

ORDINANCE NO. ###

AN ORDINANCE AMENDING COOS BAY ORDINANCE 93, CODIFIED AS COOS BAY MUNICIPAL CODE, TITLE 17, ESTABLISHING LAND DEVELOPMENT STANDARDS FOR THE CITY OF COOS BAY FOR SECTION 17.195, FLOOD DAMAGE PREVENTION.

WHEREAS, the City of Coos Bay filed an application on December 5, 2013 to amend Coos Bay Ordinance 93 which is codified as Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention.

WHEREAS, notice that a public hearing was held before the City of Coos Bay Planning Commission on February 11, 2014 and a public hearing would be held before the Coos Bay City Council on March 18, 2014, and it was published in "The World", a newspaper of general circulation within Coos County, Oregon on February 28, 2014 and March 6, 2014.

WHEREAS, provisions in the Coos Bay Municipal Code relating to mailed notice have been complied with; and,

WHEREAS, after receiving evidence and hearing testimony at the February 11, 2014 hearing, the Commission recommended the City Council approve the updated Flood Insurance Rate Maps dated March 17, 2014 and the proposed text amendments. The Commission's Findings and Justifications supporting its recommended approval are attached hereto as "Attachment A" and incorporated herein by reference.

WHEREAS, after considering the Commission's Findings and Justification and after receiving evidence and hearing testimony at the March 18, 2014 hearing, the City Council of the City of Coos Bay, adopted the Findings and Justifications, and approved the proposed map update and text amendments.

NOW THEREFORE, the City Council of City of Coos Bay ordains the following:

Section 1. Amend Section 17.195.060 Definitions by deleting the following definitions:

"Existing manufactured home park or subdivision

"Expansion to an existing manufactured home park or subdivision

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New manufactured home park or subdivision

Section 2. Amend Section 17.195.080(1) Basis for establishing the areas of special flood hazard to read as follows:

(1) The areas of special flood hazard identified by the Federal Insurance

Administration in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Coos County, Oregon and Incorporated Areas,” dated March 17, 2014, and accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be part of this chapter. The Flood Insurance Study and the FIRM are on file at 500 Central Avenue, Coos Bay, Oregon 97420.

The best available information for flood hazard area identification as outlined in subsection (2) of this section shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under subsection (2) of this section.

Section 3. Amend Section 17.195.130 Special Flood Hazard Areas to read as follows:

- (1) In special flood hazard areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development including fill, shall be permitted within Zones A 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.

- (2) Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential.

Therefore, encroachments into the floodway including fill, new construction, substantial improvement, and other development shall be 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 the encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (3) If the requirement of subsection (1) or (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable provisions of CBMC 17.195.160, Provisions for flood hazard reduction.

- (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.

Section 4. Amend Section 17.195.160 Provisions for flood hazard reduction to read as follows:

Substantial improvements to existing structures located at or below the base flood elevation and all new construction shall conform to the following standards. The building official and/or Public Works Department shall be responsible to review plans and inspect construction to determine that it is reasonably safe from flooding and complies with provisions of the International Code Council (ICC).

- (1) General Standards. In all areas of special flood hazard, the following standards are required:

- (a) Anchoring.

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

- (ii) 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).

- (b) Construction Materials and Methods.

- (i) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

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

(iii) 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.

(c) Utilities.

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

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

(iii) 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.

(d) Subdivision Proposals.

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

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

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

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

- (2) Specific Standards. In all areas of special flood hazard where base flood elevation data has been provided as set forth in CBMC 17.195.080(1) or (2), the following provisions are required:

(a) Residential Construction.

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

(ii) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

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

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

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

(b) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure (including a detached garage) 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:

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

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

(iii) Be certified by a registered 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 upon their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the city as set forth in CBMC 17.195.010(2)(d);

(iv) Nonresidential structures which are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (2)(a)(ii) of this section; and

(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 the base flood level).

(c) Manufactured Homes.

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

(d) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

(i) Occupy the site for less than 180 consecutive days; or

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

(iii) Meet the requirements of subsection (2)(c) of this section, and

the elevation and anchoring requirements for manufactured homes. [Ord. 418 § 19, 2009].

Section 5. Add Section 17.195.210 Conditions For Variances to read as follows:

17.195.210 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-xiv) in Section 17.195.210(6) 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 Statewide Inventory of Historic Properties 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 consider of the following elevation Criteria:
 - (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, or conflict with existing local laws or ordinances.
 - (iv) The danger that materials may be swept onto other lands to the injury of others;
 - (v) The danger to life and property due to flooding or erosion damage;
 - (vi) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (vii) The importance of the services provided by the proposed facility to the community;

- (viii) The necessity to the facility of a waterfront location, where applicable;
 - (ix) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (x) The compatibility of the proposed use with existing and anticipated development;
 - (xi) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (xii) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (xiii) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xiv) 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.
- (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 flood proofing than watertight or dry-flood proofing where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4-2(1), and otherwise complies with Sections 17.195.160(1)(a), 17.195.160(1)(b) and 5.1-3 17.195.160(1)(c).
- (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.

Section 6. Add Section 17.195.220 Penalties For Noncompliance of to read as follows:

17.195.220 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.

Upon conviction any person who violates this ordinance or fails to comply with any of its requirements shall be subject enforcement including fines and other administrative actions in accordance with Chapter 17.310 and/or Chapter 8.10 of the Coos Bay Municipal Code.

Section 7. The sections and subsections of this Ordinance are servable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 8. This Ordinance shall take effect 30 days after enactment by the City Council and signature by the Mayor, whichever is later.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the _____ day of March 2014.

Yes:

No:

Absent:

Crystal Shoji
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Susanne Baker
Deputy Recorder of the City of Coos Bay
Coos County, Oregon