

RECEIVED

AUG 03 2010

UMATILLA COUNTY
RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending)
Development Code for Update) ORDINANCE NO. 2010-05
of Flood Hazard Overlay Zone)

WHEREAS the Board of Commissioners has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS the Federal Emergency Management Agency has updated the Flood Insurance Study and adopted new Flood Insurance Rate Maps for Umatilla County;

WHEREAS it is necessary to update the Development Code provisions to reflect the updated study and maps, and to amend the code to conform with the model ordinance for a flood overlay zone;

WHEREAS the Umatilla County Planning Commission held a public hearing on June 24, 2010 to review the proposed amendments to the development code and recommended that the Board of Commissioners adopt the amendments;

WHEREAS the Board of Commissioners held a public hearing on August 3, 2010, to consider the proposed amendments, and voted to approve the amendments.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendments to the Umatilla County Development Code, codified as Chapter 152 of the Umatilla County Code of Ordinances, to include the following provisions (deleted words are struck through):

§ 152.003 DEFINITIONS

ALTERATION OF A WATERCOURSE.

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

AREA OF SHALLOW FLOODING.

A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

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

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

BASEMENT. ~~A portion of a building included between a floor with its level two feet or more below the level from which the height of the building is measured and the ceiling next above said floor.~~ The portion of a structure with its floor sub grade (below ground level) on all sides.

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

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

CRITICAL FACILITY. A facility that is critical for the health and welfare of the population and is especially important

following hazard events. Critical facilities include essential and occupancy structures, special occupancy structures, essential facilities, transportation systems, lifeline utility systems, high potential loss facilities and hazardous material storage facilities.

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

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, construction, installation or change of a building or other structure, land division, establishment or termination or a right of access, storage on the land, tree cutting, drilling and site alteration such as that due to land, tree cutting, drilling and site alteration such as that due to land surface mining, dredging, grading, paving, excavation or clearing.

Development does not include:

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

to serve established and permitted uses;
(F) Accessory residential or noncommercial structures less than 200 square feet in area;
(G) Storage of equipment and material associated with residential uses.

DEVELOPMENT WITHIN THE SPECIAL FLOOD HAZARD ZONE. 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.

Development does not include:

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

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

ENCROACHMENT. The advancement or infringement of uses, fill, excavation,

buildings, permanent structures or other development into a floodway that may impede or alter the flow capacity of a floodplain.

ELEVATED BUILDING. A non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

ESSENTIAL FACILITY.

(A) Hospitals and other medical facilities having surgery and emergency treatment areas;

(B) Fire and police stations;

(C) Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

(D) Emergency vehicle shelters and garages;

(E) Structures and equipment in emergency-preparedness centers;

(F) Standby power generating equipment for essential facilities; and

(G) Structures and equipment in government communication centers and other facilities required for emergency response.

EXISTING BUILDING OR STRUCTURE WITHIN THE SPECIAL FLOOD HAZARD AREA. A structure for which the "start of construction" commenced before September 3, 2010.

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

FLOODWAY. ~~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. Excludes any area within the Flood Hazard Area.~~ (Regulatory Floodway). The channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG for more information.

LATERAL ADDITION. An addition that requires a foundation to be built outside of the foundation footprint of the existing building.

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

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

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

from the special flood hazard area;

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

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the state building code.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community's FIRM are referenced.

NATURAL ELEVATION WITHIN THE SPECIAL FLOOD HAZARD AREA. The elevation of natural grade, or the grade in existence before September 3, 2010.

NEW CONSTRUCTION WITHIN THE SPECIAL FLOOD HAZARD AREA. A structure for which the "start of construction" commenced after September 3, 2010, and includes subsequent substantial improvements to the structure.

RECREATIONAL VEHICLE (OR TRAVEL TRAILER). ~~A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used~~

~~temporarily for recreational or emergency purposes and has a floor space of less than 220 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures and bath or toilet rooms. The unit shall be identified as a recreational vehicle by the manufacturer.~~ A vehicle that 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 towed 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.

SPECIAL OCCUPANCY STRUCTURE WITHIN THE SPECIAL FLOOD HAZARD AREA.

(A) Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons; (B) Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or child care centers; (C) Buildings for colleges or adult education schools with a capacity greater than 500 persons; (D) Medical facilities with 50 or more resident, incapacitated patients not included in subparagraphs (A) to (C) of this paragraph; (E) Jails and detention facilities; and (F) All structures and occupancies with a capacity greater than 5,000 persons.

START OF CONSTRUCTION WITHIN THE SPECIAL FLOOD HAZARD AREA.

Includes substantial improvement and is the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or 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 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 the alteration affects the external dimensions of a building.

STRUCTURE. Something constructed or built (~~i.e. a walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground~~) and having a fixed base on, or fixed connection to, the ground or another structure.

~~STRUCTURE IN AN AIRPORT OVERLAY ZONE.~~ Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas. (~~Definition used in Airport Overlay Zone~~)

SUBSTANTIAL DAMAGE. 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 its market value before the damage occurred.

~~SUBSTANTIAL ENLARGEMENTS OR IMPROVEMENTS. A 10 percent increase in existing square footage or 50 percentage increase in assessed valuation of the structure.~~

~~SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% 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. The term does not, however, include either 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 alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

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

(A) The appraised real market value of the structure prior to the start of the initial repair or improvement, or

(B) In the case of damage, the appraised real market value of the structure prior to the damage occurring. The term does not include either:

(1) A project for improvement of a

structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(2) Alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

VERTICAL ADDITION. The addition of a room or rooms on top of an existing building.

WATER DEPENDENT USE. A facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

WATER SURFACE ELEVATION. The height, in relation to a specific datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

§ 152.015 FENCES

Fences are allowed in any zone and do not require a zoning permit for construction *unless located in a Special Flood Hazard Area.* There shall be no height limitation except at corners of street intersections and service drives where vision clearance requirements shall be met. Fences shall meet all Oregon Uniform Building Code requirements.

§152.351 to §152.359 FLOOD HAZARD SUBDISTRICT

The original section entitled "Flood Hazard Subdistrict" will be entirely replaced by the following text.

FH, FLOOD HAZARD OVERLAY ZONE

- 152.351 Statutory Authorization, Findings of Fact, Purpose, and Objectives
- 152.352 Definitions
- 152.353 General Provisions
- 152.354 Administration
- 152.355 Provisions for Flood Hazard Reduction
- 152.356 Variance and Appeal Procedures
- 152.357 Penalties for Violations
- 152.358 Severability
- 152.359 Abrogation and Greater Restrictions

§152.351 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

A. Statutory Authority

The State of Oregon has delegated the responsibility to local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizens.

B. Findings of Fact

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

(2) Flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(3) The County has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.

C. Statement of Purpose

The objectives of the Flood Hazard Overlay Zone are to:

- (1) Protect human life, health and property;
- (2) Minimize damage to public facilities and utilities located in floodplains such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges.
- (3) Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- (4) Minimize expenditure of public money for costly flood control projects;
- (5) Minimize the need for rescue and emergency services associated with flooding and generally undertaken at the expense of the general public;
- (6) Minimize unnecessary disruption of commerce, access and public service during times of flood;
- (7) Manage the alteration of flood hazard areas, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain.

D. Methods of Reducing Flood Losses

In order to accomplish its purpose, the Flood Hazard Overlay Zone includes methods and provisions to:

- (1) Require development vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Control filling, grading, dredging and other development which may increase flood

damage or erosion;

- (4) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
- (5) Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;
- (6) Coordinate with and supplement provisions of Oregon building codes.

§ 152.352 DEFINITIONS

All definitions used for this section are found in § 152.003.

§ 152.353 GENERAL PROVISIONS

A. Lands to Which This Overlay Zone Applies

The Flood Hazard Overlay Zone shall apply to all Special Flood Hazard Areas within the jurisdiction of the County. Nothing in the Flood Hazard Overlay Zone is intended to allow uses or structures that are otherwise prohibited by the development or building codes.

B. Basis for Area of Special Flood Hazard

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Umatilla County, Oregon and Incorporated Areas dated September 3, 2010, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this chapter. The FIS and the FIRM are on file at the office of the Umatilla County Planning Department.

C. Coordination with Building Codes.

It is hereby acknowledged that state building codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, the Flood Hazard Overlay Zone is intended to be administered and enforced in conjunction with the state building codes.

D. Floodplain Development Permit Required

A Floodplain Development Permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard established in § 152.353, Section B.

E. Interpretation

In the interpretation and application of the Flood Hazard Overlay Zone all provisions shall be:

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

E. Warning and Disclaimer of Liability

The degree of flood protection required by the Flood Hazard Overlay Zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. The Flood Hazard Overlay Zone does not imply that land outside Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the County or by any officer or employee thereof for flood damages that result from reliance on this chapter or an administrative decision lawfully

made hereunder.

§ 152.354 ADMINISTRATION

A. Designation of Floodplain Administrator
The Planning Director or designee is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of the Flood Hazard Overlay Zone.

B. Duties and Responsibilities of the Administrator

Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard;
- (2) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of the Flood Hazard Overlay Zone;
- (3) Interpret flood hazard area boundaries, provide available flood hazard information, and provide base flood elevations, where they exist;
- (4) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file.

(5) Review all development permit applications to determine if the proposed development is located in the floodway, and if so, ensure that the encroachment standards of § 152.355, Section B are met.

(6) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of the Flood Hazard Overlay Zone.

(7) When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding.

(8) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(9) Issue floodplain development permits when the provisions of the Flood Hazard Overlay Zone have been met, or disapprove the same in the event of noncompliance;

(10) Coordinate with the Building Official and obtain copies of building permits to verify

construction complies with the requirements of the Flood Hazard Overlay Zone;

(11) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures.

(12) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;

(13) Ensure that all records pertaining to the provisions of the Flood Hazard Overlay Zone are permanently maintained in the office of the County Planning Director or a designee and shall be open for public inspection.

(14) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with a the floodplain development permit and the Flood Hazard Overlay Zone, and verify that existing buildings and structures maintain compliance with the Flood Hazard Overlay Zone;

(15) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify

owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure;

(16) Make Substantial Improvement or Substantial Damage determinations based on criteria set forth in § 152.354, Section D of this chapter.

C. Permit Procedures

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

(1) Application Stage

(a) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities;

(b) Delineation of flood hazard areas, floodway boundaries including base flood elevations, or flood depth in AO zones, where available;

(c) For all proposed structures, elevation in relation to the highest adjacent grade and the base flood elevation, or flood depth in AO zones, of the:

- (i) lowest enclosed area, including crawlspace or basement floor;
- (ii) top of the proposed garage slab, if any, and;
- (iii) next highest floor.

(d) Locations and sizes of all flood openings in any proposed building;

(e) Elevation to which any non-residential structure will be flood-proofed;

(f) Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the NFIP and building codes;

(g) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.

(2) Construction Stage

(a) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction;

(b) Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

(3) Certificate of Occupancy

(a) In addition to the requirements of the building codes pertaining to certificate of occupancy, prior to the final inspection the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer:

(i) For elevated buildings and structures in Areas of Special Flood Hazard (A zones), the

as-built elevation of the lowest floor, including basement or where no base flood elevation is available the height above highest adjacent grade of the lowest floor;

(ii) For buildings and structures that have been floodproofed, the elevation to which the building or structure was floodproofed.

(b) Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a certificate of occupancy until such deficiencies are corrected.

(4) Expiration of Floodplain Development Permit

(a) A Floodplain Development Permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion.

(b) Commencement of work includes start of construction, when the permitted work requires a building permit.

D. Substantial Damage and Substantial Improvement Determination

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

(1) Estimate the market value, or require the applicant to obtain a professional appraisal of the market value, of the building or structure before the proposed work is performed; when repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred;

(2) Compare the cost of improvement, the cost

to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(a) Except as indicated in subsections (b) through (d) below, all costs to repair substantial damage, including emergency repairs, including the costs of complying with any county, state, or federal regulation must be included;

(b) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions shall not be included;

(c) Costs associated with the following items are not included:

(i) The preparation and approval of all required plans, calculations, certifications, and specifications;

(ii) The performance of surveys or other geotechnical or engineering studies and resulting reports;

(iii) Permit and review fees, and;

(iv) The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.;

(d) Proposed alterations of a designated historic building or structure is not to be considered substantial improvement unless the

alteration causes a loss of said designation.

(3) The County shall make the final determination of whether the proposed improvement and/or repair constitute a substantial improvement or substantial damage.

(4) The County shall notify the applicant of the results of the determination by letter.

(5) Applicant has the right to appeal the determination as provided by this chapter.

§ 152.355 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. Site Improvements and Subdivisions

(1) All proposed new development and subdivisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.

(2) Building lots shall have adequate buildable area outside of floodways.

(3) New development proposals and subdivision development plans shall include the mapped flood hazard zones from the effective FIRM, if available.

(4) Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.

(5) New development and subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located

and constructed to minimize flood damage.

(6) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.

(7) Subdivisions shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

B. Development in Floodways

(1) Except as provided in paragraph (4), encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Any fill allowed to be placed in the floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.

(3) Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, substantial improvement, and other development, into the floodway is permitted that will cause any increase in the base flood elevation.

(4) Projects for stream habitat restoration may be permitted in the floodway provided:

(a) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,

(b) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the County; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,

(c) No structures would be impacted by a potential rise in flood elevation; and,

(d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(5) Fences shall not cause any rise in base flood elevation and are subject to the no-rise and CLOMR provisions of paragraph (1) and (3).

C. Zones with Base Flood Elevations but No Floodway

(1) In areas within Zones A1-30 and AE on the community's FIRM with a base flood elevation, or where a base flood elevation is developed according to § 152.355, Section E, but where no regulatory floodway has been designated, new construction, substantial improvements, or other development (including fill) shall be prohibited, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point

within the community.

(2) Applicants of proposed projects that increase the base flood elevation more than one foot should obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted.

D. Zones without Base Flood Elevations

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

(1) When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the Flood Hazard Overlay Zone. If base flood elevations are not available, subsection (3) shall apply.

(2) Where the Floodplain Administrator has obtained base flood elevation data, § 152.355, Sections C and Sections E through M shall apply.

(3) In special flood hazard areas without base flood elevation data,

(a) No encroachments, including structures or fill, shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless a base flood elevation is developed by a licensed professional engineer, or;

(b) The lowest floor of any insurable building or structure, including manufactured dwellings, shall be elevated a minimum of two (2) feet above highest adjacent grade. Below grade crawlspaces are not allowed.

E. Building Design and Construction Standards

(1) In all areas of special flood hazards,

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(b) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(c) New construction and substantial improvements shall be constructed using methods and practices that minimize flood damage, and;

(d) 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.

(2) Specific Building Design and Construction Standards for Residential Construction (A Zones)

In addition to Paragraphs (1) of this Section,

(a) New construction and substantial improvement of residential structures located in non-coastal flood zones shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation or two feet above highest adjacent

grade where no BFE is defined, and;

(b) 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:

(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, and;

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

Exception: Engineered openings

(3) Specific Building Design and Construction Standards for Nonresidential Construction
In addition to Paragraph (1) of this Section, new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated according to Table 2-1 the American Society of Civil Engineers, Flood Resistant Design and Construction Standard (ASCE 24); or, together with attendant utility and sanitary facilities, shall,

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

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) 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 Floodplain Administrator;

(d) Nonresidential structures that are elevated, not floodproofed, must meet residential standards described in Section E, subsection (2);

(e) 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).

(4) Specific Building Design and Construction Standards for Manufactured Dwellings

In addition to Paragraphs (1) and (2) of this Section, manufactured dwellings are subject to the following standards,

(a) The stand shall be a minimum of 12 in. above BFE unless the foundation wall is opened on one side or end so that floodwater cannot be trapped;

(b) The manufactured dwelling shall be anchored to prevent flotation, collapse, or 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).

(c) Electrical crossover connections shall be a minimum of 12 in. above BFE.

(5) Specific Building Design and Construction Standards for Below-grade Crawl Spaces

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawl-space Construction for Buildings Located in Special Flood Hazard Areas:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

(c) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the

foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(d) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(e) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(g) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(h) The velocity of floodwaters at the site should not exceed five (5) feet per second for

any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01.

(6) 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 often characterized as sheet flow.

In these areas Paragraph (1) and the following provisions shall apply:

(a) 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 above the depth number specified on the FIRM (at least three feet if no depth number is specified).

(b) 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, and;

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

F. Accessory Structures

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 120 square feet. Such a structure must meet the following standards:

- (1) It shall not be subject to building codes;
- (2) The accessory structure shall be located on a property, or an adjacent property with same owner, as a dwelling;
- (3) It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;
- (4) Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below BFE, or where no BFE is available lower than two feet above grade, unless confined in a tank installed in compliance with the Flood Hazard Overlay Zone;
- (5) It shall be constructed of flood resistant materials;
- (6) It shall be constructed and placed on the

lot to offer the minimum resistance to the flow of floodwaters;

(7) It shall be firmly anchored to prevent flotation;

(8) Services such as electrical and heating equipment shall be elevated or flood-proofed to or above the base flood elevation, and;

(9) It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or

(a) Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

G. Recreational Vehicles

In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the development code must either:

(1) Be placed on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached

to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or

(3) Meet all the requirements of §152.355, Section F: Manufactured Dwellings, including the anchoring and elevation requirements.

H. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Area of Special Flood Hazard. Construction of new critical facilities shall be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Critical facilities constructed within the Areas of Special Flood Hazard shall have the lowest floor elevated two feet above BFE (or depth number in AO zones) or to the height of the 0.2 percent (500-year) flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

I. Tanks

(1) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.

(2) Above-ground tanks in flood hazard areas shall be:

(a) Attached to and elevated to or above the

base flood elevation (or depth number in AO zones) on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood; or be

(b) Anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.

(3) Tank inlets, fill openings, outlets and vents shall be:

(a) A minimum of 2 feet above BFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

J. On-site Sewage Systems

(1) Soil absorption systems shall be located outside of flood hazard areas. Where suitable soil absorption sites outside of the flood hazard area are not available, the soil absorption site is permitted to be located within the flood hazard area provided it is located to minimize the effects of inundation under conditions of the base flood.

(2) Mound systems in flood hazard areas shall be prohibited.

K. Fences and Walls

New fencing shall be designed to collapse under conditions of the base flood or to allow

the passage of water by having flaps or openings in the areas at or below the base flood elevation sufficient to allow flood water and associated debris to pass freely.

L. Other Development in High Hazard Areas
All development in high hazard areas (A zones) for which specific provisions are not specified in the Flood Hazard Overlay Zone or building codes, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be designed so as not to impede flow of flood waters under base flood conditions;
- (3) If located in a floodway, meet the limitations of §152.355, Section C of this chapter;
- (4) Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (5) Be constructed of flood damage-resistant materials; and
- (6) Have electric service and or mechanical equipment elevated above the base flood elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements.

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

(1) Temporary structures, not including bridges, shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant extensions for demonstrated cause; such cause shall reaffirm the temporary nature of the structure. Temporary structures shall be anchored to prevent flotation, collapse, or lateral movement.

(2) Temporary storage of 50 yards or more of material shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant extensions for demonstrated cause; such cause shall reaffirm the temporary nature of the storage. Stored material shall be anchored or contained to prevent flotation or release outside the assigned storage area. Hazardous materials priority persistent pollutants identified by the Oregon Department of Environmental Quality shall not be stored in the floodway.

(3) Temporary encroachments in the floodway for the purposes of capitol improvement projects (including bridges) require a floodplain development permit. No CLOMR/LOMR is required.

N. Requirement to Submit New Technical Data

(1) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(2) Applicants shall be responsible for all

costs associated with obtaining a Conditional Letter of Map Amendment (CLOMR) or Letter of Map Revision from FEMA.

(3) The County shall be under no obligation to sign the Community Acknowledgment Form, which is part of the CLOMR/LOMR application.

(4) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA, or whose development modifies floodplain boundaries or base flood elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM.

O. Watercourse Alterations

A watercourse is considered altered when any change occurs within its banks, including installation of new culverts and bridges, or size modifications to existing culverts and bridges (as shown on effective FIRM).

(1) The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.

(2) Adjacent communities, the U.S. Army Corps of Engineers, Oregon Department of State Lands, and Oregon Department of Land Conservation and Development must be notified prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator and to the Federal Emergency Management

Agency.

(3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the flood carrying capacity will not be diminished.

(4) The applicant shall meet the requirements to submit technical data in §152.355 S (1) and S (2) when an alteration of a watercourse, including the placement of culverts, results in the relocation or elimination of the special flood hazard area.

P. Non-Conversion of Enclosed Areas below the Lowest Floor

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

(1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;

(2) Enter into a "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the County. The agreement shall be recorded with the County Records Office as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and

(C) Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

§ 152.356 VARIANCE AND APPEAL PROCEDURES

A. Variance

(1) An application for a variance must be submitted to the Planning Department on the form provided and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.

(2) Upon receipt of a completed application for a variance, the variance request will be set for public hearing at the next Planning Commission meeting in which time is available for the matter to be heard.

(3) Prior to the public hearing, notice of the hearing will be published in the official newspaper of the County. In addition to the newspaper publication, written notice shall be provided to all adjoining property owners.

(4) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

(5) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of the Flood Hazard Overlay Zone, and the:

(a) Danger that materials may be swept onto other lands to the injury of others;

(b) Danger to life and property due to flooding or erosion damage;

(c) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) Importance of the services provided by the proposed facility to the community;

(e) Necessity to the facility of a waterfront location, where applicable;

(f) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) Compatibility of the proposed use with existing and anticipated development; The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(h) Safety of access to the property in times of flood for ordinary and emergency vehicles;

(i) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(j) 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.

(6) Upon consideration of the factors of paragraph (5) above of this section and the purposes of the Flood Hazard Overlay Zone, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of the Flood Hazard Overlay Zone.

(7) The Floodplain Administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

B. Criteria for Variances

(1) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(2) 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 in paragraph 5(a-j) above in this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon a:

(a) Showing of good and sufficient cause;

(b) Determination that failure to grant the variance would result in exceptional hardship to the applicant, and;

(c) 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 regulations.

(5) Variances may be issued for a water dependent use provided that the

(a) Criteria of paragraphs A(1) through A(4) of this section are met, and;

(b) Structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

(7) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(8) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with building codes.

C. Variance Decision

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the base flood elevation and that the cost of flood insurance likely will

be commensurate with the increased flood damage risk. Any decision may be appealed as provided by this chapter.

§ 152.357 PENALTIES FOR VIOLATION

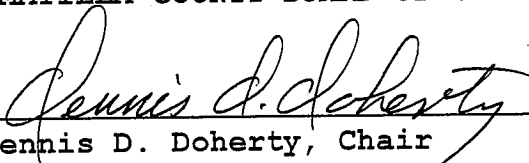
A. No structure or land shall hereafter be located, extended, converted or altered unless in full compliance with the terms of the Flood Hazard Overlay Zone and other applicable regulations.

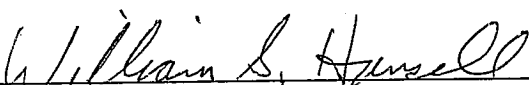
B. Violation of the provisions of the Flood Hazard Overlay Zone or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a code violation and subject to Chapter 38 of the Umatilla County Code of Ordinances. Nothing herein contained shall prevent the County from taking such other lawful actions as is necessary to prevent or remedy any violation.

The Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption by the Umatilla County Board of Commissioners.

DATED this 3rd day of August, 2010.

UMATILLA COUNTY BOARD OF COMMISSIONERS


Dennis D. Doherty, Chair

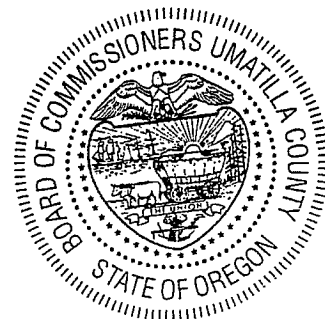

William S. Hansell, Commissioner

§ 152.358 SEVERABILITY

The Flood Hazard Overlay Zone is hereby declared to be severable. Should any portion of the Flood Hazard Overlay Zone be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the Flood Hazard Overlay Zone before the declaration of partial invalidity.

§ 152.359 ABROGATION AND GREATER RESTRICTIONS

The Flood Hazard Overlay Zone is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the Flood Hazard Overlay Zone and another regulation, building codes, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.



ABSENT

W. Lawrence Givens, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS

Jean Hemphill

Records Officer

