



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

05/10/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Talent Plan Amendment
DLCD File Number 001-11

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: Monday, May 23, 2011

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: Mark Knox, City of Talent
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Ed Moore, DLCD Regional Representative

<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

(See reverse side for submittal requirements)

DEPT OF

MAY 04 2011

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Talent Local File No.: DCA-11-001 (If no number, use none)

Date of Adoption: April 20th, 2011 (Must be filled in) Date Mailed: April 29, 2011 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 2-7-11

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
[X] Land Use Regulation Amendment
Zoning Map Amendment
New Land Use Regulation
Other: (Please Specify Type of Action)

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

Ordinance Amendment to adopt the Federal Insurance Rate Maps and Study, including ordinance amendments as described in the attachments.

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."

Same - Different format w/ illustrations.

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: n/a

Was an Exception Adopted? Yes: No: [X]

DLCD File No.: 001-11 (18708) [16631]

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

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

Local Contact: Mark Knox Area Code + Phone Number: 541-535-7401

Address: 110 East Main St.

City: Talent, OR Zip Code+4: 97540

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 of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will 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 Larry.French@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

ORDINANCE NO. 11-859-O

AN ORDINANCE AMENDING ORDINANCE NO. 04-752-O, THE CITY OF TALENT'S FLOOD DAMAGE PREVENTION ORDINANCE AND ADOPTION OF THE MOST CURRENT VERSIONS OF THE FLOOD INSURANCE RATE MAPS (FIRM) AND FLOOD INSURANCE STUDY.

WHEREAS: The City of Talent participates in the National Flood Insurance Program and has applied to participate in the Community Rating System, and

WHEREAS: The City Council has found that adoption of the amendments comply with the standards for participation in the National Flood Insurance Program. The ordinance includes standards and provisions that encourage sound flood plain management and allows property owners to obtain flood insurance at a more affordable rate.

WHEREAS: The City Council has found that the adoption of the amendments comply with the Comprehensive Plan Policies, specifically Element C (Natural Hazards) and Element F (Public Facilities).

WHEREAS: The City Council has found that the adoption of Ordinance #859 is necessary for the public health, safety and welfare of the City of Talent and that an emergency exists and this ordinance shall take effect immediately upon passage as the Flood Insurance Rate Maps (FIRM) and Federal Insurance Study (FIS), effective May 3, 2011.

THE CITY OF TALENT ORDAINS AS FOLLOWS:

SECTION 1. AMENDMENT: That the following sections of the Flood Damage Prevention Ordinance shall be amended as follows:

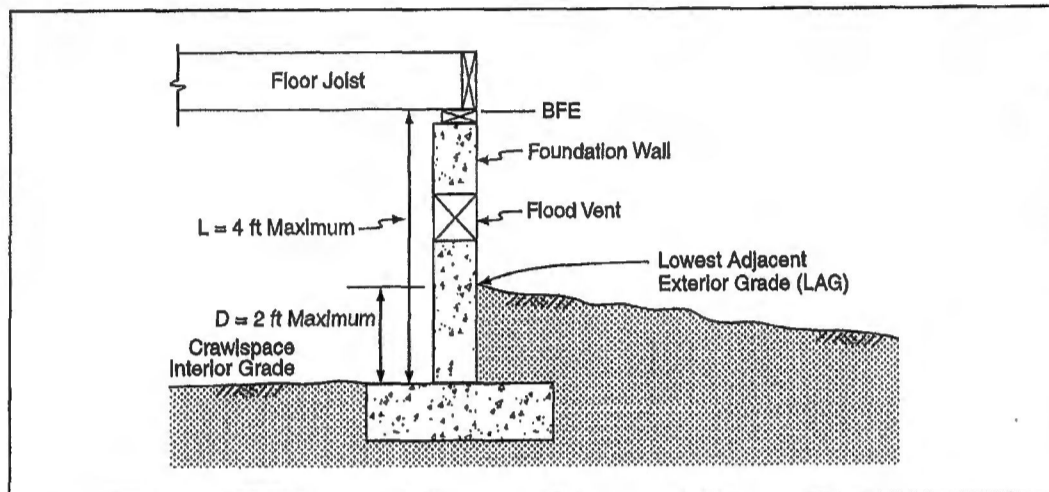
• **Section 2.5 "Breakaway Wall"**

~~2.5 "BREAKAWAY WALL" means a wall that is not 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.~~

• **Section 2.5 "Below-Grade Crawl Space"**

2.5 "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 (see illustration below).

Below-grade crawlspaces are allowed subject to the standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:



Below-Grade Crawl Space Illustration

- **Section 2.9 “Existing Manufactured Home Park or Subdivision”**

~~2.9 “EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for servicing the spaces or 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 before the effective date of the adopted floodplain management regulations.~~

- **Section 2.10 “Expansion to an Existing Manufactured Home Park or Subdivision”**

~~2.10 “EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

- **Section 2.19 “New Manufactured Home Park or Subdivision”**

~~2.19 “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.~~

- **Section 3.2 “Basis for Establishing the areas of Special Flood Hazard”**

3.2 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 Jackson County, the City of Talent Oregon and Incorporated Areas,” originally dated August 1979 ~~May 3, 2011,~~ and as amended, with accompanying

Flood Insurance Rate Maps, ~~and as amended,~~ are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file in the Talent Community Development Department office.

• **Section 5.1.3 “Utilities”**

5.1.3 Utilities

c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

• **Section 5.2.3 “Manufactured Homes”**

5.2.3 Manufactured Homes

a) All manufactured homes to be placed, or substantially improved within an A or B ~~Shaded-X~~ Zone on the community's FIRM on sites:

~~i) On an individually owned lot, whether or not it is in a subdivision specifically designed for manufactured homes,~~

~~ii) In a new manufactured home park,~~

~~iii) In a new space in an expansion of an existing manufactured home park, OR~~

~~iv) In an existing manufactured home park or on an individually owned lot on which a manufactured home has incurred “substantial damage” as the result of a flood;~~

shall 4) be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet above the base flood elevation and 2) be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

~~b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park located in an A or B Zone on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:~~

~~i) The lowest floor of the manufactured home is elevated two feet above the base flood elevation, and the chassis is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement, OR~~

~~ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and the chassis is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.~~

• **Section 5.2.4 “Recreational Vehicles”**

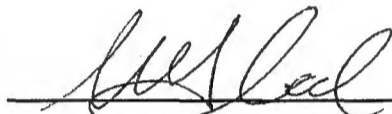
5.2.4 Recreational Vehicles: Recreational vehicles placed on sites within A and B Shaded X Zones on the community's FIRM either:

SECTION 2. ADOPTION: That the Flood Insurance Rate Maps (FIRM) and Flood Insurance Study, Effective May 3, 2011, is hereby adopted.

SECTION 3. EFFECTIVE DATE: This ordinance being necessary for the public health, safety and welfare of the City of Talent, an emergency exists and this ordinance shall take effect immediately upon its passage.

Duly enacted by the City Council in open session on April 20th, 2011 by the following vote:

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 2



William Cecil, Mayor



Jay Henry, City Recorder and Custodian of City records

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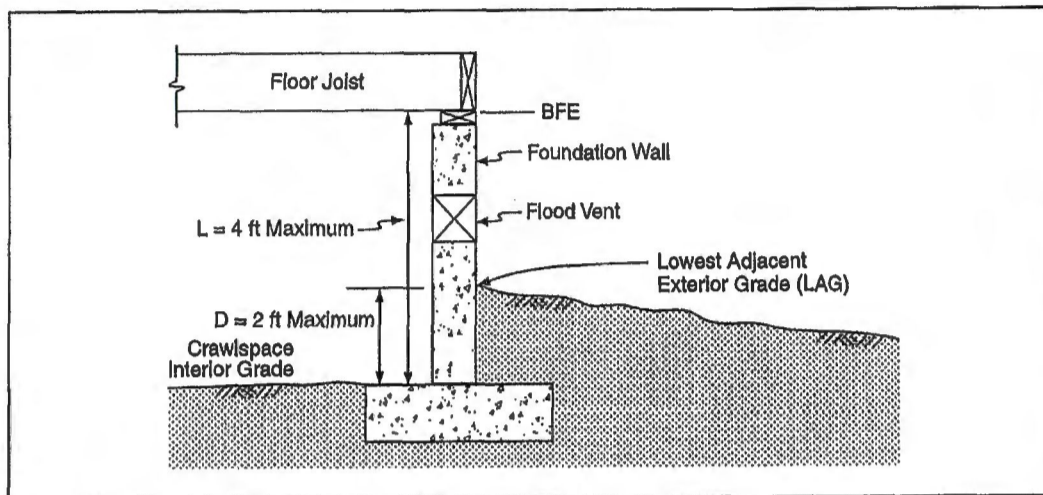
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Below-grade crawlspaces are allowed subject to the standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:



Below-Grade Crawl Space Illustration

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ii) ~~In a new manufactured home park,~~

iii) ~~In a new space in an expansion of an existing manufactured home park, OR~~

iv) ~~In an existing manufactured home park or on an individually owned lot on which a manufactured home has incurred “substantial damage” as the result of a flood;~~

shall 1) be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet above the base flood elevation and 2) be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

b) ~~Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park located in an A or B Zone on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:~~

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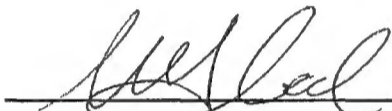
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FLOOD DAMAGE PREVENTION

8-5.110 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, & OBJECTIVES

A. Statutory Authorization The legislature of the State of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Talent, does ordain as follows:

B. Findings of Fact

1. The flood hazard areas of Talent are subject to periodic inundation which may result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. Potential flood losses include those caused by high velocity flows and erosion, and those caused by the cumulative effect of obstructions in areas of special flood hazards. Structures in special flood hazard areas and other obstructions increase flood heights and velocities, and, when inadequately anchored, may damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement of Purpose It is the purpose of this Article 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:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

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6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses In order to accomplish its purposes, this Article includes methods and provisions for:

1. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

8-5.120 DEFINITIONS Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

Appeal Means a request for a review of the interpretation of any provision of this Article or a request for a variance.

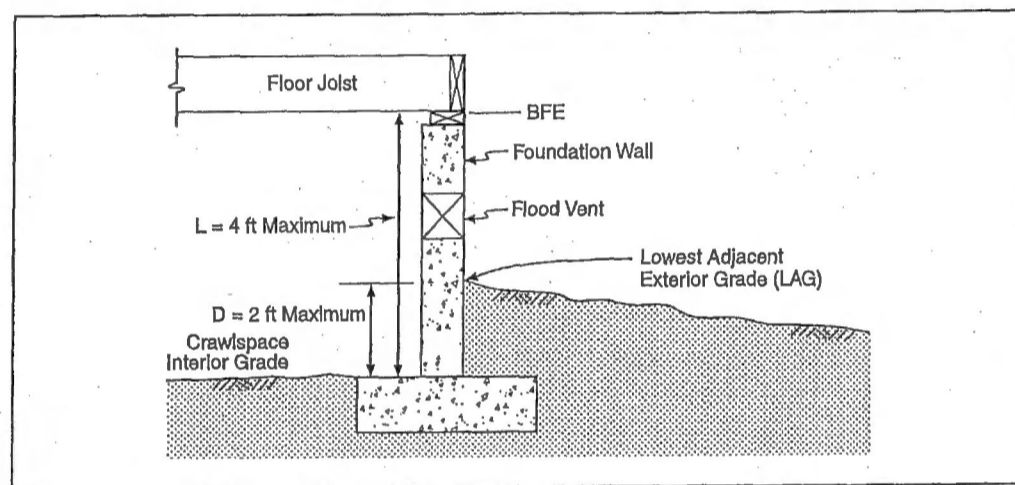
Area of Special Flood Hazard Means the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letter A.

Base Flood Means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100 year flood". Designation on maps always includes the letter A.

Basement Means any area of the building having its floor subgrade (below ground level) on all sides.

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 (see illustration below).

Below-grade crawlspaces are allowed subject to the standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:



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, and installations which produce, use or store hazardous materials or hazardous waste.

Development For the purposes of this Article, 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 located or the storage of equipment or materials.

Elevated Building For NFIP insurance purposes, means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.

Flood or Flooding Means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from

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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 (1) 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 in a way that renders the structure in violation of the applicable non-elevation design requirements of this Article found in 8-5.150F.

Manufactured Home Means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Sub-Division Means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction Means structures for which the "start of construction" commenced on or after the effective date of this Article.

Recreational Vehicle Means a vehicle that is:

- a. Built on a single chassis;
- b. 400 sq. 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 for use as temporary living quarters for recreational, camping, travel, or seasonal use, not as a permanent dwelling.

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 the first placement of permanent construction of a structure on a site, such as the pouring of a 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 foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure 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 (50%) 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 (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

The term does not, however, include either:

- a. 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
- b. Any alteration of a structure listed on the National Register of Historic

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Places or a State Inventory of Historic Places.

Variance Means a grant of relief from the requirements of this Article by permitting construction in a manner that would otherwise be prohibited by this Article.

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.

8-5.130 GENERAL PROVISIONS

- A. Lands to Which This Article Applies** This Article shall apply to all areas of special flood hazards within the jurisdiction of the City of Talent, Oregon.
- 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 Jackson County, Oregon and Incorporated Areas," dated May 3, 2011, with accompanying Flood Insurance Rate Maps, are hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study is on file in the Talent Community Development Department office.
(amended by Ord. 778, 2005 & Ord. 859, 2011)
- C. Penalties for Non-Compliance** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations. Violations of the provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$300.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Each day of noncompliance may be adjudged a separate violation. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and Greater Restrictions** This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation** In the interpretation and application of this Article, all provisions shall be:
1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor to repeal any other powers granted under State statutes.

F. Warning and Disclaimer of Liability The degree of flood protection required by this Article 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. This Article does 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. This ordinance shall not create liability on the part of the City of Talent, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

8-5.140 ADMINISTRATION

A. Establishment of Development Permit

1. **Development Permit Required** - A development permit shall be obtained before construction or other development begins within any area of special flood hazard established in 8-5.130B. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also as set forth in the "Definitions".
2. **Application for Development Permit** - Application for a development permit shall be made on forms furnished by the Community Development Department, and may include but not be limited to plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; and the locations of 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 floodproofed;
 - c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in 8-5.150F; and

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- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Note that alterations or relocation of natural watercourses are prohibited under normal circumstances).

B. Designation of the Flood Plain Manager The Community Development Department is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the Flood Plain Manager Duties of the Flood Plain Manager shall include, but are not limited to:

1. Permit Review
 - a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - b. Review all development permits to determine that they have obtained all necessary permits from all Federal, State, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if any part of the proposed development is located in the floodway. If any part of the proposed development is located in the floodway, assure that the encroachment provisions of 8-5.150G are met.
2. Use of Other Base Flood Data - When base flood elevation data has not been provided in accordance with 8-5.130B, Basis for Establishing the Areas of Special Flood Hazard, the Flood Plain Manager shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, to administer 8-5.150F, Specific Standards, and 8-5.150G Floodways.
3. Information to be Obtained and Maintained:
 - a. Where base flood elevation data is provided through the Flood Insurance Study or required as in 8-5.140C2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and determine whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea

- level) and
 - ii. Maintain the floodproofing certifications required in 8-5.140A.
 - c. Maintain for public inspection all records pertaining to the provisions of this Article.
 - 4. Alteration of Watercourses - Alteration or relocation of a natural watercourse is not permitted as a flood hazard mitigation project under this Article. In the unlikely circumstance that the alteration or relocation of a water course is necessary in the response and/or recovery stages of a natural disaster, the Flood Plain Manager shall provide notice to the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. In that unlikely circumstance, the City shall require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - 5. Interpretation of FIRM Boundaries - The Flood Plain Manager shall make interpretations, where needed, about the 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 Subsection D.
- D. Appeals and Variances** The Planning Commission shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 1. Appeals - The Planning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Flood Plain Manager in the enforcement or administration of this Article. Those aggrieved by the decision of the Flood Plain Manager, or any taxpayer, may appeal such decision to the Planning Commission. In considering an appeal of the decision of the Flood Plain Manager, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and all of the following:
 - 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;

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- 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 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. Variances - A variance may be permitted by the Planning Commission based upon the consideration of the factors listed in 8-5.140D1(a-k) above, and the variance criteria that follow. The Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

- a. The variance requested is a variance from the elevation standard for new construction or substantial improvements to be erected on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in 8-5.140D1 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases; OR
- b. The variance requested is for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section; OR

- c. The variance requested is for a non-residential building in very limited circumstances, the request is 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 other variance criteria in 8-5.140D2, and otherwise complies with this Article;

AND ALL OF THE FOLLOWING:

- d. Variances shall not be issued within a designated floodway; and
- e. The variance requested is the minimum necessary, considering the flood hazard, to afford relief; and
- f. All of the following findings have been made:
 - i) Failure to grant the variance would result in exceptional hardship to the applicant;
 - ii) Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Planning Commission Decision

- a. Any applicant for whom an appeal is decided or a variance is granted shall be given written notice that the structure will be permitted to be built as requested, and subject to any applicable conditions of approval, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced flood damage prevention standard allowed for this specific application.
- b. The Flood Plain Manager shall maintain the records of all appeal and variance actions, and shall report any variances to the Federal Insurance Administration upon request.

8-5.150 PROVISIONS FOR FLOOD HAZARD REDUCTION-General Standards In all areas of special flood hazards, the following standards are required:

- A. **Anchoring** Anchoring is required for all substantial improvements, and new and replacement dwellings in the regulatory floodplain or in the 500-year floodplain, as follows:

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1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. 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 (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and
2. 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;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(amended by Ord. 859, 2011)

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage. Subdivision lot layout shall be designed to avoid conflicts with flood damage prevention strategies, and to protect water-related resources, as demonstrated in this Article and in 8-3H.2 of the Talent Zoning Ordinance;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least ten (10) lots or two (2) acres (whichever is less).

E. Review of Permits Where Base Flood Data is Not Available Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, 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 judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. The developer has two (2) options in a flood plain without base flood elevation data:

1. Provide base flood elevation information at developer's expense, or
2. Elevate structures at least two (2) feet above grade.

F. Specific Standards In all areas of special flood hazards where base flood elevation data has been provided as set forth in 8-5.130B, **Basis for Establishing the Areas of Special Flood Hazard** or 8-5.140C2, **Use of Other Base Flood Data**, the following provisions are required:

1. Residential Construction:
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two (2) feet above the base flood elevation.
 - b. 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. A registered professional engineer or architect must either certify designs for meeting this requirement or meet or exceed the following minimum criteria:
 - i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade.

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- iii. Openings may be quipped with screens, louvers, or other coverings or devices if they permit the automatic entry and exit of floodwaters.
2. Non-Residential Construction - New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including a basement floor, elevated two (2) feet above the base flood elevation; or, together with requirements for utility and sanitary facilities set out below, shall:
- a. Be flood-proofed so that below the flood protection level (two feet above base flood level), the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. 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 certifications shall be provided to the Flood Plain Manager, as set forth in 8-5.140C, above;
 - d. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 8-5.150F1;
 - e. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. A building flood-proofed to the base flood level will be rated as one (1) foot below).
3. Manufactured Homes
- a. All manufactured homes to be placed, or substantially improved within an A or Shaded-X zone on the community's FIRM on sites shall:
 - i. Be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two (2) feet above the base flood elevation and
 - ii. Be securely anchored to an adequately designed foundation

FLOOD DAMAGE PREVENTION

8-5.110 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, & OBJECTIVES

- A. Statutory Authorization** The legislature of the State of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Talent, does ordain as follows:
- B. Findings of Fact**
1. The flood hazard areas of Talent are subject to periodic inundation which may result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 2. Potential flood losses include those caused by high velocity flows and erosion, and those caused by the cumulative effect of obstructions in areas of special flood hazards. Structures in special flood hazard areas and other obstructions increase flood heights and velocities, and, when inadequately anchored, may damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
- C. Statement of Purpose** It is the purpose of this Article 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:
1. To protect human life and health;
 2. To minimize expenditure of public money and costly flood control projects;
 3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. To minimize prolonged business interruptions;
 5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

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6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses In order to accomplish its purposes, this Article includes methods and provisions for:

1. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

8-5.120 DEFINITIONS Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

Appeal Means a request for a review of the interpretation of any provision of this Article or a request for a variance.

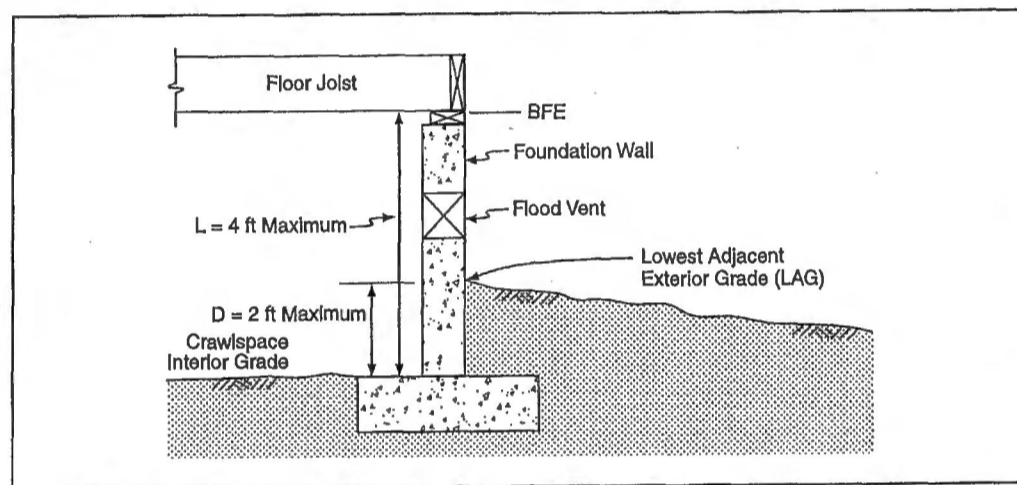
Area of Special Flood Hazard Means the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letter A.

Base Flood Means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100 year flood". Designation on maps always includes the letter A.

Basement Means any area of the building having its floor subgrade (below ground level) on all sides.

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 (see illustration below).

Below-grade crawlspaces are allowed subject to the standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:



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, and installations which produce, use or store hazardous materials or hazardous waste.

Development For the purposes of this Article, 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 located or the storage of equipment or materials.

Elevated Building For NFIP insurance purposes, means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.

Flood or Flooding Means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from

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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 (1) 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 in a way that renders the structure in violation of the applicable non-elevation design requirements of this Article found in 8-5.150F.

Manufactured Home Means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Sub-Division Means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction Means structures for which the "start of construction" commenced on or after the effective date of this Article.

Recreational Vehicle Means a vehicle that is:

- a. Built on a single chassis;
- b. 400 sq. 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 for use as temporary living quarters for recreational, camping, travel, or seasonal use, not as a permanent dwelling.

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 the first placement of permanent construction of a structure on a site, such as the pouring of a 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 foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure 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 (50%) 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 (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

The term does not, however, include either:

- a. 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
- b. Any alteration of a structure listed on the National Register of Historic

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Places or a State Inventory of Historic Places.

Variance Means a grant of relief from the requirements of this Article by permitting construction in a manner that would otherwise be prohibited by this Article.

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.

8-5.130 GENERAL PROVISIONS

- A. Lands to Which This Article Applies** This Article shall apply to all areas of special flood hazards within the jurisdiction of the City of Talent, Oregon.
- 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 Jackson County, Oregon and Incorporated Areas," dated May 3, 2011, with accompanying Flood Insurance Rate Maps, are hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study is on file in the Talent Community Development Department office.
(amended by Ord. 778, 2005 & Ord. 859, 2011)
- C. Penalties for Non-Compliance** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations. Violations of the provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$300.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Each day of noncompliance may be adjudged a separate violation. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and Greater Restrictions** This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation** In the interpretation and application of this Article, all provisions shall be:
1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor to repeal any other powers granted under State statutes.

F. Warning and Disclaimer of Liability The degree of flood protection required by this Article 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. This Article does 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. This ordinance shall not create liability on the part of the City of Talent, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

8-5.140 ADMINISTRATION

A. Establishment of Development Permit

1. **Development Permit Required** - A development permit shall be obtained before construction or other development begins within any area of special flood hazard established in 8-5.130B. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also as set forth in the "Definitions".
2. **Application for Development Permit** - Application for a development permit shall be made on forms furnished by the Community Development Department, and may include but not be limited to plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; and the locations of 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 floodproofed;
 - c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in 8-5.150F; and

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- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Note that alterations or relocation of natural watercourses are prohibited under normal circumstances).

B. Designation of the Flood Plain Manager The Community Development Department is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the Flood Plain Manager Duties of the Flood Plain Manager shall include, but are not limited to:

1. Permit Review
 - a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - b. Review all development permits to determine that they have obtained all necessary permits from all Federal, State, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if any part of the proposed development is located in the floodway. If any part of the proposed development is located in the floodway, assure that the encroachment provisions of 8-5.150G are met.
2. Use of Other Base Flood Data - When base flood elevation data has not been provided in accordance with 8-5.130B, Basis for Establishing the Areas of Special Flood Hazard, the Flood Plain Manager shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, to administer 8-5.150F, Specific Standards, and 8-5.150G Floodways.
3. Information to be Obtained and Maintained:
 - a. Where base flood elevation data is provided through the Flood Insurance Study or required as in 8-5.140C2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and determine whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea

- level) and
 - ii. Maintain the floodproofing certifications required in 8-5.140A.
 - c. Maintain for public inspection all records pertaining to the provisions of this Article.
- 4. Alteration of Watercourses - Alteration or relocation of a natural watercourse is not permitted as a flood hazard mitigation project under this Article. In the unlikely circumstance that the alteration or relocation of a water course is necessary in the response and/or recovery stages of a natural disaster, the Flood Plain Manager shall provide notice to the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. In that unlikely circumstance, the City shall require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- 5. Interpretation of FIRM Boundaries - The Flood Plain Manager shall make interpretations, where needed, about the 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 Subsection D.

D. Appeals and Variances The Planning Commission shall hear and decide appeals and requests for variances from the requirements of this ordinance.

- 1. Appeals - The Planning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Flood Plain Manager in the enforcement or administration of this Article. Those aggrieved by the decision of the Flood Plain Manager, or any taxpayer, may appeal such decision to the Planning Commission. In considering an appeal of the decision of the Flood Plain Manager, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and all of the following:
 - 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;

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- 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 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. Variances - A variance may be permitted by the Planning Commission based upon the consideration of the factors listed in 8-5.140D1(a-k) above, and the variance criteria that follow. The Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.
- a. The variance requested is a variance from the elevation standard for new construction or substantial improvements to be erected on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in 8-5.140D1 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases; OR
 - b. The variance requested is for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section; OR

- c. The variance requested is for a non-residential building in very limited circumstances, the request is 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 other variance criteria in 8-5.140D2, and otherwise complies with this Article;

AND ALL OF THE FOLLOWING:

- d. Variances shall not be issued within a designated floodway; and
- e. The variance requested is the minimum necessary, considering the flood hazard, to afford relief; and
- f. All of the following findings have been made:
 - i) Failure to grant the variance would result in exceptional hardship to the applicant;
 - ii) Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Planning Commission Decision

- a. Any applicant for whom an appeal is decided or a variance is granted shall be given written notice that the structure will be permitted to be built as requested, and subject to any applicable conditions of approval, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced flood damage prevention standard allowed for this specific application.
- b. The Flood Plain Manager shall maintain the records of all appeal and variance actions, and shall report any variances to the Federal Insurance Administration upon request.

8-5.150 PROVISIONS FOR FLOOD HAZARD REDUCTION-General Standards In all areas of special flood hazards, the following standards are required:

- A. **Anchoring** Anchoring is required for all substantial improvements, and new and replacement dwellings in the regulatory floodplain or in the 500-year floodplain, as follows:

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1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. 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 (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and
2. 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;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(amended by Ord. 859, 2011)

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage. Subdivision lot layout shall be designed to avoid conflicts with flood damage prevention strategies, and to protect water-related resources, as demonstrated in this Article and in 8-3H.2 of the Talent Zoning Ordinance;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least ten (10) lots or two (2) acres (whichever is less).

E. Review of Permits Where Base Flood Data is Not Available Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, 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 judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. The developer has two (2) options in a flood plain without base flood elevation data:

1. Provide base flood elevation information at developer's expense, or
2. Elevate structures at least two (2) feet above grade.

F. Specific Standards In all areas of special flood hazards where base flood elevation data has been provided as set forth in 8-5.130B, **Basis for Establishing the Areas of Special Flood Hazard** or 8-5.140C2, **Use of Other Base Flood Data**, the following provisions are required:

1. Residential Construction:
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two (2) feet above the base flood elevation.
 - b. 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. A registered professional engineer or architect must either certify designs for meeting this requirement or meet or exceed the following minimum criteria:
 - i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade.

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- iii. Openings may be quipped with screens, louvers, or other coverings or devices if they permit the automatic entry and exit of floodwaters.
2. Non-Residential Construction - New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including a basement floor, elevated two (2) feet above the base flood elevation; or, together with requirements for utility and sanitary facilities set out below, shall:
 - a. Be flood-proofed so that below the flood protection level (two feet above base flood level), the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. 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 certifications shall be provided to the Flood Plain Manager, as set forth in 8-5.140C, above;
 - d. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 8-5.150F1;
 - e. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. A building flood-proofed to the base flood level will be rated as one (1) foot below).
3. Manufactured Homes
 - a. All manufactured homes to be placed, or substantially improved within an A or Shaded-X zone on the community's FIRM on sites shall:
 - i. Be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two (2) feet above the base flood elevation and
 - ii. Be securely anchored to an adequately designed foundation

system to resist flotation, collapse and lateral movement.

- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park located in an A or B zone on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:
 - i. The lowest floor of the manufactured home is elevated two (2) feet above the base flood elevation, and the chassis is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and the chassis is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(amended by Ord. 859, 2011)

4. Recreational Vehicles - Recreational vehicles placed on sites within A and Shaded X zones on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; be on its wheels or jacking system, and be attached to the site only by quick disconnect type utilities and security devices, with no permanently attached additions; or

(amended by Ord. 859, 2011)

- b. Meet the requirements of 8-5.150F3 above, including the elevation and anchoring requirements for manufactured homes.

G. Floodways Located within areas of special flood hazard established in 8-5.130B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1. No new or replacement structures or substantial improvements are allowed within thirty-five (35) feet of the floodway, as established in 8-3H.2. In addition, 8-3H.2 establishes wetland and riparian area setbacks that may be stricter than the floodway setback in some cases. A structure existing within 35 feet of a floodway is a non-conforming structure, and no expansion or substantial improvement of a non-conforming structure is allowed, as established in 8-3M.2.

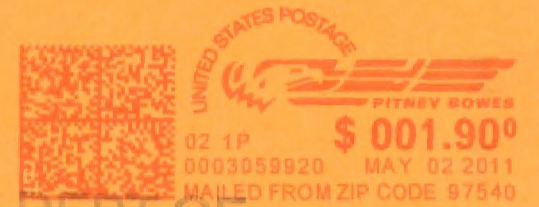
8-5.1

2. Other encroachments are also prohibited, including fill, water-related facilities and roads, unless certification by a registered professional civil engineer is provided demonstrating that such encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.

H. Encroachments The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

(Ord. 752, 2004)
(amended by Ord. 778, 2005)
(amended by Ord. 859, 2011)

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MAY 04 2011

LAND CONSERVATION
AND DEVELOPMENT

Attention: Plan Amendment Specialist
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635 Capitol St. NE, Ste. 150
Salem, Or. 97301-2540