

ORDINANCE NO.740

An Ordinance relating to land use and amending Scappoose Municipal Code Sections 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030, 17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.62.030, 17.68.030(Q), 17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040 and Declaring an Emergency..

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

Section 1. Scappoose Municipal Code Section 17.26, Definitions, shall be amended with the addition of the following:

Scappoose Creek Flood Plain: The A, AE and AO areas of the Scappoose Creek Floodway fringe as shown on the Flood Insurance Rate Map dated August, 1988,

Section 2. Scappoose Municipal Code Section 17.44.030 is hereby amended to read as follows:

- A. In the R-1 zone **outside of the Scappoose Creek Flood Plain**, only the following uses and their accessory uses are permitted outright;
 - 1. Day care home;
 - 2. Home occupation (Type I) subject to Chapter 17.142;
 - 3. Manufactured homes on individual lots subject to Section 17.94.030;
 - 4. Public support facilities;
 - 5. Residential care home;
 - 6. Single-family detached residential dwelling units;
 - 7. Sewage pump station;
 - 8. Public park and recreation areas provided that all building setbacks shall be a minimum from any property line.

- B. **In the R-1 zone within the Scappoose Creek Flood Plain, only uses listed in Section 17.84.040 shall be permitted.**

Section 3. Scappoose Municipal Code Section 17.44.040, Conditional Uses is hereby amended to read as follows:

“The following uses and their accessory uses may be permitted in the R-1 zone when authorized by the Planning Commission in accordance with the requirements of Chapter 17.130, other relevant sections this title and any conditions imposed by the Planning Commission **when such uses are located outside of Scappoose Creek Flood Plain:**

- A. Church, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- B. Municipal recreation and parks including structures, provided that all building setbacks shall be a minimum of thirty feet from any property line;

- C. Day care facility;
- D. Home occupation (Type II) subject to Chapter 17.142;
- E. Minor impact utilities;
- F. Public safety facilities;
- G. Schools, provided that all building setbacks shall be a minimum of thirty feet from any property line.”

Section 4. Scappoose Municipal Code Section 17.44.050(A) is hereby amended to read as follows:

- “A. The minimum lot area shall be:
 - 1. Seven thousand five hundred (7,500) square feet outside of the Scappoose Creek Flood Plain;
 - 2. **Twenty thousand (20,000) square feet when a structure is located in the Scappoose Creek Flood Plain:”**

Section 5. Scappoose Municipal Code Section 17.50.030, Permitted Uses is hereby amended to read as follows:

- A. In the R-4 zone **outside of the Scappoose Creek Flood Plain**, only the following uses and their accessory uses are permitted outright;
 - 1. Churches previously zoned RC-4 ;
 - 2. Day care home;
 - 3. Duplex;
 - 4. Home occupation (Type I) subject to Chapter 17.142;
 - 5. Manufactured homes on individual lots subject to Section 17.94.030;
 - 6. Multifamily up to four units per lot;
 - 7. Public support facilities;
 - 8. Residential care home;
 - 9. Single-family detached residential dwelling units;
 - 10. Sewage pump station;
 - 11. Public park and recreation areas provided that all building setbacks shall be a minimum from any property line;
 - 12. Accessory Dwelling Units (ADU’s) subject to the provisions of Chapter 17.92;
 - 13. A single-family dwelling having a common wall with one other single-family dwelling, provided:
 - a. Each dwelling unit shall be situation on an individual, legally subdivided or partitioned lot;
 - b. The two dwellings shall have a common wall at the “zero” lot line;
 - c. Both lots combined shall comprise not less than seven thousand square feet in area. There is no minimum lot are for the individual lots created;
 - d. Lot area and setback requirements will apply to the combined

- e. dwelling units as one structure and the combined lots are one lot; Each dwelling unit must have independent services that include, but are not limited to sewer, water and electricity;
- f. The common wall shall be a rated fire wall and shall be of a kind of construction that will insure fire protection as per the Oregon Structural Specialty Code;
- g. Single-family residential common wall structures shall be required to provide a sound barrier at the common wall that has a sound transmission class rating of Code. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection by the Building Official if it meets the code requirements and is supported by proof of meeting sound emission controls as specified;
- h. Existing duplexes will be allowed to be converted to single-family residential common wall if they can be altered to meet the provisions of this title.

“B. In the R-4 zone within the Scappoose Creek Flood Plain only uses listed in Section 17.84.040 shall be permitted.

Section 6. Scappoose Municipal Code Section 17.50.040, Conditional Uses is hereby amended to read as follows:

“Only the following uses and their accessory uses may be permitted in the R-4 zone when authorized by the Planning Commission in accordance with the requirements of Chapter 17.130, other relevant sections this title and any conditions imposed by the Planning Commission **when such uses are located outside of the Scappoose Creek Flood Plain:**

- A. Bed and breakfast facilities, provided that no other such facilities exist within four hundred feet;
- B. Church, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- C. Municipal recreation and parks including structures, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- D. Day care facility;
- E. Home occupation (Type II) subject to Chapter 17.142;
- F. Library services;
- G. Minor impact utilities;
- H. Professional office building under four thousand square feet;
- I. Public safety facilities;
- J. Retail sales establishments under two thousand five hundred square feet;
- K. Residential care facility;
- L. Schools, provided that all building setbacks shall be a minimum of thirty feet from any property line.

Section 7. Scappoose Municipal Code Section 17.50.050(A):

- A. The minimum lot area shall be:
1. Six thousand (6,000) square feet for a single-family **detached dwelling unit when located outside of the Scappoose Creek Flood Plain;**
 2. Seven thousand square feet for the first two attached units plus an additional two thousand five hundred square feet for each additional dwelling unit for triplex or fourplex **when located outside of the Scappoose Creek Flood Plain;**
 3. **Twenty thousand (20,000) square feet for a single-family detached dwelling unit when located inside the Scappoose Creek Flood Plain. No other residential uses are permitted in the Scappoose Creek Flood Plain.**

Section 8. Scappoose Municipal Code Section 17.54.030, Permitted Uses is hereby amended to read as follows:

- “A. In the MH zone **outside of the Scappoose Creek Flood Plain**, only the following uses and their accessory uses are permitted outright;
1. Day care home;
 2. Duplex;
 3. Home occupation (Type I) subject to Chapter 17.142;
 4. Manufactured homes on individual lots subject to Section 17.94.030;
 5. Manufactured home parks subject to Section 17.94.050;
 6. Multifamily up to four units per lot;
 7. Public support facilities;
 8. Residential care home;
 9. Single-family detached residential dwelling units.
- “B. **In the MH zone within the Scappoose Creek Flood Plain only uses in Section 17.84.040 shall be permitted.**

Section 9. Scappoose Municipal Code Section 17.54.040, Conditional uses is hereby amended to read as follows:

- “**Only** the following uses and their accessory uses may be permitted in the MH zone when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission **when such uses are located outside of the Scappoose Creek Flood Plain:**
- A. Bed and breakfast facilities, provided that no other such facilities exist within four hundred feet;
 - B. Church, provided that all building setbacks shall be a minimum of thirty feet from any property line;
 - C. Municipal recreation and parks including structures, provided that all building setbacks shall be a minimum of thirty feet from any property line;
 - D. Day care facility;
 - E. Home occupation (Type II) subject to Chapter 17.142;
 - F. Library services;

- G. Minor impact utilities;
- H. Professional office building under four thousand square feet;
- I. Public safety facilities;
- J. Retail sales establishments under two thousand five hundred square feet;
- K. Residential care facility;
- L. Schools, provided that all building setbacks shall be a minimum of thirty feet from any property line.

Section 10. Scappoose Municipal Code Section 17.54.050(A) is hereby amended to read as follows:

- “A. The minimum lot area shall be:
 1. Six thousand (6,000) square feet for a single-family **detached dwelling unit when located outside of the Scappoose Creek Flood Plain;**
 2. Seven thousand square feet for the first two attached units plus an additional two thousand five hundred square feet for each additional dwelling unit for triplex or fourplex **when located outside of the Scappoose Creek Flood Plain;**
 3. **Twenty thousand (20,000) square feet for a single-family detached dwelling unit when located inside the Scappoose Creek Flood Plain. No other residential uses are permitted in the Scappoose Creek Floodway fringe.**

Section 11. Scappoose Municipal Code Section 17.56.030, is hereby amended to read as follows:

- “A. In the A-1 zone **outside of the Scappoose Creek Flood Plain**, only the following uses and their accessory uses are permitted outright:
 1. Day care home or facility;
 2. Duplex;
 3. Home occupation (Type I) subject to Chapter 17.142;
 4. Manufactured home parks, subject to Section 17.94.050;
 5. Multifamily dwelling units limited to a maximum of eight attached units per building with a minimum fifteen foot separation between buildings containing dwelling units;
 6. Public support services;
 7. Residential care facility.

- “B. **In the R-4 zone within the Scappoose Creek Flood Plain only uses listed in Section 17.84.040 shall be permitted.**

Section 12. Scappoose Municipal Code Section 17.56.040, Conditional uses, is hereby amended to read as follows:

“**Only** the following uses and their accessory uses may be permitted in the A-1 zone when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission **when such uses are located outside of the Scappoose Creek Flood Plain:**

- A. Bed and breakfast facilities, provided that no other such facilities exist with four hundred feet;
- B. Church, provided that all building setbacks shall be a minimum of twenty feet from any property line;
- C. Municipal recreation and parks including structures, provided that all building setbacks shall be a minimum of twenty feet from any property line;
- D. Home occupation (Type II) subject to Chapter 17.142;
- E. Library services;
- F. Minor impact utilities.
- G. Professional office building;
- H. Public safety facilities;
- I. Retail sales establishments under four thousand square feet.

Section 13. Scappoose Section 17.56.050(A) is hereby amended to read as follows:

“A. The minimum lot area shall be:

- 1. Five thousand square feet for the first two **attached** units and two thousand square feet for each additional unit **when located outside of the Scappoose Creek Flood Plain: .**
- 2. The minimum lot area for all other uses shall be five thousand square feet **when located outside of the Scappoose Creek Flood Plain;**
- 3. **Twenty thousand (20,000) square feet for a single-family detached dwelling unit when located inside of the Scappoose Creek Flood Plain; No other residential uses are permitted in the Scappoose Creek Floodway fringe.**

Section 14. Scappoose Municipal Code Section 17.62.030(Q) is hereby amended to read as follows:

:

“Q. Multi family dwelling units per A-1 requirements, when located at least two hundred feet from Highway 30 **and outside of the Scappoose Creek Flood Plain.**”

Section 15. Scappoose Municipal Code Section 17.62.030(Z) is hereby amended to read as follows:

“Z. Residential care facility when located at least two hundred feet from Highway 30 **and outside of the Scappoose Creek Flood Plain.**”

Section 16. Scappoose Municipal Code Section 17.68.030(T) is hereby amended to read as follows:

- “T. Multi family dwelling units per A-1 requirements, when located at least two hundred feet from Highway 30 **and outside of the Scappoose Creek Flood Plain.**”

Section 17. Scappoose Municipal Code Section 17.68.030(DD) is hereby amended to read as follows:

- “DD. Residential care facility when located at least two hundred feet from Highway 30 **and outside of the Scappoose Creek Flood Plain.**”

Section 18. The title of Scappoose Municipal Code is shall be re-titled from “Applicability of Uses” to “Permitted Uses” and all index and references to this section are amended accordingly.

Section 19. Scappoose Municipal Code Section 17.84.040 is hereby amended to read as follows:

- “A. The following uses shall **be permitted in special flood hazard areas and shall not require a permit under this Chapter:** ~~require no additional permits:~~

1. Agricultural uses conducted without locating a structure;
2. Community recreation uses such as bicycle and pedestrian paths or athletic fields or parks, excluding structures;
3. Public and private conservation areas for water, soil, open space, forest and wildlife resources;
4. Removal of poison oak, tansy ragwort, blackberry or other noxious vegetation;
5. Maintenance of floodway excluding re-channeling; and
6. Fences, except in the floodway area.”

- “B. **The following uses shall be permitted in special flood hazard areas and shall require a development permit under this Chapter** in addition to **any applicable** federal, state or county permits ~~for the appropriate division,~~ a development permit shall be obtained from the city for the following:

1. Residential zones: A single-family detached dwelling or a single-family manufactured home and their accessory uses **on lots greater than 20,000 square feet where a structure is to be placed within an area regulated by this Chapter;**
2. Commercial and Industrial zones: Permitted uses of the underlying zone and their accessory uses **on lots greater than 20,000 square feet where a structure is to be placed within an area regulated by this Chapter.** ~~All uses are subject to a minimum lot size of twenty thousand square feet where a structure is to be placed within the A, AE and AO zones, and subject to requirements of this chapter;~~

3. Installation of underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights and driveway aprons;
 4. Minimal ground disturbance(s) but no landform alterations; and
 5. Repair, reconstruction or improvement of an existing structure or utility, the cost of which is less than fifty percent of the market value of the structure as determined by the county tax assessor prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway.
- C. A development permit shall be obtained before construction or development begins within any area of special flood hazard or drainageway unless specifically allowed in subsection A of this section. The permit shall apply to all structures including manufactured homes.”

Section 20. In support of the above amendments to the Scappoose Municipal Code, the City Council hereby adopts the January 22, 2004 (Exhibit A) recommendation of the Planning Commission and the findings contained in the staff report dated December 30, 2003 (Exhibit B) and the supplemental staff report dated January 28, 2004 (Exhibit C).


Section 21. In this Ordinance new language is in **bold** and deleted language is stricken.

Section 22. Emergency. This ordinance being necessary to preserve the public peace, health and safety, an emergency is declared to exist and this ordinance will become effective immediately upon passage by the Council and execution by the Mayor.

INTRODUCED to the City Council this 2nd day of February, 2004.

PASSED AND ADOPTED by the City Council this 2nd day of February, 2004, and signed by me in authentication of its passage.

CITY OF SCAPPOOSE, OREGON


Glenn E. Dorschler, Mayor

First Reading and Second Reading February 2, 2004.

Attest: 
Susan Pentecost, City Recorder

Mr. Kimball came forward and addressed some of Mr. McGary's issues. He will take every precaution to make sure the water flow is fine.

The applicant is allowed seven days after the application is closed. Does the applicant choose to waive the additional seven days? Mr. Kimball replied no he doesn't.

Commissioner Shuman asked Mr. Kimball about lighting.

Commissioner Weber asked what is the elevation difference? Mr. Kimball replied not much.

"D" will be added to the lighting.

Mr. Benkendorf was going to suggest the Planning Commission modify condition 5 and scratch the option. Just have it say six foot.

Mr. Hanken said the fences should go up according to the phases. Commissioner Shuman asked before each phase starts? Mr. Hanken said yes.

Mr. Benkendorf page 7 condition two. As you develop each phase you have to do the landscaping buffer at that time.

Co-Chair Blocksom asked the Planning Commission how they feel about the three year phase. The general consensus is three years seems fine.

Co-Chair Blocksom closed the hearing at 8:49 p.m.

Commissioner Dackins moved, seconded by Commissioner Frenz to accept the application as amended. Motion passes unanimously by voice vote.

Co-Chair Blocksom recessed for a 10-minute break at 8:50 and reconvened at 9:00 p.m.

Ordinance Revision Flood Plain
Format: Legislative Land Use Hearing

Mr. Hanken stated basically this is a housing keeping matter. The issue was heard in the Pilakowski application. This is to clarify the language. The overlay limits those. The Ordinance basically adds language to clarify.

Co-Chair asked how it is going to effect buildable lands? Mr. Hanken replied looking where we are going to go this doesn't appear to put any obstacles in front of us.

Commissioner Weber moved Commissioner Frenz seconded the motion to send this to City Council for approval. Motion passes unanimously by voice vote.

Exhibit B

This is from
the 1/22/04
Planning Commission
Packet

**CITY OF SCAPPOOSE
STAFF REPORT**

Application: Ordinance amending the Scappoose Municipal Code to clarify what uses are permitted in the Scappoose Creek Flood Plain.

Applicant: City of Scappoose
33568 E. Columbia Avenue
P.O. Box P
Scappoose, OR 97067

Public

Hearings: Scappoose Planning Commission scheduled on January 8, 2004

Scappoose City Council scheduled on January 19, 2004

Applicable

Criteria: Scappoose Municipal Code 17.22.020, Legislative Amendments

Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

I. Findings of Fact:

- A. Scappoose Municipal Code 17.84 regulates development in the Scappoose Creek Flood Plain. The ordinance was adopted and became effective on January 2, 1996. The Planning Commission made a recommendation to adopt these regulations on December 28, 1995. The minutes for the December 28, 1995 Planning Commission meeting indicate that the Planning Commission intended to limit development in residential zones of the Scappoose Creek Flood Plain to single family detached residential uses on 20,000 square foot or greater lots. Specifically, SCM 17.84.040 codifies this requirement.
- B. Pursuant to SCM 17.01.050C), the Planner has the initial authority to interpret the Scappoose Municipal Code. The language of the ordinance was interpreted consistent with the documented intent from 1995 - 2000. Since that time, the ordinance has been interpreted as permitting residential uses other than single family detached dwellings in the Scappoose Creek Flood Plain.

II. Applicable Criteria and Evaluation of Criteria:

- A. Scappoose Municipal Code 17.22.020, Legislative Amendments, requires legislative amendment be processed in accordance with Chapter 17.160.

Findings: The application is being processed in accordance with Chapter 17.160 as discussed below.

Exhibit B

Conclusion: Based on the above findings, the application satisfies this criterion.

B. Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

1. SCM 17.160.010 states the purpose of this chapter is to establish procedures for consideration of legislative changes to the provisions of the comprehensive plan, implementing ordinances and maps.

Findings: SCM 17.26 defines "Legislative" as a land use decision that applies to a large number of individuals or properties. Adoption of the proposed ordinance will affect all properties in the Scappoose Creek Flood Plain. Therefore, the application is a legislative change to the Scappoose Municipal Code. Title 17 of the Scappoose Municipal Code is an ordinance implementing the Scappoose Comprehensive Plan.

Conclusion: Based on the above findings, the application satisfies this criterion.

2. SCM 17.160.020 authorizes the City Council to initiate the application process by resolution.

Findings: At the December 15, 2003 Scappoose City Council meeting, the Council adopted a resolution initiating the application process for the proposed ordinance.

Conclusion: Based on the above findings, the application satisfies this criterion.

3. SCM 17.160.025 discusses Notice requirements.

Findings: The Planning Commission is scheduled to hold a public hearing on January 8, 2004 and the City Council is scheduled to hold a public hearing on January 19, 2004. The proposed amendment does not involve State Land Use Goals and is not a new land use regulation or a Comprehensive Plan amendment. Therefore, 45 day notice has not been submitted to DLCD. No other persons have requested notice in writing. Notice is scheduled to be published in the local newspaper on December 24, 2003 and January 7, 2004. Because the proposed ordinance is a clarification of language and does not change the uses currently permitted in the Scappoose Creek Flood Plain, no other notice is required.

Conclusion: Based on the above findings, the application satisfies this criterion.

4. SCM 17.160.120 discusses the standards for the decision.

- A. SCM 17.150.120(A)(1) requires consideration of any applicable (emphasis added) statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197.

Findings: The purpose of the proposed ordinance is to clarify the previously acknowledge and currently existing requirements of the Scappoose Municipal Code. Because the ordinance does not change the permitted uses, it does not involve state wide planning goals or guidelines.

Conclusion: Based on the above findings, this criterion is not applicable.

- B. SCM 17.150.120(A)(2) requires consideration of any applicable federal or state statutes or rules.

Findings: The purpose of the proposed ordinance is to clarify the previously acknowledge and currently existing requirements of the Scappoose Municipal Code. Because the ordinance does not change the permitted uses, no other federal or state statutes or rules have been determined to be applicable.

Conclusion: Based on the above findings, the criterion is not application to this application.

- C. SCM 17.150.120(A)(3) requires consideration of any applicable comprehensive plan goals or policies.

Findings: Page 176, Scappoose Comprehensive Plan Goals states "It is the goal of the City of Scappoose to protect against all loss of life or property by closely regulating construction, investment, and activities in designated hazard areas". Further, "for development on such lands, the City may impose whatever conditions it deems necessary to protect life and property." The existing implementing ordinance which is clarified by the proposed ordinance is consistent with these policies. The proposed ordinance does not change the existing regulations. It is a housekeeping ordinance to clearly state specifically what is permitted in the Scappoose Creek Flood Plain.

Conclusion: Based on the above findings, the application satisfies this criterion.

- D. SCM 17.150.120(A)(4) requires consideration of the applicable provisions of the implementing ordinances.

Findings: This staff report discusses all applicable provisions of the implementing ordinances.

Conclusion: Based on the above findings, the application satisfies this criterion.

6. SCM 17.160.130 discusses the process for approval.

Findings: Following the public hearing, the planning commission is scheduled to adopt a recommendation to the council to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative. Prior to the January 19, 2004 Council hearing, the Council will be provided written notification and such written notice shall be mailed to all all persons who provided testimony.

Following the January 19, 2004 Council hearing, the Council has the responsibility to consider the recommendation of the Planning Commission and approve, approve with modifications or deny an application for the legislative change or to remand to the planning commission for rehearing and reconsideration on all or part of this application.

III. Recommended Action:

Based on the findings contained in this staff report, the Planning Commission recommends that the City Council adopt an ordinance amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030, 17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.62.030, 17.68.030(Q), 17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040.

Based on the findings contained in this staff report and the recommendation of the Planning Commission, the City Council adopts an ordinance amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030, 17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.62.030, 17.68.030(Q), 17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040.

Adoption of an ordinance amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.54.030, 17.56.030, 17.62.030, 17.68.0030, 17.81.030, 17 and 17.84. by the City Council shall be the final local action. Any party with standing may appeal the decision to the Land Use Board of Appeals within 21 days pursuant to ORS 197.830.

Attachment: Draft Ordinance amending Scappoose Municipal Code.

CITY OF SCAPPOOSE

Exhibit C

Council Action & Status Report

Date Submitted: January 28, 2004

Agenda Date Requested: February 2, 2004

To: Scappoose City Council

Through: Planning Commission

From: Jon Hanken, Interim City Manager

Subject: Ordinance No. ____: A Ordinance Relating To Land Use and amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030, 17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.162.030, 17.68.030(Q), 17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040

TYPE OF ACTION REQUESTED:

Resolution Ordinance

Formal Action Report Only

ISSUE: The Scappoose Planning Commission recommended amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030, 17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.162.030, 17.68.030(Q), 17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040 at their January 22nd meeting.

ANALYSIS: Included in the attached staff report. This is the first reading before Council.

OPTIONS: 1. Have the first reading and adopt the ordinance at the second reading.
2. Modify the ordinance at the first reading and then adopt it at the second reading.
3. Do not adopt the ordinance

RECOMMENDATION: Staff recommends have the first reading and adopt the ordinance at the second reading.

Request for Council Action

Exhibit C
1 of 7 pages

SUGGESTED MOTION: I move that Council have the first reading of the ordinance and then schedule the second reading for February 17th.

Request for Council Action



**CITY OF SCAPPOOSE
STAFF REPORT**

Application: Ordinance amending the Scappoose Municipal Code to clarify what uses are permitted in the Scappoose Creek Flood Plain.

Applicant: City of Scappoose
33568 E. Columbia Avenue
P.O. Box P
Scappoose, OR 97067

Public

Hearings: Scappoose Planning Commission scheduled on January 8, 2004. **Note:** Amended notice was published and hearing was rescheduled to January 22, 2004 due to weather.

Scappoose City Council scheduled on February 2, 2004

Applicable

Criteria: Scappoose Municipal Code 17.22.020, Legislative Amendments

Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

I. Findings of Fact:

- A. Scappoose Municipal Code 17.84 regulates development in the Scappoose Creek Flood Plain. The ordinance was adopted and became effective on January 2, 1996. The Planning Commission made a recommendation to adopt these regulations on December 28, 1995. The minutes for the December 28, 1995 Planning Commission meeting indicate that the Planning Commission intended to limit development in residential zones of the Scappoose Creek Flood Plain to single family detached residential uses on 20,000 square foot or greater lots. Specifically, SCM 17.84.040 codifies this requirement.
- B. Pursuant to SCM 17.01.050C), the Planner has the initial authority to interpret the Scappoose Municipal Code. The language of the ordinance was interpreted consistent with the documented intent from 1995 - 2000. Since that time, the ordinance has been interpreted as permitting residential uses other than single family detached dwellings in the Scappoose Creek Flood Plain.

II. Applicable Criteria and Evaluation of Criteria:

- A. Scappoose Municipal Code 17.22.020, Legislative Amendments, requires legislative amendment be processed in accordance with Chapter 17.160.

Findings: The application is being processed in accordance with Chapter 17.160 as discussed below.

Conclusion: Based on the above findings, the application satisfies this criterion.

B. Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

1. SCM 17.160.010 states the purpose of this chapter is to establish procedures for consideration of legislative changes to the provisions of the comprehensive plan, implementing ordinances and maps.

Findings: SCM 17.26 defines "Legislative" as a land use decision that applies to a large number of individuals or properties. Adoption of the proposed ordinance will affect all properties in the Scappoose Creek Flood Plain. Therefore, the application is a legislative change to the Scappoose Municipal Code. Title 17 of the Scappoose Municipal Code is an ordinance implementing the Scappoose Comprehensive Plan.

Conclusion: Based on the above findings, the application satisfies this criterion.

2. SCM 17.160.020 authorizes the City Council to initiate the application process by resolution.

Findings: At the December 15, 2003 Scappoose City Council meeting, the Council adopted a resolution initiating the application process for the proposed ordinance.

Conclusion: Based on the above findings, the application satisfies this criterion.

3. SCM 17.160.025 discusses Notice requirements.

Findings: The Planning Commission was originally scheduled to hold a public hearing on January 8, 2004. Due to inclement weather, an amended public notice was published and the public hearing was rescheduled to January 22, 2004. The City Council is scheduled to hold a public hearing on February 2, 2004. The proposed amendment does not involve State Land Use Goals and is not a new land use regulation or a Comprehensive Plan amendment. Therefore, 45 day notice has not been submitted to DLCDC. No other persons have requested notice in writing. Notice was published in the local newspaper on December 24, 2003 and January 7, 2004. On January 8, 2004, notice of the rescheduled public hearing was posted in the lobby of City Hall and on the doors leading to the Council Chambers. The amended notice was published January 21, 2004. Because the proposed ordinance is a clarification of language and does not

change the uses currently permitted in the Scappoose Creek Flood Plain, no other notice is required.

Conclusion: Based on the above findings, the application satisfies this criterion.

4. SCM 17.160.120 discusses the standards for the decision.
 - A. SCM 17.150.120(A)(1) requires consideration of any applicable (emphasis added) statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197.

Findings: The purpose of the proposed ordinance is to clarify the previously acknowledge and currently existing requirements of the Scappoose Municipal Code. Because the ordinance does not change the permitted uses, it does not involve state wide planning goals or guidelines.

Conclusion: Based on the above findings, this criterion is not applicable.

- B. SCM 17.150.120(A)(2) requires consideration of any applicable federal or state statutes or rules.

Findings: The purpose of the proposed ordinance is to clarify the previously acknowledge and currently existing requirements of the Scappoose Municipal Code. Because the ordinance does not change the permitted uses, no other federal or state statutes or rules have been determined to be applicable.

Conclusion: Based on the above findings, the criterion is not application to this application.

- C. SCM 17.150.120(A)(3) requires consideration of any applicable comprehensive plan goals or policies.

Findings: Page 176, Scappoose Comprehensive Plan Goals states “It is the goal of the City of Scappoose to protect against all loss of life or property by closely regulating construction, investment, and activities in designated hazard areas”. Further, “for development on such lands, the City may impose whatever conditions it deems necessary to protect life and property.” The existing implementing ordinance which is clarified by the proposed ordinance is consistent with these policies. The proposed ordinance does not change the existing regulations. It is a

housekeeping ordinance to clearly state specifically what is permitted in the Scappoose Creek Flood Plain.

Conclusion: Based on the above findings, the application satisfies this criterion.

- D. SCM 17.150.120(A)(4) requires consideration of the applicable provisions of the implementing ordinances.

Findings: This staff report discusses all applicable provisions of the implementing ordinances.

Conclusion: Based on the above findings, the application satisfies this criterion.

6. SCM 17.160.130 discusses the process for approval.

Findings: Following the public hearing, the Planning Commission is authorized to adopt a recommendation to the Council to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative. On January 22, 2004 following the public hearing, the Planning Commission adopted a recommendation to Council to approve the proposed ordinance. Prior to the February 2, 2004 Council hearing, the Council will be provided this staff report as written notification of the Planning Commission recommendation. No additional persons provided testimony at the Planning Commission hearing.

Following the February 2, 2004 Council hearing, the Council has the responsibility to consider the recommendation of the Planning Commission and approve, approve with modifications or deny an application for the legislative change or to remand to the Planning Commission for rehearing and reconsideration on all or part of this application.

III. Recommended Action:

Based on the findings contained in this staff report, the Planning Commission recommends that the City Council adopt an ordinance amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030, 17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.62.030, 17.68.030(Q), 17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040.

Based on the findings contained in this staff report and the recommendation of the Planning Commission, the City Council adopts an ordinance amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040, 17.44.050(A), 17.50.030, 17.50.040, 17.50.050(A), 17.54.030,

17.54.040, 17.54.050(A), 17.56.030, 17.56.040, 17.56.050(A), 17.62.030, 17.68.030(Q),
17.62.040(Z), 17.62.030(T), 17.68.030(DD), 17.81.030, and 17.84.040.

Adoption of an ordinance amending Scappoose Municipal Code 17.26, 17.44.030, 17.44.040,
17.44.050(A), 17.50.030, 17.54.030, 17.56.030, 17.62.030, 17.68.0030, 17.81.030, 17 and 17.84.
by the City Council shall be the final local action. Any party with standing may appeal the
decision to the Land Use Board of Appeals within 21 days pursuant to ORS 197.830.

Attachment: Draft Ordinance amending Scappoose Municipal Code.