



Oregon

Theodore R. Kubongski, 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

10/26/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Yachats Plan Amendment
DLCD File Number 001-09

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: Friday, November 06, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Larry Lewis, City of Yachats
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Chris Shirley, FEMA Specialist

<paa> YA

FORM 2

DLCD

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

In person electronic mailed

DATE STAMP

DEPT OF

NOV 06 2009

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Yachats**

Local file number: **NA**

Date of Adoption: **October 8, 2009**

Date Mailed: **October 15, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: July 28, 2009

- | | |
|---|---|
| <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".

Amendments are made to three sections of the Yachats Zoning and Land Use Ordinance:

- Section 9.24 R-4 Residential Zone eliminates the condominium density restriction of one unit for every 6,000 square feet of land. The amendment will make density restrictions for condominiums identical to density restrictions for other types of multi-family residential uses.
- Section 9.52.070 Shoreland Setbacks requires a riparian zone permit prior to vegetation removal or pruning.
- Amend Chapter 9.54 Flood Damage Prevention Regulations to conform to floodplain management regulations that meet the standards of Paragraph 60.3(d and e) of the National Flood Insurance Program regulations.

Does the Adoption differ from proposal? No

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **Citywide**

Acres Involved: \pm 54 ac. (R-4 zone amendment)

Specify Density: Previous: 7.26 condos/acre (R-4 Zone amendment) New: 12 condos/acre (R-4 zone)

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

- | | | |
|--|---|-----------------------------|
| 45-days prior to first evidentiary hearing? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If no, do the statewide planning goals apply? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If no, did Emergency Circumstances require immediate adoption? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

DLCD file No. 001-09(17737) [15768]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Yachats
Oregon Dept. of Land Conservation & Development

Oregon Dept. of Environmental Quality
Federal Emergency Management Agency

Local Contact: Larry Lewis

Phone: (541) 547-3565 Extension:

Address: P.O. Box 345

Fax Number: 503-547-3063

City: Yachats, OR

Zip: 97498

E-mail Address: larry@ci.yachats.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 Complete Copies** (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing larry.french@state.or.us.
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 now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to larry.french@state.or.us - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Yachats
Oregon Dept. of Land Conservation & Development

Oregon Dept. of Environmental Quality
Federal Emergency Management Agency

Local Contact: Larry Lewis

Phone: (541) 547-3565 Extension:

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Updated March 17, 2009

Flood Damage Prevention

DEPT OF

NOV 06 2009

**CITY OF YACHATS
ORDINANCE NO. 287**

**LAND CONSERVATION
AND DEVELOPMENT**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTER 9.54 -
FLOOD DAMAGE PREVENTION REGULATIONS**

NOW THEREFORE, the City of Yachats ordains as follows:

Section 1. Chapter 9.54 is hereby amended to read as follows

9.54 FLOOD DAMAGE PREVENTION REGULATIONS

A. Lands to which Section 9.54.010 through 9.54.070 apply, hereinafter referred to as "these code sections". These code sections shall apply to all areas of special flood hazards within the jurisdiction of the City of Yachats.

B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Yachats, dated September 1978, with accompanying Flood Insurance Maps, is hereby adopted by reference and declared to be a part of these code sections. The Flood Insurance Study is on file at the City Office, 441 N. Highway 101, Yachats, Oregon.

C. Warning and disclaimer of liability. The degree of flood protection required by these code sections 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 man-made or natural causes. These code sections do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These code sections shall not create liability on the part of the City of Yachats, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on these code sections or any administrative decision lawfully made hereunder.

Section 2. Section 9.54.010 is hereby amended to read as follows

9.54.010 Definitions

As used in Sections 9.54.010 through 9.54.070:

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

"Area of special flood hazard" means the land in the flood plain 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" (flood hazard area) means any area of the building having its floor sub-grade (below ground level) on all sides.

"Breakaway wall" means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Flood Damage Prevention

"Coastal high hazard area" means the area subject to high velocity waters, including but not limited to, storm surge or tsunami. The area is designated on the FIRM as Zone V1-V30, VE or V.

"Development" (flood hazard area) means any man-made 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.

"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 hazards 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.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 9.54.050§8. Manufactured home (flood hazard area) 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 connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Recreational Vehicle" means a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. 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 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 foundation 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.

Flood Damage Prevention

“Structure” (flood hazard area) 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 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.

Section 3. Section 9.54.020 is hereby amended to read as follows

9.54.020 Purpose

It is the purpose of Code Sections 9.54.010 through 9.54.070 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:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. 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;
- F. 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;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 4. Section 9.54.030 is hereby amended to read as follows

9.54.030 General Provisions

A. Lands to which Sections 9.54.010 through 9.54.070 apply, hereinafter referred to as “these code sections”. These code sections shall apply to all areas of special flood hazards within the jurisdiction of the City of Yachats.

B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Yachats,” dated December 18, 2009, with accompanying Flood Insurance Maps, is hereby adopted by reference and declared to be a part of these code sections. The Flood Insurance Study is on file at the City Office, 441 N. Highway 101, Yachats, Oregon.

C. Warning and disclaimer of liability. The degree of flood protection required by these code sections is considered reasonable for regulatory purposes and is based on scientific and

Flood Damage Prevention

engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These code sections do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These code sections shall not create liability on the part of the City of Yachats, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on these code sections or any administrative decision lawfully made hereunder.

D. Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Severability. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 5. Section 9.54.040 is hereby amended to read as follows

9.54.040 Administration

A. Establishment of building permit:

1. ~~Building permit~~ required. A building permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.54.030B. The permit shall be for all structures including manufactured homes, as defined in Section 9.54.010 Definitions, and for all development including fill and other activities, also set forth in 9.54.010 Definitions.

2. Application for building permit. Application for a building permit shall be made on forms furnished by the City Recorder and shall include, but not be limited to, plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; including existing or proposed structures, fill, storage of materials and drainage facilities. 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 flood proofed;

c. Certification by a registered engineer or architect ~~as applicable according to FEMA Form 81-65 (Floodproofing Certificate) and/or FEMA Elevation Certificate, currently O.M.B. No. 3067-0077,~~ that the floodproofing methods for only nonresidential structures meet the floodproofing criteria in Section 9.54.054.

d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

3. Designation of the Building Official. The Building Official, who is the City Planner or whomever may be hereafter designated, is hereby appointed to administer and implement these code sections by granting or denying building permit applications in accordance with its provisions.

4. Duties and responsibilities of the Building Official. Duties of the Building Official shall include, but not be limited to:

a. Permit review.

1) Review all development permits to determine that the permit requirements of these code sections have been satisfied.

Flood Damage Prevention

2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local government 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 section 9.54.050A§8 are met.

b. Use of other base flood data. When base flood elevation data have not been provided in accordance with section 9.54.030B, the Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer Specific Standards and Floodways.

c. Information to be obtained and maintained.

1) Where base flood elevation data is provided through the Flood Insurance Study or required as in section 9.54.040A§2, obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement and below-grade crawlspaces of all new or substantially improved structures, and whether or not the structure contains a basement.

2) For all new or substantially improved flood proofed structures: ~~(a) verify and record the actual elevation, in relation to mean sea level, and (b) maintain the flood proofing certifications required in section 9.54.040A§2 & 3 provisions of these code sections where elevation data is provided through the Flood Insurance Study, PIRM, or as required in Section 9.54.040B:~~

(i) Verify and record the actual elevation (in relation to mean sea level), and

(ii) Maintain the floodproofing certifications required in Section 4.1-2(3).

3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

d. Alteration of watercourses.

1) Notify adjacent communities and the Oregon Division of State Lands prior to any alteration or relocation of a watercourse as defined by map entitled U.S.D.I Geological Survey, Yachats Quadrangle, 1984 and submit evidence of such notification to the Federal Insurance Administration.

2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (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 as provided in Section 9.54.060.

Section 6. Section 9.54.050 is hereby amended to read as follows

9.54.050 Provisions for Flood Hazard Reduction

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

b. 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.

2. Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

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b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. 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.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

c. 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.

4. Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data have not been provided or is not available from another authoritative source, it shall be generated by a registered engineer or architect as applicable for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres, whichever is less.

5. Review of building permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, section 954.040A§2 above, 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 judgement and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

6. Specific standards. In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 9.54.030B the following provisions are required:

a. Residential construction.

1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation.

2) 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 shall either have the lowest floor, including basement, elevated to or above the base flood elevation or sanitary facilities, together with attendant utility and sanitary facilities, shall:

1) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

Flood Damage Prevention

2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3) Be certified by a registered professional 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 on their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in section 9.54.040.A4c2.

4) Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in section 9.54.010.

5) Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

c. Manufactured homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on sites:

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) 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 a minimum one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of section 9.54.050A.4 to resist flotation, collapse and lateral movement.

d. Recreational vehicles.

Recreational vehicles placed on sites are required to either:

1) Be on the site for fewer than 180 consecutive days

2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3) Meet the requirements of 9.54.050A.6.c above and the elevation and anchoring requirements for manufactured homes.

e. Below-grade crawl spaces.

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.

Flood Damage Prevention

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.

For more detailed information refer to FEMA Technical Bulletin 11-01.

7. Before Regulatory Floodway

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 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.

7-8. Floodways. Located within areas of special flood hazard established in section 9.54.030B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b. All new construction and substantial improvements shall also comply with all applicable flood hazard reduction provisions of section 9.54.050.

8-9. Standards for shallow flooding areas (AO zones). Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

a. Residential structures. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, ~~to or above~~ a minimum of one (1) foot above the depth number specified on the FIRM, or at least two feet if no depth number is specified.

b. Nonresidential structures. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1) have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM, or at least two feet if no depth number is specified;

Flood Damage Prevention

2) together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 9.54.040A§2.

c. Structures on slopes. Adequate drainage paths shall be provided around structures on slopes in flood hazard areas to guide floodwaters around and away from proposed structures.

9-10. Coastal high hazard areas. Located within areas of special flood hazard established in section 9.54.030B are Coastal High Hazard Areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

a. All new construction and substantial improvements in Zones V1-V30 and VE and/or V shall be elevated on pilings and columns so that:

1) the bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated ~~to or above~~ a minimum of one (1) foot above the base flood level; and

2) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one-percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

b. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of section 9.54.050A§9, a. 1) and 2).

c. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

d. All new construction shall be located landward of the reach of mean high tide.

~~d.e.~~ All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot, either by design or when so required by local or State codes, may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1) breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components, structural and nonstructural. Maximum wind and water loading values to be used in this determination shall each have a one-percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

e.f. If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

Flood Damage Prevention

~~f.g.~~ The use of fill for structural support of buildings is prohibited.

~~g.h.~~ Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

i. All manufactured homes to be placed or substantially improved within Zones V1-V30, V, and VE on the community's FIRM on sites:

1) Outside of a manufactured home park or subdivision.

2) In a new manufactured home park or subdivision.

3) In an expansion to an existing manufactured home park or subdivision, or

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 meet the standards of paragraphs 9.54.050A.10.a-h of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-V30, V, and VE on the FIRM meet the requirements of Section 9.54.050A.6.c.

j. 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.

~~h.k.~~ The local administrator as designated shall maintain a record of the following information: the elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of all new and substantially improved structures in Zones V1-V30 and VE and/or V, and whether or not such structures contain a basement.

Section 7. Section 9.54.060 is hereby amended to read as follows¹⁰

9.54.060 Variances.

A. General conditions. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, or to 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.

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 section 9.54.060A§4 a through k, below, have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

2. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

3. 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 Section 9.54.060A§1 and otherwise complies with section 9.54.050A§1 and 2 of General Standards.

Flood Damage Prevention

4. 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.

4.5. In evaluating requests for variances from the requirements of this ordinance, the Planning Commission and City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of these code sections, 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.

B. Circumstances for granting a variance. Variances shall be issued only upon all of the following conditions being met:

1. a showing of good and sufficient cause;
2. a determination that failure to grant the variance would result in exceptional hardship to the applicant;
3. 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, ordinances or codes; and
4. a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. Procedure for variance applications.

1. A request for a variance from the requirements of these code sections shall be made by filing an application with the City Recorder. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The City Council or Planning Commission may request other drawings or material essential to an understanding of the requested variance.

2. The City Recorder shall set a time for a public hearing before the Planning Commission on the request within forty days of the filing thereof and shall cause notice to be given in accordance with 9.54.060§C7 of these code sections.

3. At the conclusion of the public hearing the Planning Commission may recommend to the City Council the approval or denial of the request.

4. Upon receiving the recommendation of the Planning Commission, the City Recorder shall set a time for a public hearing before the City Council within 40 days from the date of receiving the Planning Commission's recommendation and shall cause notice to be given in accordance with section 9.54.060§C7 of these code sections.

Flood Damage Prevention

5. At the conclusion of the public hearing, the City Council may approve or deny the request for a variance. In granting a variance, the City Council may attach such conditions as it deems necessary to further the purpose of these code sections.

6. An 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.

7. Notice of public hearing. Each notice of a public hearing shall be published in a newspaper of general circulation in the County at least 10 days prior to the date of the hearing. In addition, at least 10 days prior to the date of the hearing, notices shall be posted in three public and conspicuous places within 250 feet of the exterior boundary of the property for which the application is made.

Section 8. Section 9.54.070 is hereby amended to read as follows

9.54.070 Penalties

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these code sections and other applicable regulations.

B. Any violation of Section 9.54.010 to 9.54.070 shall constitute a class A infraction under Yachats Municipal Code Sections 1.12.010 through 1.12.150. A person violating a provision of these code sections shall be deemed guilty of a separate infraction for each day during which the violation continues.

C. Procedure for adjudicating violations of these code sections shall be as provided in Yachats Municipal Code Section 1.12.010 through 1.12.150, entitled "Civil Infractions".

PASSED AND ADOPTED by the City Council of the City of Yachats on this 8th day of October 2009.

Ayes: 3 Nays: 0 Abstentions: 0 Absent: 1

APPROVED by the Mayor this 8th day of October 2009.

Ronald L. Egan, Mayor

Nancy Batchelder, City Recorder



City of Yachats

441 Hwy 101 N.
P O Box 345
Yachats, OR 97498

Fax Cover Sheet

To: Jan Devito From: Nancy Batchelder
 Fax: 503-378-10033 Date: 11-6-09
 Phone: 503-373-0050 x318 Pages: (including cover sheet) 13
 Re: Flood Ord CC:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

•Comments:

s:\forms\general office\fax cover sheet.doc

PHONE (541)547-3565

RELAY OREGON (800)735-2900 (T D D)

FAX (541)547-3063

E-MAIL CITYOYA@PIONEER.NET

WEB SITE WWW.CITYYACHATS.ORG

Notice of Adoption

Subject: Notice of Adoption
From: Larry Lewis <lewis@ci.depoe-bay.or.us>
Date: Thu, 15 Oct 2009 14:06:18 -0700
To: larry.french@state.or.us, christine.shirley@state.or.us, "Lucker, Stephen" <stephen.lucker@state.or.us>
CC: Larry-Yachats <larry@ci.yachats.or.us>

Hi Larry –

The following files are attached:

- DLCD Notice of Adoption
- Amendment to Flood Damage Prevention Regulations
- Amendment to Shoreland Setbacks
- Amendment to R-4 Residential Zone

A hard copy of this information is being mailed to you today. I am also emailing this to Christine Shirley and Steve Lucker for flood amendment review.

Please contact me at larry@ci.yachats.or.us or 541-547-3565 if you request additional information.

Thanks, Larry

Larry Lewis, City Planner

City of Yachats

*Thanks Larry!
- Larry
10-15-09*

DLCD Notice of Adoption.doc	Content-Type: application/msword Content-Encoding: base64
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Yachats Adopted Shoreland Amendment.10-8-09.doc	Content-Type: application/msword Content-Encoding: base64
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Yachats Adopted Flood Amendments.10-8-09.doc	Content-Type: application/msword Content-Encoding: base64
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Yachats Adopted R-4 Amendment.10-8-09.doc	Content-Type: application/msword Content-Encoding: base64
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\$ 1.220



DEPT OF

NOV 06 2009

LAND CONSERVATION
AND DEVELOPMENT

ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL STREET NE, SUITE 150
SAELM, OR 97301-2540