

ORDINANCE NO. 815

**AN ORDINANCE RELATING TO LAND USE AND AMENDING MUNICIPAL CODE
CHAPTER 17.84 (SENSITIVE LANDS--FLOODING)**

WHEREAS, the City of Scappoose participates in the National Flood Insurance Program (NFIP) and is obligated to comply with the minimum standards of the NFIP, and

WHEREAS, the Federal Emergency Management Agency administers the NFIP and is requiring amendments to the City's floodplain regulations to meet NFIP standards, and

WHEREAS, the proposed amendments will align the City's floodplain regulations with the NFIP requirements and the 2010 Manufactured Dwelling Installation Specialty Code, and

WHEREAS, the Planning Commission held a hearing on the application on January 27, 2011 and the City Council held a hearing on the application on February 22, 2011; now therefore,

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

Section 1. The definition of "Development" in Section 17.84.015 of the Scappoose Municipal Code is amended to read as follows:

"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.

Section 2. Section 17.84.140(G) of the Scappoose Municipal Code is hereby amended as follows:

G. Manufactured Homes. All manufactured homes to be placed or substantially improved in Areas of special flood hazard shall be placed on a permanent foundation such that the bottom of the longitudinal chassis frame beam or above base flood elevation. The permanent foundation shall be resistive to flood velocities and may include concrete slabs, stem walls, and piers that are firmly embedded in the ground. Manufactured homes may be placed on reinforced (not dry-stacked) concrete blocks providing the home is firmly anchored to the ground pursuant to this section. If placed on a stem wall, the structure shall meet the same standards for space below the lowest floor as described in subsection E of this section and the anchoring requirements of Section 17.84.140(A). Electrical crossover connections shall be a minimum of one foot above base flood elevation.

Section 3. Section 17.84.180(D) of the Scappoose Municipal Code is hereby amended as follows:

D. New installations of manufactured dwellings in floodways are prohibited. Manufactured dwellings may only be located in floodways according to one of the following conditions:

1. 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 welfare of the public; or

2. 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:

a. 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;

b. The replacement manufactured dwelling shall have the bottom of the longitudinal chassis frame beam at or above the base flood elevation;

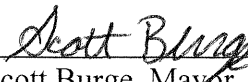
c. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the City; and

d. 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.

Section 4. In support of this ordinance, the City Council adopts the recommendation of the Scappoose Planning Commission and the findings of fact in the Staff Report dated February 11, 2011, attached hereto as Exhibit A.

PASSED AND ADOPTED by the City Council this 7th day of March, 2011, and signed by the Mayor and City Recorder in authentication of its passage.


CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: February 22, 2011

Second Reading: March 7, 2011

Attest: 

Susan M. Reeves, CMC
City Recorder

CITY OF SCAPPOOSE

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Exhibit A of Ordinance 815

DCTA5-10

February 11, 2011

Amendments to Floodplain Regulations

CITY OF SCAPPOOSE STAFF REPORT

Request: Amend the Development Code regarding the regulations for development within the floodplain to revise the definition of "Development" to be consistent with the requirements of the National Flood Insurance Program and to update the elevation requirements for Manufactured Houses to be consistent with the Oregon Building Codes Division interpretation of the 2010 Manufactured Dwelling Installation Specialty Code.

Applicant: City of Scappoose

PROPOSAL & RATIONALE

The City of Scappoose proposes to amend Chapter 17.84 of the Development Code (Sensitive Lands--Flooding), which regulates development in the 100-year floodplain to protect human life and health by minimizing losses due to flooding.

The proposed amendments are limited and specific:

- Revise the definition of "Development" to be consistent with the requirements of the National Flood Insurance Program; and
- Update the elevation requirements for Manufactured Houses to be consistent with the Oregon Building Codes Division interpretation of the 2010 Manufactured Dwelling Installation Specialty Code.

In late 2010, the City Council adopted Ordinance 813, pursuant to Docket #DCTA4-10, which adopted the 2010 Flood Insurance Study and associated Flood Insurance Rate Maps and amended the Development Code regarding the floodplain development regulations. The Code changes were based on the Oregon Model Companion Flood Damage Prevention Ordinance provided to City staff by the Department of Land Conservation and Development (DLCD).

Subsequently, DLCD staff learned that Federal Emergency Management Agency (FEMA) staff objected to optional portions of the definition of "Development" proposed by DLCD. Since the City adopted the optional provisions to which FEMA has objected, the definition needs to be amended again to comply with the provisions of the National Flood Insurance Program (per 44 CFR 59.1).

On January 1, 2011, the Oregon Building Codes Division (BCD) released a Code Interpretation regarding the floodplain development portions of the 2010 Manufactured Dwelling Installation Specialty Code. Staff proposes to amend the Development Code to conform to the BCD's interpretation so that both the building and planning codes are consistent with each other.

PUBLIC NOTICE

Notice of the proposed amendments to the Development Code was published in the newspaper on January 19 and January 26, 2011 and mailed to all property owners within the floodplain on January 7, 2011. Staff has received no written comments from the public regarding this application.

RECOMMENDATION

Based on the applicable statutes, rules, comprehensive plan provisions and implementing ordinances, staff and the Planning Commission recommend adoption of the proposed amendments by the City Council.

FINDINGS OF FACT

1. The flood hazard areas of the City 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 hazards 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.
3. Membership within the National Flood Insurance Program (NFIP)—and the availability of flood insurance for City residents—requires the City to manage its floodplain in ways that meet or exceed standards set by the Federal Emergency Management Agency (FEMA). Amending the Development Code to update the definition of "Development" subject to floodplain regulations would maintain the City's compliance with NFIP requirements. Updating the rules regarding manufactured housing requirements in the floodplain would clarify and streamline regulatory procedures.
4. The following Statewide Planning Goals have been considered by the City of Scappoose in the formation of the language contained within this request:

Citizen Involvement (Goal 1)

Objective: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:

This application complies with the citizen involvement processes included in the City's acknowledged Comprehensive Plan and Development Code, which is consistent with

Statewide Planning Goal 1. The Planning Commission and City Council hold public hearings on the proposal prior to adopting any amendments to the Scappoose Municipal Code. Notice of the proposal and hearings was published in the local newspaper on January 19 and January 26, 2011 and mailed to all property owners within the floodplain on January 7, 2011. Citizens may submit written or verbal testimony regarding the proposed amendments. This process allows for citizens to communicate their input into the Development Code amendment review conducted by the City. For this application, the Planning Commission's hearing date is January 27, 2011, while the City Council's hearing date is February 22, 2011. This process complies with the Goal.

Land Use Planning (Goal 2)

Objective: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding:

The proposal to amend the Municipal Code is consistent with the City's regulations regarding legislative land use decisions. Legislative decisions require a Planning Commission recommendation to the City Council, which then makes a decision based on stated findings. The Planning Commission and City Council hearings are open to the public.

The procedural requirements for the proposed Development Code amendment are contained in the Scappoose Municipal Code, which involve assessment of the application's merits, notice to affected parties, and public hearings. The proposal is to perform minor text amendments to the floodplain development regulations to comply with the standards of the National Flood Insurance Program. Notice of the proposed amendment has been provided to the Oregon Department of Land Conservation and Development (DLCD) as required. DLCD staff suggested language for the text amendments and has not provided further comment. The City's decision is based on findings of fact. This action complies with Goal 2.

Areas Subject to Natural Disasters and Hazards (Goal 7)

Objective: To protect people and property from natural hazards.

Finding:

The City participates in the National Flood Insurance Program and has adopted the Sensitive Lands--Flooding chapter of the Development Code to minimize public and private losses due to flooding. Among other things, these regulations limit residential density in the floodplain and require all structures to be adequately anchored and elevated above the base flood elevation and waterproofed. The City has close to 160 acres of floodplain and nearly 250 individual parcels that are partially or entirely located within the floodplain.

The proposal to update the floodplain development standards is consistent with avoidance of natural disasters and hazards under Goal 7.

Statewide Planning Goals 3-6 and 8-19 are not applicable to this application.

5. The following Goals and Policies from the Scappoose Comprehensive Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

GENERAL GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES

2) *Physical characteristics of the area, such as its geographic assets and limitations, its topographic and geologic features, etc., should be recognized where they may represent important land use determinants.*

11) *Life and property should be protected from natural disasters and hazards.*

Finding:

Amending the Development Code to update the floodplain development standards ensures the continued availability of floodplain insurance through the National Flood Insurance Program. The City's existing and updated regulations will minimize additional development in the flood hazard area to protect life and property from damage. The applicable GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES is satisfied.

GOAL FOR HAZARD AREAS

It is the goal of the City of Scappoose to:

1) *Protect against all loss of life or property by closely regulating construction, investment and activities in designated hazard areas.*

POLICIES FOR HAZARD AREAS

1) *Prohibit development on lands within the 100-Year Floodplain, on slopes exceeding 20 percent, on lands with recognized drainage problems, and on lands with soils classified by the SCS as having severe building constraints, unless a showing that design and construction techniques can eliminate potential loss of life and property, specifically:*

A) *All development within the 100-Year Floodplain shall conform to the standards set by HUD, and the proposal for development shall be approved by the City Engineer.*

B) *All development plans on slopes greater than 20 percent shall be reviewed and approved by the Superintendent of Public Works.*

C) *All development plans on lands with recognized drainage problems shall be reviewed and approved by the Superintendent of Public Works.*

D) *All development plans on lands with suspect soils shall be submitted with a report from a soils geologist attesting to the safety of the plans, and then shall be reviewed and approved by the City Engineer.*

For development on such lands, the City may impose whatever conditions it deems necessary to protect life and property.

2) *Revise the Comprehensive Plan and Plan Map to reflect flood danger areas when the HUD study on local floodplains is completed or updated.*

3) *Attempt to reduce the flooding along Scappoose Creek; possible means include: cleaning and dredging, creating banks, widening the bed, and straightening the path. Implementation of any improvements shall be done in conjunction with the Department of Fish and Wildlife.*

Finding:

Amending the Development Code to update the floodplain development regulations in accordance with NFIP requirements provides additional clarity on review procedures while furthering the floodplain protection measures.

The applicable GOAL AND POLICIES FOR HAZARD AREAS is satisfied.

6. The following sections of Title 17 of the Scappoose Municipal Code (Scappoose Development Code) Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

Chapter 17.84 SENSITIVE LANDS--FLOODING

17.84.010 Purpose. A. 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 flooding. In general, the city's flood hazard chapter is designed:

- 1. To protect human life and health;*
- 2. To minimize expenditures 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.*

B. The city seeks to minimize or mitigate flood hazards by:

- 1. Implementing FEMA floodplain requirements for participation in the National Flood Insurance Program;*

Finding:

The purpose of the City's floodplain regulations remains unchanged, with the overall goals outlined above. The City will continue to promote regulations that minimize the impacts of periodic flooding. The City is required to update the regulations to comply with the standards of the National Flood Insurance Program. Section 17.84.010 is satisfied.

Chapter 17.160 PROCEDURES FOR DECISION MAKING—LEGISLATIVE

17.160.120 The standards for the decision. A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

- 1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;*
- 2. Any federal or state statutes or rules found applicable;*
- 3. The applicable comprehensive plan policies and map; and*
- 4. The applicable provisions of the implementing ordinances.*

B. Consideration may also be given to:

Proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

Finding:

The Planning Commission's recommendations and the City Council's decisions are based on applicable statewide planning goals and guidelines, federal and state statutes and rules, Comprehensive Plan policies, and provisions of the Scappoose Municipal Code, as detailed in the findings. The City has publicized the proposed amendments and held hearings in accordance with applicable laws. The City is adopting floodplain regulation amendments required by the Federal Emergency Management Agency in order to maintain the City's participation in the National Flood Insurance Program, which allows property owners to obtain flood insurance. Section 17.160.120 is satisfied.