

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE March 18, 2014	AGENDA ITEM NUMBER
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TO: Mayor Shoji and City Councilors

FROM: Eric Day, Community Development Department
Debbie Erler, Planner

Through: Rodger Craddock, City Manager

ISSUE: **CODE AMENDMENTS - Application #187-ZON13-00049**
Amend Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, Including adopting updated Flood Insurance Rate Report and Maps dated March 17, 2014, and proposed Text Amendments.

BACKGROUND

The City of Coos Bay is proposing amendments to Coos Bay Municipal Code Chapter 17.195 Flood Damage Prevention including adopting updated Flood Insurance Rate Report and Maps dated March 17, 2014 by reference at "Exhibit A" and the proposed Text Amendments at "Exhibit B". The maps have been developed using new technology to increase the accuracy. The proposed text amendments are considered necessary in order to remain in compliance with the National Flood Insurance Act of 1968, and for the City to continue to be eligible for the National Flood Insurance Program (NFIP).

On April 29, 2011, FEMA provided the City with preliminary copies of the Flood Insurance Study (FIS) report and FIRM maps that identify existing flood hazards in our community. Since that time, there have been numerous open houses, letters sent to affected property owners, and published notices regarding the process (as outlined in Attachment A, Finding 2). The City mailed notice to all property owners within the floodplain (based on current and proposed maps) and published notice in *The World* on January 30, 2014 and March 6, 2014.

The purpose of the NFIP is not to prohibit floodplain development, but to guide development in floodplain areas in such a way as to lessen the economic loss and social disruption caused by impending flood events. Federal flood insurance is only available in those communities that participate in the NFIP program and flood insurance is required for federally-backed loans to purchase or build structures located in special flood hazard areas. The City must adopt or show evidence of pending adoption of the updated maps prior to March 17, 2014 as a requirement of continued eligibility in the National Flood Insurance Program (NFIP). The City received verification from FEMA that existing LOMA's (Letters of Map Amendment - letters stating that particular properties are outside of the floodplain) are not incorporated in the new map but will still be valid.

On February 11, 2014, the Planning Commission voted to recommend approval of the proposed updated Flood Insurance Rate Maps dated March 17, 2014, and the proposed Text Amendments to Coos Bay Municipal Code Chapter 17.195 Flood Damage Prevention.

The Flood Insurance Rate Report and Maps of March 17, 2014 Final Summary of Map Actions dated February 22, 2014. The Planning Commission's Final Recommendation and the proposed text amendments were posted on the City's web site for public review on March 5, 2014.

ADVANTAGE

- The proposed map updates and text amendments will insure the City remains in compliance with the National Flood Insurance Act of 1968 and to continue to be eligible for the National Flood Insurance Program.
- Previously approved “Letters of Map Amendment” (LOMA) are still valid.

DISADVANTAGE

- Failure to enact the necessary floodplain management regulations will result in the City being suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.
- Property owners within the City will be subject to higher flood insurance rates.

BUDGET IMPLICATIONS

None.

RELATED CITY GOAL

The related City goal is “City Policies, Procedures & Partnerships” which includes a review and evaluation of City ordinances, and policies to provide for the current and future needs of the citizens.

Top Goal Priorities:

- ✓ Evaluate the City Charter, ordinances, and policies to efficiently address the needs of the businesses and citizens in a cost effective and timely manner.
- ✓ Evaluate the City Charter, ordinances, and policies for compliance with existing and revised federal and state regulatory agency rules.

ACTION REQUESTED

If it pleases the City Council, **enact the attached Ordinance** adopting the proposed updated Flood Insurance Rate Report and Maps dated March 17, 2014 and the proposed Text Amendments to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention.

Attachments: Draft Ordinance with Attachment “A” (11 pages)
Planning Commission Final Recommendation (4 pages)
CBMC Chapter 17.195 with proposed text amendments (19 pages)
Draft Planning Commission Minutes (2 pages)

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

ATTACHMENT “A”

I. APPLICANT’S REQUEST

The City of Coos Bay is proposing amendments to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, including adopting updated Flood Insurance Rate Maps dated March 17, 2014, by reference at “Exhibit A” and the proposed Text Amendments at “Exhibit B”. The maps have been developed using new technology to increase the accuracy and the proposed text amendments are necessary in order to remain in compliance with the National Flood Insurance Act of 1968 and to continue to be eligible for the National Flood Insurance Program.

II. APPLICABLE REGULATIONS

City of Coos Bay Coos Bay Municipal Code

Chapter 17.195 - Flood Damage Prevention

Chapter 17.380 - Amendments

Comprehensive Plan, Volume I, 7.1 - Natural Resources and Hazards

III. STAFF RECOMMENDATION

Based on the applicant’s submittal and the findings and conclusion set forth below, recommend the City Council enact the proposed map and text amendments to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, including the Flood Insurance Rate Maps dated March 17, 2014 by reference at “Exhibit A” and the proposed Text Amendments at “Exhibit B”, in order to remain in compliance with the National Flood Insurance Act of 1968 and continue eligibility in the National Flood Insurance Program.

IV. DECISION CRITERIA, STATEMENT OF FACT/FINDINGS & CONCLUSION

The Planning Commission will make a recommendation to the City Council based on the findings and conclusions which address the following criteria from Coos Bay Municipal Code Chapter 17.380:

Decision Criteria #1: An acceptable rationale which supports the need for the amendment.

Decision Criteria #2: The amendment complies with the applicable provisions of the comprehensive plan.

1. Statewide Planning Goal 7, Areas Subject to Natural Hazards, requires local governments to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.
2. On April 29, 2011, FEMA provided the City with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in our community, including Base Flood Elevations (BFFs). The proposed flood hazard determinations (FHDs) for our community were published in *The Federal Register* on December 28, 2012 and *The World* on February 28, 2013 and March 7, 2013.

A letter dated May 20, 2011 was sent to property owners in the notice area informing them of the proposed updates to the maps and inviting them to attend an open house on June 7, 2011 to review the proposed maps and that the maps are available for review at Coos Bay City Hall. Published notice appeared again in *The World* on February 28, 2013 and March 7, 2013 regarding the proposed adoption of the maps and the appeal period. On March 27, 2013 an article appeared in *The World* informing citizens of the proposed map updates and another open house on April 8, 2013. The six month review and appeals period has ended.

The City mailed notice to all property owners within the floodplain (based on current and proposed maps) and published notice in *The World* on January 30, 2014 and notice will be published again on March 6, 2014 prior to the March 18, 2014 City Council hearing.

The City must adopt or show evidence of pending adoption of the updated maps, prior to March 17, 2014, as a requirement of continued eligibility in the National Flood Insurance Program (NFIP).

3. The purpose of the NFIP is not to prohibit floodplain development, but to guide development in floodplain areas in such a way as to greatly lessen the economic loss and social disruption caused by impending flood events. Federal flood insurance is only available in those communities that participate in the NFIP and flood insurance is required for the following: federally-backed loans to purchase or build structures located in any special flood hazard area; lending institutions federally regulated; the loan will be sold on the secondary market to a government sponsored enterprise. This comprises well over 95% of all mortgage loans made each year ("Floodplain Management," FEMA, 2000).

4. Comprehensive Plan, Volume I, 7.1, Natural Resources and Hazards:

NRH.5 Coos Bay shall continue to participate in the National Flood Insurance Program of the U.S. Department of Housing and Urban Development, recognizing that participation in this program substantially insures the health and wellbeing of its residents and allow city residents to benefit from subsidized flood insurance rates.

CONCLUSION: The proposed updates to the Coos Bay Municipal Code Chapter 17.195, including the Flood Insurance Rate Maps adopted by reference, at "Exhibit A" and the proposed text amendments at "Exhibit B" will bring the City into compliance with the requirements of the National Flood Insurance Act of 1968 and continue eligibility in the National Flood Insurance Program. The decision criteria have been satisfied.



CITY OF COOS BAY
Community Development Department

500 Central Avenue
Coos Bay, OR 97420

541.269.8918
www.coosbay.org

**NOTICE OF PLANNING COMMISSION RECOMMENDATION
AMENDMENT TO ORDINANCE 93 (COOS BAY MUNICIPAL CODE)**

APPLICATION: 187-ZON2013-049

APPLICANT: City of Coos Bay, 500 Central Ave, Coos Bay, OR 97420

PROPOSAL: Amend Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, including adopting updated Flood Insurance Rate Maps dated March 17, 2014, by reference at "Exhibit A" and the proposed Text Amendments at "Exhibit B".

RECOMMENDATION: Recommend approval as submitted on February 11, 2014
Planning Commission Final Vote:

Yea: *Vice-Chairmen Jeff Marineau, Commissioners Jim Berg, Christine Coles, Bruce Harlan, Phil Marler and Rex Miller*

Nay: None **Abstain:** None

APPEAL PROVISIONS: Page 2.

DECISION CRITERIA, ADOPTED FINDINGS OF FACT, CONCLUSIONS: Pages 3-4

FINAL RECOMMENDATION

Based on the applicant's submittal and the Findings and Conclusion, attached hereto and incorporated herein by reference as "Attachment A", recommend the City Council approve the proposed map and text amendments to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, including the Flood Insurance Rate Maps dated March 17, 2014 by reference at "Exhibit A" and the proposed Text Amendments at "Exhibit B".

DECISION PROCESS - EFFECTIVE DATE

The Planning Commission makes a recommendation to the City Council after hearing public testimony and addressing the decision criteria applicable for the proposed zone change and plan map amendment. The Commission may recommend approval, approval with conditions, or deny the proposals after approving findings or statements which substantiate their conclusions.

The Council shall review the record and affirm, amend, or reverse the Commission recommendation, or remand the matter back for further consideration. Upon approval of the proposed amendments, the City Council shall have prepared an ordinance declaring the changes. The proposed changes will become effective 30 days after the enactment of the ordinance.

APPEAL PROVISION

The final decision will be made by the City Council, and this decision may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830.

Questions regarding the appeal procedure may be directed to the Community Development Department, City Hall, 500 Central, Coos Bay, Oregon or phone (541) 269-8918.

Sincerely,
CITY OF COOS BAY



Debbie Erler, Planner
Community Development

Date: February 14, 2014

ATTACHMENT: A - Findings and Conclusions
B - Applicant's submittal (previously provided)

EXHIBIT: A - Flood Insurance Rate Maps dated March 17, 2014 by reference
B - Proposed Text Amendments at "Exhibit B".

c: Applicant and Dave Perry, DLCD

ATTACHMENT "A"

I. APPLICANT'S REQUEST

The City of Coos Bay is proposing amendments to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, including adopting updated Flood Insurance Rate Maps dated March 17, 2014, by reference at "Exhibit A" and the proposed Text Amendments at "Exhibit B". The maps have been developed using new technology to increase the accuracy and the proposed text amendments are necessary in order to remain in compliance with the National Flood Insurance Act of 1968 and to continue to be eligible for the National Flood Insurance Program.

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1. Statewide Planning Goal 7, Areas Subject to Natural Hazards, requires local governments to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.
2. On April 29, 2011, FEMA provided the City with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in our community, including Base Flood Elevations (BFFs). The proposed flood hazard determinations (FHDs) for our community were published in *The Federal Register* on December 28, 2012 and *The World* on February 28, 2013 and March 7, 2013.

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4. Comprehensive Plan, Volume I, 7.1, Natural Resources and Hazards:

NRH.5 Coos Bay shall continue to participate in the National Flood Insurance Program of the U.S. Department of Housing and Urban Development, recognizing that participation in this program substantially insures the health and wellbeing of its residents and allow city residents to benefit from subsidized flood insurance rates.

CONCLUSION: The proposed updates to the Coos Bay Municipal Code Chapter 17.195, including the Flood Insurance Rate Maps adopted by reference, at "Exhibit A" and the proposed text amendments at "Exhibit B" will bring the City into compliance with the requirements of the National Flood Insurance Act of 1968 and continue eligibility in the National Flood Insurance Program. The decision criteria have been satisfied.

Chapter 17.195

FLOOD DAMAGE PREVENTION

Sections:

- 17.195.010 General.
- 17.195.020 Authorization.
- 17.195.030 Findings of fact.
- 17.195.040 Statement of purpose.
- 17.195.050 Methods of reducing flood losses.
- 17.195.060 Definitions.
- 17.195.070 General provisions – Lands to which this chapter applies.
- 17.195.080 Basis for establishing the areas of special flood hazard.
- 17.195.090 Abrogation and greater restrictions.
- 17.195.100 Interpretation and severability.
- 17.195.110 Warning and disclaimer of liability.
- 17.195.120 Alteration of watercourses.
- 17.195.130 Special flood hazard areas.
- 17.195.140 Development permit required – Obtaining and maintaining information.
- 17.195.150 Review of development permits.
- 17.195.160 Provisions for flood hazard reduction.
- 17.195.170 Below-grade crawlspaces.
- 17.195.180 Critical facility.
- 17.195.190 Land division, manufactured home parks and planned unit development.
- 17.195.200 Standards for storage of materials and equipment.

17.195.010 General.

(1) Areas within the city of Coos Bay have been subject to periodic flooding and the city is a participating community in the National Flood Insurance Program. Therefore, the city must adopt 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 city shall:

- (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 CBMC 17.195.160(2)(b). [Ord. 418 § 4, 2009].

17.195.020 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. 418 § 5, 2009].

17.195.030 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. 418 § 6, 2009].

17.195.040 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:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- (9) To maintain eligibility for disaster relief. [Ord. 418 § 7, 2009].

17.195.050 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. 418 § 8, 2009].

17.195.060 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. Some of the definitions below are repeated from Chapter 17.10 CBMC.

“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.

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

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

“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.

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

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

~~“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

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

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

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood 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.

“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 nonelevation design requirements of this chapter found at CBMC 17.195.160(2)(a)(ii).

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a recreational vehicle.

~~“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 construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

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

“Recreational vehicle” means a vehicle which is:

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

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

include the installation 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 a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

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

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

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

The term does not, however, include either:

- (1) Any project for improvement of a structure to 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) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“Variance” means a grant of relief from the requirements of this 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. 418 § 9, 2009].

17.195.070 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. 418 § 10, 2009].

17.195.080 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~~ 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.

(2) When base flood elevation data described in subsection (1) of this section has not been provided, the 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 CBMC 17.195.130 and 17.195.160(2).

(3) The 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. 418 § 11, 2009].

17.195.090 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. 418 § 12, 2009].

17.195.100 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. 418 § 13, 2009].

17.195.110 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. 418 § 14, 2009].

17.195.120 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. 418 § 15, 2009].

17.195.130 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 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.

~~(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. 418 § 16, 2009].~~

17.195.140 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 CBMC 17.195.080. The permit shall be for all structures, including manufactured homes, and for all development including fill and other activities, as set forth in CBMC 17.10.010 and 17.195.060.

(2) Application for Development Permit. Application for a development permit shall be made on forms furnished by the public works and development 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 CBMC 17.195.160(2)(b); 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 CBMC 17.195.080(2), 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 CBMC 17.195.080(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. 418 § 17, 2009].

17.195.150 Review of development permits.

The public works and development director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. The duties shall include, but 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 CBMC 17.195.130(2) are met.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, CBMC 17.195.080(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. 418 § 18, 2009].

17.195.160 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 building official and/or public works and development 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.~~

~~(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.~~

~~(ii) 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) of this section shall be elevated so that either:~~

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

~~(B) 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.~~

(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 allows below BFE, but shall be constructed to prevent floodwaters from entering or accumulating within system components. This may require and engineers certification.

(d) Recreational Vehicles. Recreational vehicles 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].

17.195.170 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.

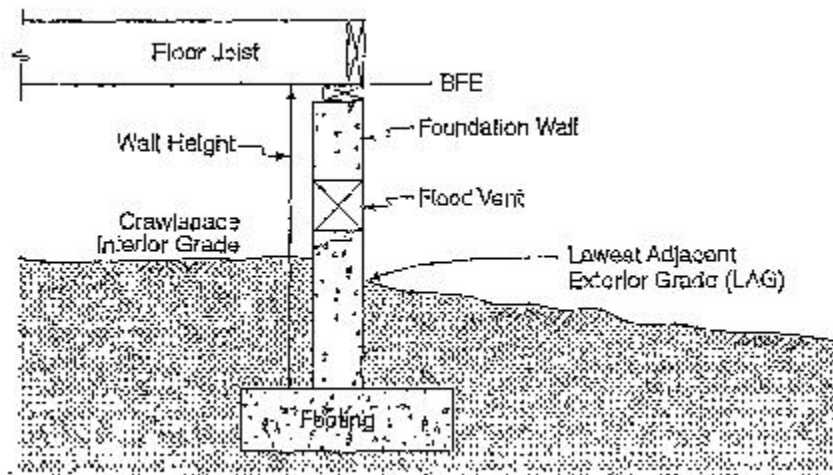
(7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type

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.

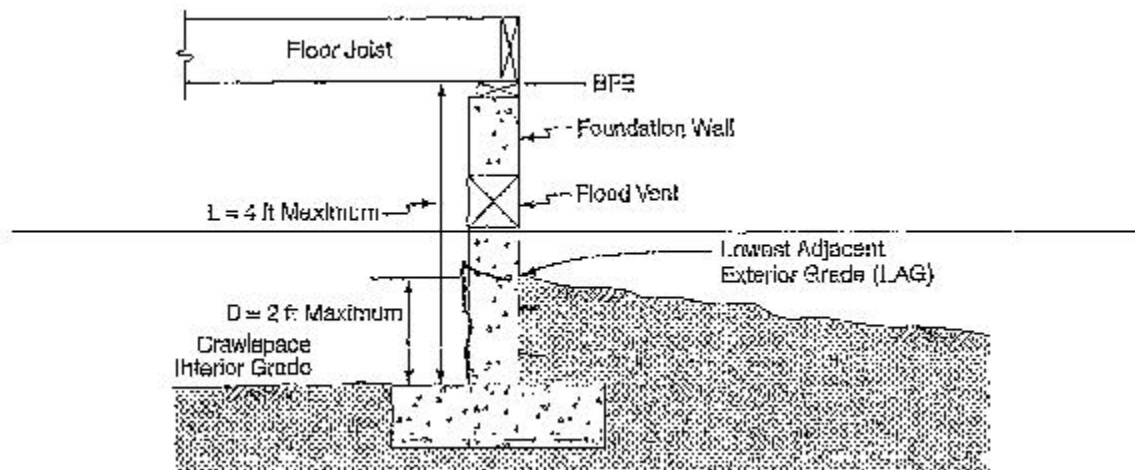
(8) The velocity of floodwaters at the site must not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types shall be used.

(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.

[Ord. 418 § 20, 2009].

17.195.180 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. 418 § 21, 2009].

17.195.190 Land division, manufactured home parks and planned unit development.

All development proposals for land division, manufactured home parks, and planned unit developments 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. 418 § 22, 2009].

17.195.200 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. 418 § 23, 2009].

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 elevat 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.

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.

CITY OF COOS BAY
PLANNING COMMISSION MINUTES
Tuesday, February 11, 2014 at 6:00 P.M.
Coos Bay City Hall, 500 Central Avenue, Coos Bay

ATTENDANCE

COMMISSIONERS: Vice-Chairman Jeff Marineau, Commissioners Jim Berg, Christine Coles, Bruce Harlan, Phil Marler and Rex Miller

ABSENT: Commissioner Chris Hood

STAFF: Eric Day, Director of Community Development
Debbie Erler, Planner
Aaron Harris, Planner

SIGNED-IN GUESTS: John Spurgin, 364 Pacific Ave. & 800 S. Empire Blvd., Coos Bay

CCI/PUBLIC COMMENTS None

APPROVAL OF MINUTES

Approval of the Planning Commission minutes of January 14, 2014.

MOTION: Commissioner Coles - Approve the Planning Commission minutes of January 14, 2014 as submitted.

SECOND: Commissioner Miller

VOTE: Unanimous **ABSTAIN:** Commissioner Marineau

PUBLIC HEARINGS

ITEM C: Code Amendment application #187-ZON2013-00049. The City of Coos Bay, 500 Central Avenue, Coos Bay, OR 97420, is proposing to amend the Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention in order to comply with the National Flood Insurance Act of 1968, including the adoption of updated Flood Insurance Rate Maps by reference and other language updates that regulate development on property located in the floodplain.

Chairman Hood asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if any Planning Commissioner had ex parte contact or conflict of interest to report.

Chairman Hood opened the public hearing.

Debbie Erler read the disclosure statement and outlined that applicant's request. The City of Coos Bay is proposing amendments to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, including adopting updated Flood Insurance Rate Maps dated March 17, 2014, by reference at "Exhibit A" and the proposed Text Amendments at "Exhibit B". The maps have been developed using new technology to increase the accuracy and the proposed text amendments are necessary in order to remain in compliance with the National Flood Insurance Act of 1968 and to continue to be eligible for the National Flood Insurance Program.

Will Wright, Coos Bay stated that the flooding at Blossom Gulch has been made worse by development by upland. He stated there is a problem with willow and Beavers that have created dams in the area. He said he would like to see flood control measure should be taken. He built a berm to help with flooding and single goffer hole can create a problem. He is concerned about overloading the berm or opening up the channel. He said maybe it's time for Shutter Creek to have a work crew clean up the area again.

Commissioner Hood closed the public hearing.

Commissioner Marler asked staff how many properties we adversely affected by the map updates. Ms. Erler stated we have been asked to review about 20 properties since the notice was mailed out and of the 20 only about three had property where the floodplain extended further into the property. She stated the prior "Letter of Map Amendments" are still valid but are not reflected on the updated maps.

Commissioner Miller asked if our community is paying for disasters in other areas. Ms. Erler stated that FEMA does disburse the disaster relief across the country. It is in part because of the large number of disaster that the FEMA is eliminating subsidies and increasing rates. If our community did not participate in the program property owners in our community would pay even higher flood insurance premiums.

The Commission discussed the flood insurance

- MOTION:** Commissioner Berg - Based on the applicant's submittal and the Statements of Facts, Findings, and Conclusions, recommend City Council approve the proposed amendment to Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention application #187-ZON2013-00049, including adopting updated Flood Insurance Rate Maps dated March 17, 2014, by reference at "Exhibit A" and the proposed Text amendments at "Exhibit B".
- SECOND:** Commissioner Marler
- VOTE:** Yea: Vice-Chairman Marineau, Commissioners Jim Berg, Christine Coles, Bruce Harlan, and Phil Marler
Nay: Commissioner Rex Miller

COMMISSION COMMENTS

Commissioner Harlan asked where the City is going with changes proposed for the Design Review Committee. Ms. Erler stated the City Council has scheduled a work session to review the proposal.

Commissioner Coles thanked the Design Review Committee for all the work they have done for the City. She stated the Planning Commission really appreciates their expertise.

STAFF COMMENTS

ADJOURNMENT 6:55 p.m.

Chris Hood, Chairman
City of Coos Bay
Coos County, Oregon

ATTEST:

Debbie Erler, Planner, City of Coos Bay