



## Planning Commission Staff report

**To:** Planning Commission      **Date:** March 12, 2019

**From:** Carolyn Johnson, Community Development Administrator

**Subject:** Application 187-19-005 – Modifications to Chapter 17.318/Flood Damage Prevention to reflect state and federal regulations for flood hazard management as required by Federal Emergency Management Agency (FEMA).

**Staff Recommendation:** Review and recommend City Council approval of Application 187-19-005 as presented in this staff report; there is sufficient evidence in the record upon which a Council approval can be based to reflect state and federal regulations for flood hazard management as required by Federal Emergency Management Agency (FEMA).

**I. Amendment:** The City is required by the Federal Emergency Management Agency (FEMA) to amend its Flood Damage Prevention Regulations for compliance with new FEMA regulations. City Engineering and Planning staff worked with FEMA and DLCD staff to review FEMA regulations (Attachment B) to assure the new regulations are acceptable to FEMA standards. Key amendment components are:

-Changes to and expansion of definitions (17.318.050)

-Identification of the December 7, 2018 date for the Federal Insurance Study for Coos County and its incorporated areas. The prior date had been September 25, 2009. (17.318.080)

-Deletion of repetitive specific language about encroachments in the floodway (17.318.130)

- Removal of language for Manufactured homes (17.318.130(5) & 17.318.160(d)) with addition of language for manufactured dwellings requiring compliance with FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook.

-Addition of specific language for variances (17.318.300)

-Addition of a violation/penalties section to the regulations. (17.318.400)

## II. Comprehensive Plan/CMBC consistency

Section#/ Title	Requirement	Complies
CBMC 17.130/ Procedures	Public Notification and notification to DLCD	Yes. DLCD was notified timely on January 15, 2019.
CBMC Section 17.360/Plan amendment and Zone Change	Planning Commission determination of Consistency with approval criteria noted in 17.360.060 (a, b, and c)	Yes. See Attachment A for Consistency findings.
Comprehensive Plan 2000 Volume Natural Hazards Goal #1.	<i>The City shall exercise sound land use practices to conserve and protect the quality of all its natural resources and safeguard the life and property of its citizens from natural hazards and disasters.</i>	Yes. The adoption of the proposed amendment meets the requirement of Comprehensive Plan Natural Hazards Goal #1.
Comprehensive Plan 2000 Volume 1 Strategy NRH.5	<i>Coos Bay shall continue to participate in the National Flood Insurance Program of the U.S. Dept of Housing and Urban Development, recognizing that participation in this program substantially insures the health and wellbeing of its residents and allows city residents to benefit from subsidized flood insurance rates.</i>	Yes. Coos Bay continues to participate in the National Flood Insurance program.
Comprehensive Plan 2000 Volume 1 Strategy NRH.6	<i>Coos Bay shall require that construction in flood prone areas shall meet certain flood proofing standards such as structure orientation to flood flow, flotation prevention measures, and a minimum elevation of the lowest story. The city recognizes that this development, if permitted, should offer the minimum obstruction to the flow of flood water and should be designed to afford the most protection to human life and property.</i>	Yes. The proposed amendment standards specify flood proofing standards specified in Strategy NRH.6 as found in CBMC section 17.318.
Statewide Planning Goals relative to amendments. ORS 197.175 (2b)	<i>Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall enact land use regulations to implement their comprehensive plans.</i>	Yes. The City utilizes Development Code to enact land use regulations to implement the Comprehensive Plan. Amendment 187-19-004 is an amendment to Section 17.

**III. Conclusion. The proposed amendment is consistent with the applicable policies of the City's Comprehensive Plan and meets the findings for consistency with the following:**

1. CBMC section 17.130 – Procedures;
2. Section 17.360 – Plan amendment and Zone Change;
3. Comprehensive Plan Volume 1 Natural Hazards Goal 1, Natural Hazards Goal policies NRH.5 and NRH.6.
4. Statewide Planning Goals relative to amendments. ORS 197.175 (2b)

Attachment A provides the Planning Commission's recommendation for findings of fact to authorize Amendment 187-019-005.

**IV. Attachments:**

A – Planning Commission recommendation to Council

B – Amendments in legislative format

**Attachment A**  
**March 12, 2019 Planning Commission Recommendation for Council action**

**Background:** On March 12, 2019, the Planning Commission reviewed Application 187-19-005 – Modifications to Coos Bay Municipal Code Chapter 17.318/Flood Damage Prevention to reflect state and federal regulations for flood hazard management required by Federal Emergency Management Agency (FEMA).

**Recommendation:** The Planning Commission hereby recommends the City Council authorize modifications to Coos Bay Municipal Code Chapter 17.318/Flood Damage Prevention Ordinance as follows:

- Changes to and expansion of definitions (17.318.050)
- Identification of the December 7, 2018 date for the Federal Insurance Study for Coos County and its incorporated areas. The prior date had been September 25, 2009. (17.318.080)
- Deletion of repetitive specific language about encroachments in the floodway (17.318.130)
- Removal of language for Manufactured homes (17.318.130(5) & 17.318.160(d)) with addition of language for manufactured dwellings requiring compliance with FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook.
- Addition of specific language for variances (17.318.300)
- Addition of a violation/penalties section to the regulations. (17.318.400)

**Findings:** The Planning Commission's recommendation is based on the following findings:

**Criteria #1:** CBMC section 17.360.060(a) - The proposed amendment is consistent with the applicable policies of the comprehensive plan or that a significant change in circumstances requires an amendment to the plan or map.

Finding #1 – The proposed amendment meets the Comprehensive Plan Natural Resources goal #1 to *exercise sound land use practices to conserve and protect the quality of all its natural resources and safeguard the life and property of its citizens from natural hazards and disasters.*

Finding #2 – The proposed amendment is required for the City to comply with FEMA regulations, a changed circumstance since the last update of the City's Flood Damage Prevention Ordinance in 2016.

Finding #3 – The proposed amendment is consistent with Comprehensive Plan strategy NRH.5 to participate in the National Flood Insurance Program with the recognition that that participation in this program substantially insures the health and well-being of its residents and allows city residents to benefit from subsidized flood insurance rates.

Finding #4 - The proposed amendment is consistent with Comprehensive Plan strategy NRH.6 by including language in CBMC section 17.318 to require that construction in flood

prone areas meet certain flood proofing standards such as structure orientation to flood flow, flotation prevention measures, and a minimum elevation of the lowest story.

**Criteria #2:** 17.360.060(b) The proposed amendment is in the public interest.

Finding #1 - It is in the public's interest for the City to adopt FEMA required amendments to CBMC section 17.318 to 1) assure the public's health and safety and 2) comply with the FEMA mandate that local governments adopt FEMA standards to avoid being subject to the loss of opportunity for its citizens to purchase flood insurance

**Criteria #3:** 17.360.060 (c) Approval of the amendment will not result in a decrease in the level-of-service for capital facilities and services identified in the Coos Bay capital improvement plan(s).

Finding #1- The amendment will not result in a decrease in the level-of-service because the amendment will enable to the City to comply with FEMA regulations to assure the health and safety of its citizens.

Finding #2 - The amendment will not have an effect on the level of service for capital facilities and services.

**Planning Commission Vote:**

**Yea:**

**Nay:**

**Abstain:**

**Absent:**

**Attest:**

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Carolyn Johnson  
Community Development Administrator

## Attachment B

~~Stricken language~~

New language

### Chapter ~~47.347~~17.318

#### FLOOD DAMAGE PREVENTION

##### Sections:

- ~~47.347~~17.318.010 General.
- ~~47.347~~17.318.020 Authorization.
- ~~47.347~~17.318.030 Findings of fact.
- ~~47.347~~17.318.040 Statement of purpose.
- ~~47.347~~17.318.050 Methods of reducing flood losses.
- ~~47.347~~17.318.060 Definitions.
- ~~47.347~~17.318.070 General provisions – Lands to which this chapter applies.
- ~~47.347~~17.318.080 Basis for establishing the areas of special flood hazard.
- ~~47.347~~17.318.090 Abrogation and greater restrictions.
- ~~47.347~~17.318.100 Interpretation and severability.
- ~~47.347~~17.318.110 Warning and disclaimer of liability.
- ~~47.347~~17.318.120 Alteration of watercourses.
- ~~47.347~~17.318.130 Special flood hazard areas.
- ~~47.347~~17.318.140 Development permit required – Obtaining and maintaining information.
- ~~47.347~~17.318.150 Review of development permits.
- ~~47.347~~17.318.160 Provisions for flood hazard reduction.
- ~~47.347~~17.318.170 Below-grade crawlspaces.
- ~~47.347~~17.318.180 Critical facility.
- ~~47.347~~17.318.190 Manufactured Home Dwelling Parks. Land division, manufactured home parks and planned unit development.
- ~~47.347~~17.318.200 Standards for storage of materials and equipment.
- 17.318.300 Variance from criteria and standards.
- 17.318.400 Penalties for violations.

##### ~~47.347~~17.318.010 General. \_\_\_\_\_

(1) Areas within the city of Coos Bay are subject to periodic flooding and the Ceity is a participating community in the National Flood Insurance Program. Therefore, the city adopts land use control measures to reduce flood hazard and assure that city residents will continue to benefit from the national program.

(2) As part of this program, the Ceity shall as referenced in Sections 17.318.140 and 17.357.150:

- (a) Review all development permits to determine that all necessary federal, state, or local governmental agency permits have been obtained which require prior approval;
- (b) Review all development permits to determine that the permit requirements and conditions of this chapter have been satisfied;

(c) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new structures, substantially improved structures, or substantially improved floodproofed structures, and whether or not the structure contains a basement; and

(d) Maintain floodproofing certification required by CBDC ~~47.34717.318~~.160(2)(~~cb~~), Nonresidential Construction. [Ord. 473 § 3 (Exh. A), 2016].

(e) The City's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the City shall notify FEMA in the form of a map revision or amendment by submitting technical or scientific data in accordance with Code of Federal Regulations Title 44. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

#### **47.34717.318.020 Authorization.**

The state of Oregon has, in ORS 203.035, 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 Coos Bay does ordain as follows in this chapter. [Ord. 473 § 3 (Exh. A), 2016].

#### **47.34717.318.030 Findings of fact.**

(1) The flood hazard areas of the city of Coos Bay 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 hazard 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. [Ord. 473 § 3 (Exh. A), 2016].

#### **47.34717.318.040 Statement of purpose.**

It is the purpose of this chapter 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 to:

(1) Protect human life and health;

(2) Minimize expenditure of public money and costly flood control projects;

- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) 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) 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) Ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- (9) Maintain eligibility for disaster relief. [Ord. 473 § 3 (Exh. A), 2016].

**47.34717.318.050 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter 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;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas; and
- (6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances. [Ord. 473 § 3 (Exh. A), 2016].

**47.34717.318.060 Definitions.**

Unless specifically defined below, words or 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.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.



~~“Area of special flood hazard” means the land in the floodplain 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.~~

“Area of special flood hazard” is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

~~“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.~~

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

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

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

“Building Official” means the City Building Official or his/her designee.

“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 manmade 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 non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Existing manufactured ~~home-dwelling~~ park or subdivision” means a manufactured ~~home dwelling~~ park subdivision for which the construction of facilities for servicing the lots on which the manufactured ~~homes-dwellings~~ 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 dwelling~~ park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured ~~homes dwellings~~ 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:~~

~~(a) The overflow of inland or tidal waters; and/or~~

~~(b) The unusual and rapid accumulation or runoff of surface waters from any source. “Flood” or “Flooding” means:~~

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

~~(1) The overflow of inland or tidal waters.~~

~~(2) The unusual and rapid accumulation or runoff of surface waters from any source.~~

~~(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.~~

~~(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.~~

~~“Flood elevation study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards~~

~~“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard 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. Flood Insurance Rate Map” (FIRM) means an official map of a community, on which both the special hazard areas and the risk premium zones applicable to the community are delineated. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).~~

~~“Flood Hazard Administrator” means the Public Works Director or his/her designee.~~

“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.

“Grade (adjacent ground level)” means the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet from the wall. If walls are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley or public way. For the NFIP, the lowest adjacent grade is the lowest point of the ground level next to the building.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at CBDC ~~47.347~~17.318.160(2)(~~ba~~), Residential Construction.

“Manufactured ~~dwellinghome~~” 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. The term “manufactured dwelling” is synonymous with the term “manufactured home”.

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

“New construction” means ~~structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of March 1977 and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.~~

“New manufactured ~~home-dwelling park or~~ subdivision” means a manufactured ~~home dwelling park or~~ subdivision for which the construction of facilities for servicing the lots on which the manufactured ~~homes-dwellings~~ 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) Four hundred square feet or less when measured at the largest horizontal projection;



- (b) Designed to be self-propelled or permanently towable by a light duty truck; and
- (c) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~“Start of construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 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 dwelling 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 that alteration affects the external dimensions of the building.~~

~~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 on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~“State building code” means the combined specialty codes.~~

~~“Structure” means the combined specialty codes.~~

~~“Structure” means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home dwelling.~~

~~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, 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. either: This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.

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

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

The term does not, however, include either:

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

(b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places, provided that the alteration will not preclude the structure’s being listed on a state inventory or the National Register of Historic Places.

“Variance” means a grant of relief by a community from the terms of a flood plain management regulation.

~~a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.~~

“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. [Ord. 473 § 3 (Exh. A), 2016].

#### ~~47.34717.318~~.070 General provisions – Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city of Coos Bay. [Ord. 473 § 3 (Exh. A), 2016].

#### ~~47.34717.318~~.080 Basis for establishing the areas of special flood hazard.

(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 ~~September 25, 2009~~December 7, 2018,

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.

(2) When base flood elevation data described in subsection (1) of this section has not been provided, the ~~City's Flood Hazard Administrator~~~~local administrator, the public works director,~~ shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source to administer CBDC ~~47.34717.318.130~~ and ~~47.34717.318.160~~(2), Specific Standards.

(3) The ~~C~~city shall make an interpretation, where needed, as to the exact location of FIRM boundaries of the areas of special flood hazard (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. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulation of the National Flood Insurance Program (44 CFR 59-76). [Ord. 473 § 3 (Exh. A), 2016].

#### ~~47.34717.318.090~~ **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, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 473 § 3 (Exh. A), 2016].

#### ~~47.34717.318.100~~ **Interpretation and severability.**

(1) In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes and rules including the state building code.

(2) Severability. If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this chapter. [Ord. 473 § 3 (Exh. A), 2016].

#### ~~47.34717.318.110~~ **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 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 city of Coos Bay, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. 473 § 3 (Exh. A), 2016].

#### **~~17.34717.318.~~120 Alteration of watercourses.**

Adjacent jurisdictions, the Department of Land Conservation and Development, and other appropriate state and federal agencies shall be notified prior to any alteration or relocation of a watercourse subject to flood hazard, and the city shall submit evidence of such notification to the Federal Insurance Administration. Maintenance shall be required within the altered or relocated portion of the watercourse so that its flood-carrying capacity is not diminished. [Ord. 473 § 3 (Exh. A), 2016].

#### **~~17.34717.318.~~130 Special flood hazard areas.**

(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 CBDC 17.34717.318.160, 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.~~

~~(5) New installation of manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:~~

~~(a) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation and the continued use is not a threat to life, health, property, or the general public; or~~

~~(b) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation, and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:~~

~~(i) As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;~~

~~(ii) The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 centimeters) above the BFE as identified on the flood insurance rate map;~~

~~(iii) The replacement manufactured home is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;~~

~~(iv) The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;~~

~~(v) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and~~

~~(vi) Any other requirements deemed necessary by the authority having jurisdiction. [Ord. 473 § 3 (Exh. A), 2016].~~



**47.34717.318.140 Development permit required – Obtaining and maintaining information.**

(1) A development permit shall be obtained before construction, including substantial improvements, or development begins within any area of special flood hazard established in CBDC 47.34717.318.080. The permit shall be for all structures, including manufactured homesdwellings, and for all development including fill and other activities, as set forth in Chapter 17.365 CBDC and this chapter.

(2) Application for Development Permit. Application for a development permit as described in CBMC Chapter 17.130 shall be made on forms furnished by the department 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:

- (a) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in CBDC 47.34717.318.160(2)(cb), Nonresidential Construction; and
- (d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(3) Information to Be Obtained and Maintained.

(a) Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in CBDC 47.34717.318.080(2), Basis for establishing areas of special flood hazard, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

(b) For all new or substantially improved floodproofed structures where elevation data is provided through the flood insurance study, FIRM, or as required in CBDC 47.34717.318.080(2):

- (i) Obtain and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and
- (ii) Maintain the floodproofing certifications required in subsection (2) of this section.

(c) Maintain for public inspection all records pertaining to the provisions of this chapter. [Ord. 473 § 3 (Exh. A), 2016].

#### **17.34717.318.150 Review of development permits.**

The Flood Hazard Administrator ~~director~~ is hereby appointed to administer, ~~and~~ implement, -interpret and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The Flood Hazard Administrator duties include~~The duties shall include~~, but are not ~~be~~ limited to:

- (1) Review all development permits to determine that the permit requirements and conditions of this chapter have been satisfied.
- (2) 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) 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 CBDC 17.34717.318.130 are met.

#### **(4) Interpret the provisions of CBDC 17.318 as noted in 17.318.100.**

Where elevation data is not available either through the flood insurance study or from another authoritative source, CBDC 17.34717.318.080(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 historic data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. [Ord. 473 § 3 (Exh. A), 2016].

#### **17.34717.318.160 Provisions for flood hazard reduction.**

Substantial improvements to existing structures located at or below the base flood elevation and all new construction shall conform to the following standards. The ~~B~~building official ~~and/or 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-dwellings 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 and Planned Unit Development (PUD) Proposals.

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

(ii) All subdivision and PUD 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 PUD 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 and/or PUD 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 CBDC ~~17.347~~17.318.080(1) or (2), the following provisions are required:

~~(a) All new construction and substantial improvements with that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.~~

~~(ba)~~ Residential Construction.

~~(i)~~ ~~(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)~~ ~~New construction shall comply with the requirements of 17.318.160(2a). 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.~~

~~(cb)~~ 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 this chapter;
- (iv) Nonresidential structures which are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 17.318.160(2a).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).

~~(d)~~ Manufactured Homes Dwellings.

- (i) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with subsection (2)(a) of this section;
- (ii) The bottom of the longitudinal chassis frame beam shall be at or above the BFE;
- (iii) 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) Electrical crossover connections shall be a minimum of 12 inches above BFE.

~~(i) Manufactured homes shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated a minimum of 18 inches (46 centimeters) above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement when the home is to be located or substantially improved on sites:~~

~~(A) Outside of a manufactured home park or subdivision;~~

~~(B) In a new manufactured home park or subdivision;~~

~~(C) In an expansion to an existing manufactured home park or subdivision; or~~

~~(D) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood.~~

~~(E) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (2)(c)(i)(B) of this section shall be elevated so that either:~~

~~1. The finished floor of the manufactured home is elevated a minimum of 18 inches (46 centimeters) above the base flood elevation; or~~

~~2. 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 is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~

~~(F) Manufactured dwelling installation shall comply with the Oregon Manufactured Dwelling Installation Specialty Code related to electrical crossover connections.~~

~~(ed)~~ 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~~dwellings. [Ord. 473 § 3 (Exh. A), 2016].

#### ~~17.347~~17.318.170 Below-grade crawlspaces.

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

(1) 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 subsection (2) of this section. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five 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.

(2) 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 foot above the lowest adjacent exterior grade.

(3) 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.

(4) Any building utility systems within the crawlspace must be elevated above the 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.

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

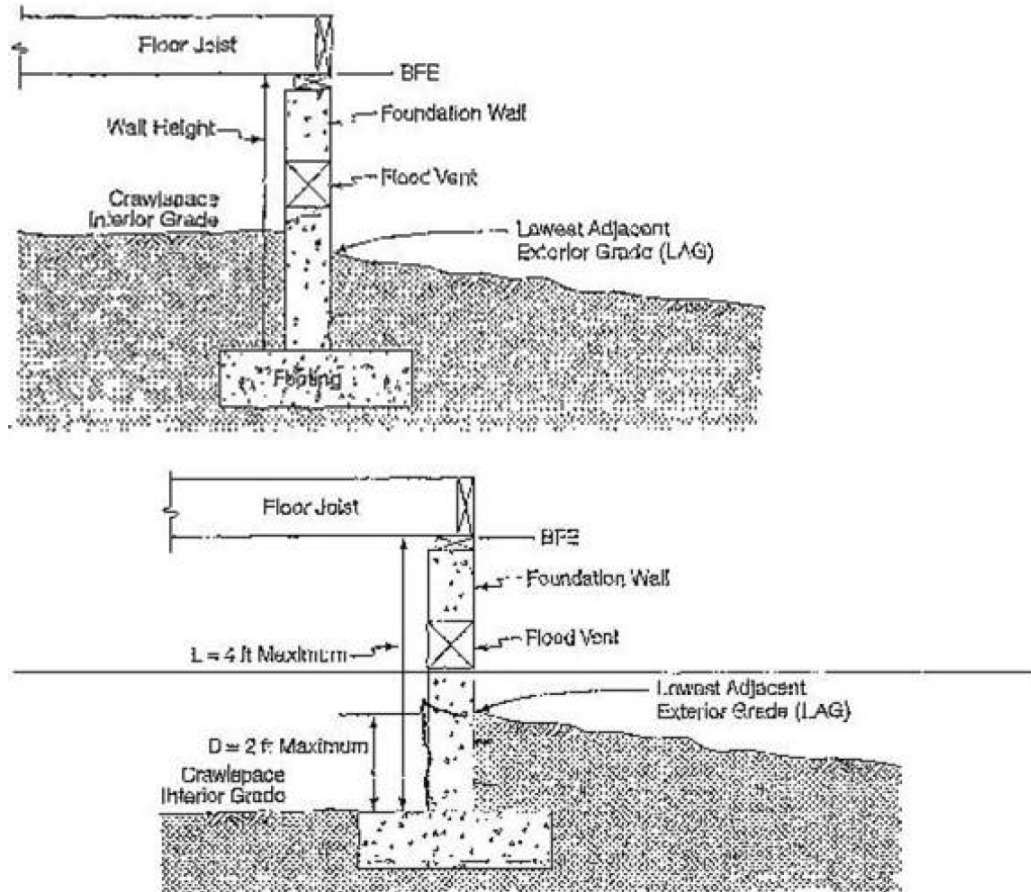
(6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building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

(7) 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.

(8) The velocity of floodwaters at the site must not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types shall be used.

(9) There is an increased insurance cost associated with below-grade crawlspaces.

Below are diagrams from FEMA Technical Bulletin 11-01.



- \* Preferred crawlspace construction.
- \* Requirements regarding below-grade crawlspace construction.
- \* For residential structures, state building code requires the lowest floor to be elevated a minimum of one foot ~~(18 inches for manufactured homes)~~ above BFE and the bottom of the longitudinal chassis frame beam to be elevated to or above the BFE for manufactured dwellings.

[Ord. 473 § 3 (Exh. A), 2016].

#### **17.34717.318.180 Critical facility.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above.



Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. [Ord. 473 § 3 (Exh. A), 2016].

**~~47.347~~17.318.190 ~~Land division, M-manufactured home dwelling parks, and planned unit development.~~**

All development proposals for ~~land division~~, manufactured home dwelling parks, ~~and PUDs~~ shall be consistent with the need to minimize flood damage; shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage; and where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for those development proposals which contain at least 50 lots or spaces, or five acres (whichever is less). [Ord. 473 § 3 (Exh. A), 2016].

**~~47.347~~17.318.200 Standards for storage of materials and equipment.**

(1) The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning. [Ord. 473 § 3 (Exh. A), 2016].

**17.318.300 Variance**

(1) The issuance of a variance noted in this chapter is for flood hazard management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The City's Flood Hazard Administrator, after examining the applicant's hardships, shall approve or disapprove a Variance request in compliance with the following standards and requirements:

(i) The variance is the minimum necessary, considering the flood hazard, to afford relief from:

a. The danger that materials may be swept onto other lands to the injury of others.

b. The danger of life and property due to flooding or erosion damage.

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

d. The importance of the services provided by the proposed facility to the community.

e. The necessity to the facility of a waterfront location, where applicable.

f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage.

g. The compatibility of the proposed use with existing and anticipated development.

h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.

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

(iii) Variances may be issued 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, in conformance with the procedures of this section. While the granting of variances generally is limited to a lot size less than one-half deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increase.

(iv) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(v) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a. the criteria of this section are met, and

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

(vi) Variances shall only be issued upon:

(a) a showing of good and sufficient cause,

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

(c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief from:

3) Granting of a Variance is subject to the requirements of the Type II authorization and appeal procedure specified in CBMC section 17.130.

(4) Upon approval of a Variance, the Flood Hazard Administrator shall notify the applicant in writing that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance

(ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in 17.318.300 (5).

(5) The Flood Hazard Administrator shall maintain a record of all variance actions, including justification for their issuance.

#### **17.318.400 Violation Penalties**

Violations of Section 17.318, consistent with CBMC Chapter 9.45.030, are punishable by a fine not to exceed \$500.00. Each day a violation continues constitutes a separate offense. However, if the State of Oregon statutes allow a lesser penalty, punishment shall be limited to the lesser penalty prescribed in the state law.