or sale.



"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of ~~this Ordinance No. \_\_\_\_\_ (the adopting ordinance.~~ **"NEW MANUFACTURED HOME PARK OR SUBDIVISION"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.)

"RECREATIONAL VEHICLE" means a vehicle which is:

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

"START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

"SUBSTANTIAL 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.

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

- (~~1~~a) Before the improvement or repair is started; or

(2b) 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:

(1a) Any project for improvement of a structure to ~~comply with~~ correct existing violations of state or local health, sanitary, or safety code specifications which ~~are solely~~ have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(2b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"VARIANCE" means a grant of relief from the requirements of this ~~ordinance~~ Section 3.13 which permits construction in a manner that would otherwise be prohibited by this ~~ordinance~~ Section 3.13.

"WATER DEPENDENT" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

### 3.04. General Provisions

#### 3.1A. Lands to which this ~~Ordinance~~ Section 3.13 applies

This ~~ordinance~~ Section 3.13 shall apply to all areas of special flood hazards within the jurisdiction of the City of Burns.

#### 3.2B. Basis for Establishing the Areas of Special Flood Hazard

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 Burns," dated November 3, 1989, and as amended, with accompanying Flood Insurance Maps, as amended, are hereby adopted by reference and declared to be a part of this ~~ordinance~~ Section 3.13. The Flood Insurance Study is on file at Burns City Hall. The best available information for flood hazard area identification as outlined in Section 3.13(6)(C)(2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 3.13(6)(C)(2).

### 3.3 Penalties for Noncompliance

~~No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon~~

~~conviction thereof be fined not more than or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.~~

#### 3.4C. Abrogation and ~~Greater Restrictions~~ Severability

This ~~ordinance~~Section 3.13 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ~~ordinance~~Section 3.13 and another ordinance, code section, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### 3.5D. Interpretation

In the interpretation and application of this ~~ordinance~~Section 3.13, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes.

#### 3.65. Warning and Disclaimer of Liability

The degree of flood protection required by this ~~ordinance~~Section 3.13 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations not historic local data. Larger ~~floods~~floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ~~ordinance~~Section 3.13 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~~Section 3.13 shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ~~ordinance~~Section 3.13 or any administrative decision lawfully made hereunder.

#### 4.06. Administration

##### 4.1A. Establishment of Development Permit

###### 4.1(1) Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section ~~3.2, 13.3(4)~~. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

###### 4.1(2) Application for Development Permit

Application for a development permit shall be made on forms furnished by the City and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

Specifically, the following information is required:

- (1*i*) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2*ii*) Elevation in relation to mean sea level ~~to which~~ of floodproofing in any structure ~~has been floodproofed~~;
- (3*iii*) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section ~~5-2-2~~ 13.3(7)(B)(2); and
- (4*iv*) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

#### 4.2B. Designation of the ~~City Manager~~ Local Administrator

The local administrator (as used herein the local administrator shall refer to the City Manager or his designee) is hereby appointed to administer and implement this ~~ordinance~~ Section 3.13 by granting or denying development permit applications in accordance with its provisions.

#### 4.3C. Duties and Responsibilities ~~of the City Manager~~ of the Local Administrator

Duties of the ~~City Manager~~ Duties of the City Manager local administrator shall include, but not be limited to:

#### 4.3-1 Permit Review

##### (1) Permit Review

- (1*i*) Review all development permits to determine that the permit requirements of this ~~ordinance~~ Section 3.13 have been satisfied.
- (2*ii*) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3*iii*) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section ~~5-3(1)~~ 13.3(7)(D) are met.

##### 4.3-2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section ~~3.2, 13.3(4)(B)~~, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the (local administrator) shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections ~~5.2, 13.3(7)(B)~~, SPECIFIC STANDARDS, and ~~5.37(D)~~ FLOODWAYS.

#### ~~4.3-3~~ Information to be Obtained and Maintained

##### ~~(13)~~ Information to be Obtained and Maintained

~~(i)~~ Where base flood elevation data is provided through the Flood ~~insurance~~ Insurance Study, FIRM, or required as in Section ~~4.3-2, 13.3(6)(C)(2)~~, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

~~(2ii)~~ For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 13.3(6)(C)(2):

~~(i)~~ 1. Verify and record the actual elevation (in relation to mean sea level), and

~~(ii)~~ 2. Maintain the floodproofing certifications required in Section ~~4.1-2(3)~~ 13.3(6)(A)(2)(iii).

~~(3)~~ 3. Maintain for public inspection all records pertaining to the provisions of this ~~ordinance~~ Section 3.13.

#### D.4.3-4 Alteration of Watercourses

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

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### E. Requirement to Submit New Technical Data

(1) Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).

(2) The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

(3) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

#### 4.3-5F. Interpretation of FIRM Boundaries

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

4.4.13.3(6).

~~NOTE – If you do not include Section 4.4 (Variance Procedure), end the above sentence after the word "interpretation," and add the following sentence: "such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76)."~~

#### 4.4.6. Variance Procedure

##### 4.4-1A. Appeal Board

(1) The City Planning Commission as established by the City shall hear and decide appeals and requests for variances from the requirements of this ~~ordinance.~~Section 3.13.

(2) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the in the enforcement or administration of this ~~ordinance.~~Section 3.13.

(3) Those aggrieved by the decision of the Planning Commission, or any taxpayer, may appeal such decision to the City Council, as provided in the Zoning Ordinance.

(4) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other ~~sections~~subsections of this ~~ordinance.~~Section 3.13, and:

(i) The danger that materials may ~~be swept~~float onto other lands ~~to the injury of~~and injure others;

(ii) The danger to life and property due to flooding or erosion damage;

(iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity to the facility of a waterfront location, where applicable;
- (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) The expected heights, velocity, and duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, of floods expected at the site; and,
- (xi) 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.

(5) Upon consideration of the factors of Section ~~4.4-1~~ 13.3(6)(A)(4) and the purposes of this ~~ordinance, Section 3.13~~, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ~~ordinance, Section 3.13~~.

(6) The ~~City Manager~~ local administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

#### 4.4-2B. Conditions for Variances

(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 (I-xi) in Section ~~4.4-1~~ 13.3(6)(A)(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

(3) Variances shall not be issued within a 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 shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(iii) 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 ~~as identified in Section 4.1-4(4)~~, or conflict with existing local laws or ordinances.

(6) 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.

(7) 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 except ~~4.4-2~~ Section 13.3(6)(B)(1), and otherwise complies with Sections ~~5.1-1 and 5.1-2~~ 13.3(7)(A)(1) through (3) of the GENERAL STANDARDS.

(8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## 5.07. Provisions for Flood Hazard Reduction

### 5.1A. General Standards

In all areas of special flood hazards, the following standards are required:

#### 5.1-1 Anchoring

##### (1) Anchoring



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

(2ii) 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).

#### 5.1(2). Construction Materials and Methods

(1j) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2ii) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3iii) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### 5.1(3). Utilities

(1j) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2ii) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(3iii) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

#### 5.1(4). Subdivision Proposals

(1j) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

(4iv) 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).

#### 5.1(5). Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2, Applications 13.3(6)(C)(2), 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). AH Zone Drainage

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

#### 5.2B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2, 13.3(4)(B), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, 13.3(6)(C)(2), Use of Other Base Flood Data, the following provisions are required:

#### 5.2-1 Residential Construction

##### (1) Residential Construction

(i) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

(2ii) 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 be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(iA) 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.

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

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

#### ~~5.2-1~~ (2) Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(~~1~~i) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(~~2~~ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(~~3~~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 official ~~as set forth in Section 4.3-3(2)~~;

(~~4~~iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in ~~5.2-1~~ ~~(2) Section 13.3(7)(B)(1)(ii)~~;

(~~5~~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 floodproofed to the base flood level will be rated as one foot below.

#### 5.2-3 Manufactured Homes

~~(1) All manufactured homes to be placed or substantially improved within Zones A1-A30, AH, and AE on the community's FIRM on sites:~~

(vi)

### (3). Manufactured Dwellings

- (i) ~~Outside of a manufactured home park or subdivision,~~Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 13.3(7)(A)(1)(ii) above;
- (ii) ~~In a new manufactured home park or subdivision,~~The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;
- (iii) ~~In an expansion to an existing manufactured home park or subdivision,~~  
~~or~~The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques), and;
- (iv) ~~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 one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.~~

~~(2) 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 on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:~~

- ~~(i) The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or~~
- ~~(ii) 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 designed foundation system to resist flotation, collapse, and lateral movement.~~Electrical crossover connections shall be a minimum of 12 inches above BFE.

### 5.2(4). Recreational Vehicles

#### 5.3 Floodways

Recreational vehicles placed on sites within Zones A1-30, AH, and AE 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 ~~5.2-3~~Section 13.3(7)(B)(3) above and the elevation and anchoring requirements for manufactured homes.

(iv) If a recreational vehicle is stored on a property, and it is not used as a dwelling, this section does not apply

#### C. Before Regulatory Floodway

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 A1-30 and AE on the community's FIRM, 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.

#### D. Floodways

Located within areas of special flood hazard ~~established in Section 3.2~~ are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Section ~~5.3~~13.3(7)(D)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section ~~5.0, 13.3(7)~~, PROVISIONS FOR ~~FLOODHAZARD~~FLOODHAZARD REDUCTION.

#### **5.4 Encroachments**

~~The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.~~E.5-5 Standards for Shallow Flooding Areas (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be

evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

(1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).

(2) New construction and substantial improvements of nonresidential structures within AO zones shall either:

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

(ii) Together with attendant utility and sanitary facilities, be completely flood proofed 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 as in ~~section 5.2-2(3)~~Section 13.3(7)(B)(2)(iii).

(3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(4) 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 ~~5.5-above~~Section 13.3(7)(E) and the elevation and anchoring requirements for manufactured homes.

## AMENDMENT #2: BURNS MUNICIPAL CODE CHAPTER 15.30

### ~~Chapter 15.30-FLOOD-PLAIN-MANAGEMENT~~

#### ~~Sections:~~

~~15.30.010 Statement of purpose.  
15.30.020 Definitions.  
15.30.030 Lands to which this chapter applies.  
15.30.040 Basis for establishing the areas of special flood hazard.  
15.30.050 Abrogation and greater restrictions.  
15.30.060 Interpretation.  
15.30.070 Warning and disclaimer of liability.  
15.30.080 Establishment of a development permit.  
15.30.090 Designation of the Burns planning commission.  
15.30.100 Duties and responsibilities of the administrator.  
15.30.110 Variances and appeals.  
15.30.120 Provisions for flood hazard protection — General standards.  
15.30.130 Provisions for flood hazard protection — Specific standards.  
15.30.140 Floodways.  
15.30.150 Shallow flooding areas with depth designations.  
15.30.160 Federal regulations adopted.~~

~~15.30.010 Statement of purpose.~~

~~It is the purpose of this chapter to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed for:~~

- ~~(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~
- ~~(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~
- ~~(3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers; which help accommodate or channel flood waters;~~
- ~~(4) Controlling filling, grading, dredging, and other developments which may increase flood damage;~~
- ~~(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. [Ord. 645 § 1, 1987]~~

~~15.30.020 Definitions.~~

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

~~“Area of special flood hazard” means the land in the flood plain within an area subject to a one percent or greater chance of flooding in any given year.~~

~~“Base flood” means the flood having a one percent chance of being equalled or exceeded in any given year.~~

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

“Flood” or “flooding” means a general condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and/or
- (2) The unusual accumulation of runoff of surface waters from any source.

“Flood insurance rate map” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary floodway map, and the water surface elevations of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“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 nonelevation design requirements of this chapter found in BMC 15.30.130(1).

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

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land under a single ownership divided into four or more manufactured home lots for rent or sale.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“Structure” means a walled and roofed building or manufactured home that is principally above the ground.



~~“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:~~

~~(1) Before the improvement or repair is started; or~~

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

~~The term does not, however, include either:~~

~~(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely 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. [Ord. 645 § 2, 1987]~~

~~15.30.030 Lands to which this chapter applies.~~

~~This chapter shall apply to all areas of special hazards within the jurisdiction of the city of Burns. [Ord. 645 § 3.1, 1987]~~

~~15.30.040 Basis for establishing the areas of special flood hazard.~~

~~The areas of special flood hazard identified by the Federal Insurance Administration is a scientific and engineering report entitled “The Flood Insurance Study for the City of Burns, Oregon” dated February 15, 1984, with accompanying Flood Insurance Maps and are hereby adopted by reference and declared a part of this chapter. The flood insurance study and flood insurance maps are on file and available at the Burns City Hall, Burns, Oregon. [Ord. 645 § 3.2, 1987]~~

~~15.30.050 Abrogation and greater restrictions.~~

~~This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 645 § 3.3, 1987]~~

~~15.30.060 Interpretation.~~

~~In the interpretation and application of this chapter, 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. [Ord. 645 § 3.4, 1987]~~

~~15.30.070 Warning and disclaimer of liability.~~

~~The degree of flood protection required by this chapter 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 manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be~~