



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

3/4/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of McMinnville Plan Amendment
DLCD File Number 002-09

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: Wednesday, March 17, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Lucy Falcy, City of McMinnville
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

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DEPT OF

FEB 25 2010

**LAND CONSERVATION
AND DEVELOPMENT**

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of McMinnville**

Local file number: **G 1-09**

Date of Adoption: **February 9, 2010**

Date Mailed: **February 24, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11/2/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amendments to Chapter 17.48 (F-P Flood Area Zone) of the Zoning Ordinance for the purpose of complying with Federal flood plain regulations. Adopting FEMA's March 2, 2010, DFIRM and FIS and applying the new flood maps to McMinnville Zoning and Comprehensive Plan maps.

Does the Adoption differ from proposal? Please select one

Slight language modifications in Chapter 17.48 of the Zoning Ordinance as required by FEMA and adoption of new flood zone maps to be reflected on Zoning map as well as Comprehensive Plan map.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD file No. 002-09 (17937) [16008]

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

Federal Emergency Management Agency (FEMA)

Local Contact: **Lucy Falcy**

Phone: (503) 434-7311 Extension: 2377

Address: 231 NE 5th Street

Fax Number: 503-474-4955

City: McMinnville

Zip: 97128

E-mail Address: lucy.falcy@ci.mcminnville.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE NO. 4921

An Ordinance adopting certain Federal Emergency Management Agency (FEMA) studies and maps as part of the McMinnville Comprehensive Plan; amending the McMinnville Comprehensive Plan and Zoning maps as necessary to incorporate updates to 100-year flood information; amending Chapter 17.48 (F-P Flood Area Zone) of the McMinnville Zoning Ordinance as necessary to satisfy federal floodplain management requirements and remain eligible in the National Flood Insurance Program; and declaring an emergency.

RECITALS

In 2007, the Federal Emergency Management Agency (FEMA) advised the City of McMinnville that they intended to review the 1982 Flood Insurance Rate Maps (FIRM) that cover lands within the City and provide updated maps for our use in administering the National Flood Insurance Program (NFIP). In summary, these maps provide the location and elevation of the floodplains and floodways associated with the various waterways within our jurisdiction. Staff uses this information to advise residents, lending institutions, and other interested parties of the floodplain's location and to ensure that development within this area is consistent with the City's F-P Flood Area zone requirements.

On March 2, 2010, the Federal Emergency Management Agency (FEMA) will begin using the updated Flood Insurance Rate Maps (FIRMs) and corresponding Flood Insurance Study (FIS) for Yamhill County. To maintain eligibility for participation in the NFIP, McMinnville must adopt the updated FIRMs and FIS by March 2, 2010, and reflect these boundary adjustments on both the Comprehensive Plan map and Zoning map. Also by this date, the City must amend its zoning ordinance consistent with new Federal floodplain code requirements if it wishes to continue to participate in the NFIP.

Staff has been working with FEMA since 2007 to help them update their flood maps in preparation for the March 2, 2010 date. This has involved providing FEMA with the City's elevation data, annexation and road map information, and several site-specific data sets. In April 2009, FEMA released their draft FIS and FIRM updates for City and public review. In May 2009, FEMA held an explanatory workshop for residents of Yamhill County at which staff was in attendance as well as an additional workshop for staff. The public voiced no concerns at that time. The official maps have been on file and available for public review at the Planning office since mid November 2009. During that time, there have been no inquiries from the public regarding the proposed amendments.

Based upon the NFIP Coordinator for Oregon's review of McMinnville's ordinance, certain amendments are necessary in order to bring the City's floodplain into compliance with these federal rules, and to maintain our eligibility in the flood insurance program. Consistent with this directive, City staff prepared amendments to Chapter 17.48 (F-P Flood Area Zone) of the McMinnville zoning ordinance and presented them to the McMinnville Planning Commission at a public hearing held on January 21, 2010. Notice of this hearing was provided in the local newspaper on January 13, 2010.

At said public hearing, after studying the draft amendments, and providing opportunity for public testimony, the Planning Commission voted unanimously to recommend to the City Council that Chapter 17.48 of the McMinnville Zoning Ordinance be amended as recommended by staff. In addition, the Commission recommended that FEMA's March 2, 2009 FIS and FIRM be adopted, thereby supplanting the existing floodplain boundary within McMinnville and

amending the McMinnville Comprehensive Plan Map and McMinnville Zoning Map accordingly.

The City of McMinnville's continuing participation in the National Flood Insurance Program is contingent upon the adoption of these changes. Now therefore;

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the Federal Insurance Administration report entitled "The Flood Insurance Study (FIS) for Yamhill County, Oregon and Incorporated Areas" and accompanying Flood Insurance Rate Maps (FIRM), effective date March 2, 2010, are adopted.

Section 2. That the McMinnville Comprehensive Plan Map specific to "Floodplain" designated lands is amended as necessary to reflect the location of "Special Flood Hazard Areas" (100-year flood) as identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study (FIS) for Yamhill County, Oregon and Incorporated Areas" and accompanying Flood Insurance Rate Maps (FIRM) (effective date March 2, 2010)

Section 3. That the McMinnville Zoning Map specific to "Flood Area (F-P) zoned lands is amended as necessary to reflect the location of "Special Flood Hazard Areas" (100-year flood) as identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study (FIS) for Yamhill County, Oregon and Incorporated Areas" and accompanying Flood Insurance Rate Maps (FIRM) (effective date March 2, 2010)

Section 4. That Chapter 17.48 F-P Flood Area Zone) of the McMinnville Zoning Ordinance (No. 3380) is amended as follows (~~deletions~~; **additions**):

A. That section 17.48.010 is amended to read as follows:

17.48.010 Established—Area included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM) ~~at or below the 400-year flood level as established by the Federal Emergency Management Agency for the National Flood Insurance program~~ is declared to be flood area zone property and subject to the requirements of this Chapter. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

B. That Section 17.48.025 (B) is amended to read as follows:

"B. "Floodway" – The floodway is the channel of the river or watercourse stream—plus any adjacent floodplain areas that must be kept free from encroachment in order that the 100-year flood may be carried without substantial increases in flood heights—without increasing the water surface elevation more than one foot;"

C. That Section 17.48.040 is amended to read as follows:

That Section 17.48.040 (D) is amended as follows:

"D. Landfill or diked land, including culvert and bridge installations,

subject to the following procedures:"

That Section 17.48.040 (D) is amended by adding the following new text; subsections that follow are renumbered accordingly:

"2. The City shall provide written notice to the City Recorder's office in adjacent communities, Yamhill County, and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse (i.e. stream channel), and shall submit a copy of that notification to the Federal Insurance Administration."

The renumbered Section 17.48.040 (D)(3) is amended as follows:

"3. The Planning Department shall prescribe the form and information required for applications made for any fill-or-dike conditional use listed in this subsection."

D. That Section 17.48.060 is amended to read as follows:

Section 17.48.060 (B) is deleted in its entirety; subsections that follow are renumbered accordingly:

~~B. The first floor elevation of any structure for the shelter of humans shall be situated at least three feet above the established water crest elevation for a flood with a probability rate of one percent;~~

The renumbered Section 17.48.060 (C) is amended to read as follows:

"C. Within the floodway and flood fringe, no encroachment will be allowed which causes any increase in the flood height or which would result in hazardous velocities (see floodway schematic). To demonstrate compliance with this requirement, the applicant shall submit an engineering certification stating the proposed development will not impact the pre-project base floodway and flood fringe elevations. The certification shall be signed and sealed by a professional engineer and be supported by the appropriate technical data and studies, which are typically based upon the standard step-backwater computer model utilized to develop the 100-year floodway and flood fringe shown on the appropriate Federal Insurance Rate Map (FIRM) and tabulated in the adopted Flood Insurance Study. (Ord. 4684 §3, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968)."

E. That a new Section 17.48.070 is added to read as follows:

"17.48.070 Use of other base flood data. When base flood elevation data has not been provided (FIRM zones A), the applicant shall provide alternative base flood elevation as available from a Federal, State, or other source in order to comply with this chapter."

Section 5. It is imperative to the public welfare that the City maintain its eligibility to participate in NFIP. In order to do so, this ordinance must become effective March 2, 2010. Therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect on March 2, 2010.

Passed by the Council this 9th day of February 2010 by the following votes:

Ayes: Hansen, Hill, Jeffries, May, Menke, Yoder

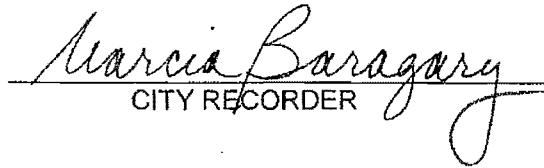
Nays: _____

Approved this 9th day of February 2010.



MAYOR

Attest:



CITY RECORDER

Approved as to Form:



CITY ATTORNEY



230 NE Second Street • McMinnville, OR 97128

ATTN: Plan Amendment Specialist
Dept. of Land conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540