



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

March 17, 2008

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cannon Beach Plan Amendment
DLCD File Number 003-07 A



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: April 1, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative
Christine Shirley, FEMA Specialist
Amanda Punton, DLCD Natural Resource Specialist
Rainmar Bartl, City of Cannon Beach

<paa> ya/email

Notice of Adoption



**THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdiction: City of Cannon Beach Local file number: Z007-01
 Date of Adoption: 3/4/08 Date Mailed: 3/10/08
 Date original Notice of Proposed Amendment was mailed to DLCD: 9/19/2007

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendment regarding the flood hazard overlay zone standards

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

This amendment is in addition to the miscellaneous zoning amendments. The flood hazard overlay zone standards was continued to provide staff with additional time to review was tentatively approved at the 2/5/08 hearing, subject to final findings of fact and an ordinance and adopted on 3/04/08.

Plan Map Changed from: n/a to: n/a
 Zone Map Changed from: n/a to: n/a
 Location: n/a Acres Involved: n/a
 Specify Density: Previous: n/a New: n/a
 Applicable Statewide Planning Goals: 5, 7

Was and Exception Adopted? YES NO

DLCD File No.: 003-07A (16410)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

None

Local Contact: Rainmar Bartl Phone: (503) 436-1581 Extension: 118

Address: PO Box 368 City: Cannon Beach

Zip Code + 4: 97110-0368 Email Address: bartl@ci.cannon-beach.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE) ORDINANCE NO. 08-06
MUNICIPAL CODE, TITLE 17, ZONING,)
CHAPTER 17.38, FLOOD HAZARD)
OVERLAY (FHO) ZONE)

The City of Cannon Beach does ordain as follows:

Section 1. Amend 17.38.030 Definitions, Introductory paragraph to read as follows:

The following words and phrases shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application. For the administration of the flood hazard overlay zone the following definitions shall be utilized, not those found in Chapter 17.04.

Section 2. Amend Section 17.38.030 Definitions, "Base flood," to read as follows:

"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.

Section 3. Amend Section 17.38.030 Definitions, "Development," to read as follows:

"Development" means any man-made change to improved or unimproved real property, 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 4. Amend Section 17.38.030 Definitions, "Coastal high-hazard area," to read as follows:

"Coastal high-hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

Section 5. Amend Section 17.38.030 Definitions, by adding the following new definitions to read as follows:

"Appeal" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

"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 4 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.

“Elevated building” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“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.

“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.

“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.

Section 6. Amend Section 17.38.090.A, Duties and Responsibilities of Building Official, to read as follows:

A. Duties of Building Official. The building official is designated to administer and implement the flood hazard overlay zone. The duties of the building official include, but are not limited to permit review:

Section 7. Amend Section 17.38.090.D.1 Alteration of Watercourses to read as follows:

1. Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

Section 8. Amend Section 17.38.100.A, Appeals and variances to read as follows:

A. Appeals. The planning commission, pursuant to Section 17.88.140.A- 17.88.160, shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision or determination in the enforcement or administration of this chapter.

1. In considering an appeal, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. 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,
- k. 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.

2. The decision of the planning commission may be appealed pursuant to Section 17.88.140.

Section 9. Amend Section 17.38.100.B Appeals and variances by deleting this section in its entirety, replacing it with the following:

B. Variances. Variances shall be considered by the planning commission pursuant to the procedural requirements of Section 17.84.070.

1. 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.
2. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry- floodproofing, where it can be determined that such action will have low damage potential, complies with all variance criteria and otherwise complies with Section 17.38.120.
3. 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 the standards in Section 17.38.100.A.1 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
4. 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 variance criteria and standards of this section.
5. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
6. Variances shall be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all of the following criteria are met:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
 - d. The variance is the minimum necessary, considering the flood hazard, to afford relief.
7. Upon consideration of the factors of Section 17.38.100.A.1 and the purposes of this ordinance, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
8. The action of the planning commission may be appealed pursuant to Section 17.88.140- 160.

Section 10. Amend Section 17.38.100.C Appeals and variances by deleting this section in its entirety:

Section 11. Amend Section 17.38.100.D Appeals and variances by deleting this section in its entirety:

Section 12. Amend Section 17.38.100.E Appeals and variances by renumbering it as Section 17.38.100.C and modify to read as follows:

The 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 13. Amend Chapter 17.38, Flood Hazard Overlay Zone, by adding a new section, Section 17.38.135, Crawlspace Construction to read as follows:

17.38.135 Crawlspace construction.

A. Crawlspace Construction. 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 Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) 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 (1) 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 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 (2) 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 (4) 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 should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

Section 14. Amend Section 17.38.170 Specific Standards, to add a new subsection 17.38.195, Critical facilities to read as follows:

17.38.195 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.

Section 15. Amend Section 17.38.180, Residential construction to read as follows:

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

Section 16. Amend Section 17.38.190.A Nonresidential construction to read as follows:

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

Section 17. Amend Section 17.38.200.A.4 Manufactured homes to read as follows:

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

Section 18. Amend Section 17.38.200.B.1 Manufactured homes to read as follows:

1. The lowest floor of the manufactured home is elevated to a minimum of one foot above the base flood elevation; or

Section 19. Amend Section 17.38.210.A.1.a Coastal high-hazard areas to read as follows:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated above the base flood level, and

Section 20. Amend Chapter 17.38, Flood Hazard Overlay Zone, by adding a new section, Section 17.38.250 Penalties for noncompliance to read as follows:

Section 17.38.250 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) are subject to Chapter 17.94, Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

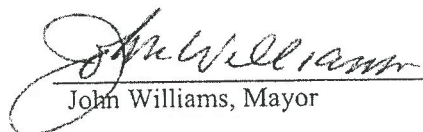
Section 21. Amend Chapter 17.38, Flood Hazard Overlay Zone, by adding a new section, Section 17.38.260 Abrogation and greater restrictions to read as follows:

Section 17.38.260 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, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

ADOPTED by the Common Council of the City of Cannon Beach this 4th day of March 2008, by the following roll call vote:


YEAS: Councilors: Raskin, Giasson, Steidel, Arnold; Mayor Williams
NAYS: None
EXCUSED: None



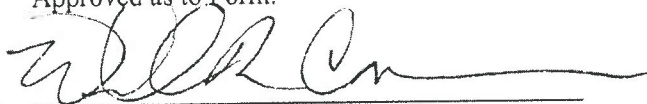
John Williams, Mayor

Attest:

Approved as to Form:



Richard A Mays, City Manager



William Canessa, Attorney

FINDINGS OF FACT
ZO 07-01, CITY OF CANNON BEACH, MISCELLANEOUS ZONING CODE
AMENDMENTS – FLOOD HAZARD OVERLAY ZONE

BACKGROUND

The City of Cannon Beach is proposing miscellaneous amendments to the Zoning Code. The proposed amendments include amendments to the flood hazard overlay zone.

The Planning Commission held a public hearing on the proposed amendments on November 29, 2007 and continued the public hearing to its December 20, 2007, meeting, at which it made recommendations to the Council for amendments, including amendments to the flood hazard overlay zone.

At its January 8, 2008, meeting, the City Council held a public hearing on ZO07-01, City of Cannon Beach request for miscellaneous zoning code amendments. The Council continued its consideration of the proposed amendments to the flood hazard overlay zone in order to provide staff with additional time to review the proposed Section 17.38.206, Regulatory Floodway.

At its February 5, 2008, meeting the Council tentatively approved the proposed amendments to the flood hazard overlay zone without the regulatory floodway standard, subject to adoption of final findings of fact and an ordinance.

ANALYSIS/INFORMATION

CRITERIA - ZONING CODE

A. Section 17.86.070 Criteria provides that “before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:”

1. “The amendment is consistent with the comprehensive plan.”

The following policies are applicable to the proposed amendments:

Flood Hazard Policy 1 states that “the City shall continue its participation in the Federal Flood Insurance Program, through the enforcement of the Flood Hazard Overlay portion of the Zoning Ordinance. All new construction and substantial improvements shall be planned to minimize flood damage.”

Finding: The proposed amendments to Chapter 17.38, Flood Hazard Overlay Zone, ensure that the text of the City’s flood hazard regulations are in conformance with the latest Federal Emergency Management Agency regulations, which is a requirement of the City’s continued participation in the Federal flood insurance program.

Conclusion: The proposed amendments are consistent with Flood Hazard Policy 1.

2. "The amendment will not adversely affect the ability of the city to satisfy land and water use needs."

Finding: The amendments to the flood hazard overlay ordinance are technical in nature and do not impact the City's ability to meet land or water use needs.

Conclusion: The proposal meets this criterion.

CONCLUSION

The proposed amendments to the flood hazard overlay zone meet the relevant criteria.

cc\cbzo07-01fin2

CITY OF CANNON BEACH
P.O. Box 368
Cannon Beach, OR 97110



017H15517922
\$1.310
03/11/2008
Mailed From 97110

US POSTAGE

Attention: Plan Amendment Specialist
Dept. of Land Conservation & Develop.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540