

**STAFF REPORT
PLALEG-09-06-0002**

**Amendments to EPD Division 1 – Flood Hazard Overlay
Wasco County Land Use and Development Ordinance and
Wasco County National Scenic Area Land Use and Development
Ordinance**

Request:

- 1) Amend each zone in Chapter 3 to include language regarding Development within the ASFH) and,
- 2) Relocate all regulations pertaining to Flood Hazards to Section 3.740 Division 1 – Flood Hazard Overlay of the County LUDO and Section 3.240 of the NSA LUDO, and
- 3) Update Division 1 – Flood Hazard Overlay to be compliant with FEMA flood hazard regulations, and
- 4) Reorganize Division 1 – Flood Hazard Overlay to provide a clearer and more easily implemented ordinance
- 5) Update Division 1 – Flood Hazard Overlay to include additional provisions thought to be beneficial to the county, and
- 6) Delete Chapter 22 (Flood Damage Prevention) from the County and NSA LUDOs, and
- 7) Update citations and Figure 10 (Flood Hazard Areas map) in Chapter 2 of the Wasco County Com Plan, and
- 8) Update citations in Chapter 15 of the Comp Plan

Prepared by: A. Gary Nychyk, Senior Planner

Prepared for: Wasco County Planning Commission

Applicant: Wasco County Planning & Development Department

Staff Recommendation: Recommend the Wasco County Planning Commission review and recommend that the Wasco County Commission adopt the proposed amendments

Planning Commission Workshop Date: 2 February 2010

Planning Commission Hearing Date: 2 March 2010

Effected Properties: All properties within the Area of Special Flood Hazard.

Procedure Type: Legislative

I. APPLICABLE CRITERIA

Wasco County LUDO

Section 2.060.B.2	Ordinance Amendment Recommendation
Section 2.080	Notice
Section 9.030	Transportation Planning Rule Compliance
Section 9.050	Amendments to the Zoning Ordinances
Section 9.060	Recommendations on Zone Change or LUDO Amendment
Section 9.070	Notice of Planning Commission Recommendation
Section 9.080	Action by the County Commission

Wasco County Comprehensive Plan

Chapter 11 (B, C, D, H, I, J) Revisions Process

NSA LUDO

Section 2.050.B.11	Recommendation to the Court on Ordinance Amendments
Section 2.100.C	Type IV Legislative Hearing Notice
Section 2.130	Notice of a Decision
Section 9.050	Amendments to the Zoning Ordinance
Section 9.060	Recommendation on Amendment to the LUDO
Section 9.070	Notice of Filing Report
Section 9.080	Action by County Commission
Section 9.090	Action by the Gorge Commission

II. BACKGROUND INFORMATION

A. Staff is requesting amendments to Chapters 3, and 22 of the Wasco County Land Use and Development Ordinances (County and NSA) for the following reasons:

- Chapter 22 of the LUDO is out of compliance with current FEMA regulations for Development within the Area of Special Flood Hazard (ASFH). The primary goal of this update is to bring the Ordinance into compliance with applicable federal regulations. These updates will help ensure Wasco County's continued eligibility for the National Flood Insurance Program.
- Additionally, Chapter 22 is based on a Federal Floodplain Ordinance that was organized in a way that is very difficult to understand and implement correctly. Since the proper implementation of these ordinances is critical to Wasco County retaining its NFIP coverage, it is imperative that the ordinance be written so that the Planning Department and the public in general, can readily understand and implement the ordinances. Therefore, Staff reorganized the

chapter to provide a more linear progression from one section of the ordinance to another.

- The contents of Chapter 22 were moved to Section 3.740, Division 1 – Flood Hazard Overlay. Currently, any floodplain review is first directed to Section 3.740, which redirects the reviewer to Chapter 22. This revision will eliminate Chapter 22 and move its amended contents into Chapter 3, which is typical for the other Environmental Protection Districts.
 - Finally, Staff has taken this opportunity to include new language within the Flood Hazard Overlay Ordinance. The purposes of these additions and modifications are:
 - To clarify that all Areas of Special Flood Hazard in the County are approximate A Zones only. The County’s FIRMs do not include Base Flood Elevations, and therefore, the depiction of the Area of Special Flood Hazard on the FIRMs is an approximation of the floodplain. Changes were incorporated that clarify this and grant the Planning Director authority to evaluate developments that appear to be outside of the designated Area of Special Flood Hazard, but may not be reasonably safe from flooding, and;
 - To only allow certain uses in the ASFH such as Critical Facilities and New Manufactured Home Parks through the Administrative Variance procedure, and;
 - To allow certain low impact uses to be reviewable through the Type I (ministerial) process, and;
 - To clarify that a violation of provisions of the Flood Hazard Overlay Ordinance will be addressed through the Wasco County Code Compliance and Nuisance Abatement Ordinance, and;
 - To include educational provisions on revising the Flood Insurance Rate Maps, and;
 - To include educational provisions on Flood Insurance.
- B. The Wasco County Board of Commissioners, in Resolution #09-028, dated 1 July 2009 authorized the County Planning and Development Department to initiate a legislative text amendment to Chapter 22 – Flood Damage Prevention and Associated Chapters of the Land Use and Development Ordinance and Chapter 22 – Flood Damage Prevention and Associated Chapters of the National Scenic Area Land Use and Development Ordinance to create consistency with federal regulations related to development within a floodplain and make other amendments appropriate for Wasco County.

- C. The following schedule was established and the following meetings have or will be held to review materials and develop the standards now recommended to the Planning Commission:

2 February 2010: Planning Commission Workshop

2 March 2010: Planning Commission Hearing

7 April 2010: County Commission Hearing

To be determined: Gorge Commission Hearing

II. PUBLIC INVOLVEMENT

In addition to the hearings indicated above, all of which will allow public testimony and the ability to provide prior written comments, Wasco County has included the following measures to ensure the process is open to the public.

A. Agency Solicitation

The following agencies were contacted prior to the Planning Commission hearing for their input on the entire draft ordinance or specific proposed language.

DLCD – Ms. Christine Shirley, Natural Hazards Specialist, was contacted early in the Ordinance Amendment process. She provided a model ordinance for the proposed County ordinance to follow and she reviewed the proposed changes prior to the Planning Commission Hearing. Comments from Ms. Shirley were incorporated into the documents before they went to the Planning Commission Hearing.

FEMA – A draft of the proposed amendments to the Flood Hazard Overlay Ordinances were submitted to Denise Atkinson on December 30, 2009.

Gorge Commission – The proposed NSA ordinance amendments were provided to Brian Litt, Principal Planner for the Columbia River Gorge Commission on December 9, 2009.

B. Direct Mail Notification

Planning Commission Workshop

A direct property owner notification was mailed on 12 January 2010. This notice was sent to every property owner within 200 feet of the Area of Special Flood Hazard. This notification includes those property owners inside the National Scenic Area, as well as the rest of the unincorporated portion of Wasco County. This notice was also mailed or emailed to any person or agency having a

subscription to receive Administrative decisions, and any other local, state and federal agency that may be interested in the proposed changes. The Planning Commission Workshop is scheduled for 2 February 2010, therefore the notice was sent more than 20 days in advance.

Planning Commission Hearing:

A Measure 56 compliant direct property owner notification was mailed on 11 January 2010. This notice was sent to every property owner within the area designated as the Area of Special Flood Hazard, as well as all property owners within 200 feet of the Area of Special Flood Hazard. This notification includes those property owners inside the National Scenic Area, as well as the rest of the unincorporated portion of Wasco County. This notice also was mailed or emailed to any person or agency having a subscription to receive Administrative decisions, and any other local, state and federal agency that may be interested in the proposed changes. The Planning Commission hearing is scheduled for 2 March 2010, therefore the notice was sent more than 20 days in advance.

County Commission Hearing

Any person or group or their representative who submits written comments, requests in writing to receive notification of the hearing, or signs in and testifies at the Planning Commission hearing will receive direct notification by mail of the date, location and time of the County Commission hearing tentatively scheduled for 10 April 2010. This notice will be provided at least 20 days prior to the hearing.

Gorge Commission Hearing:

Any person or group or their representative who submits written comments, requests in writing to receive notification of the hearing, or signs in and testifies at either the Planning Commission hearing or the County Commission hearing will receive direct notification by mail of the date, location and time of the Gorge Commission hearing.

C. Newspaper Notification

Planning Commission Workshop

The Planning Commission workshop notice was published in The Dalles Chronicle on 12 January 2010 which is 20 days prior to the Workshop date.

Planning Commission Hearing:

The Planning Commission hearing notice was published in The Dalles Chronicle on 2 February 2010 which is more than 20 days prior to the hearing date.

County Commission Hearing:

The County Commission hearing notice will be published in The Dalles Chronicle on or before 20 days prior to the hearing date.

Gorge Commission Hearing:

Notice of the Gorge Commission hearing will be published by Wasco County in The Dalles Chronicle on or before 20 days prior to the hearing date.

F. Information Available on Website

The information regarding the proposed amendments began to be placed on the Wasco County Planning & Development Department Website (<http://co.wasco.or.us/planning/planhome.html>) starting the second week of January 2010. As updates are made following each workshop or hearing, the information on the website will be updated. At the time of this document, the following information was available:

- A listing of the hearing dates, times and locations as they are established
 - The drafts of the proposed amendments at each step along the process
 - Staff report describing the process and changes
 - A summary document providing an overview of the proposed changes
 - A way to submit comments via email
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IV. SUBMITTED COMMENTS

The following comments were submitted in writing and made part of the record.

None submitted to date.

V. FINDINGS

A. WASCO COUNTY LUDO CRITERIA

1. Chapter 2 – Development Approval Procedures

- a. Section 2.060.B.2 (COUNTY) and Section 2.050.B.11 (NSA)
Requests for all Zone Changes and Ordinance Amendments shall be heard by the Planning Commission, which will provide a recommendation to the Court

FINDING: The request complies with criterion 1.a. The requested Ordinance amendments and Comp Plan amendments are scheduled before the Planning Commission on March 2, 2010. The recommendation of the Planning Commission will

be heard before the Wasco County Commission, which is tentatively scheduled for April 7, 2010.

- b. Section 2.200.A.1 (COUNTY) Notice of a legislative hearing will be sent to public agencies and local jurisdictions (including those providing transportation facilities and services) that may be impacted by the proposed action. Affected agencies and jurisdictions could include the Department of Environmental Quality, the Oregon Department of Aviation, cities within Wasco County, and neighboring jurisdictions.
- c. Section 2.200.A.2 (COUNTY) Notice of a legislative or quasi-judicial hearing for any proposal that includes a new transportation facility or improvement, and where these facilities or improvements include or may impact a collector or arterial street, will be sent to the Oregon Department of Transportation and any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycle and pedestrian interest groups, and public transit providers. Information that should be conveyed with the notice includes the following:
 - i. Project location
 - ii. Proposed land use action
 - iii. Location of project access point(s)
- d. Section 2.100.C (NSA) Hearing Notification
At least twenty (20) days prior to the date of a public hearing for LUDO amendment, notice shall be sent to specified individuals and agencies.

FINDING: The request complies with criteria 1.b thru 1.d. Staff does not anticipate any affects on the transportation system. However, notice of the Planning Commission Workshop for the proposed Ordinance amendments and Comp Plan amendments were sent to ODOT, DLCD, the Gorge Commission and other affected agencies on January 12, 2010.

2. Chapter 9 – Ordinance Amendments

a. Section 9.030 Transportation Planning Rule Compliance (COUNTY)

Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in

accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”).

FINDING: The request complies with criterion 2.a.

- The requested Ordinance amendments and Comp Plan amendments have been reviewed to determine if they will significantly affect any transportation facilities.
- As proposed, the Ordinance amendments and Comp Plan amendments will have no foreseen affect on any existing or planned transportation system because no change in uses are proposed.

b. Section 9.050(A) Amendments to the Zoning Ordinance (COUNTY and NSA)

Amendments to this Ordinance may be initiated by Resolution of the County Governing Body referring a proposed amendment to the Commission for its consideration, report and recommendations.

FINDING: The Wasco County Commission, in Resolution #09-028 dated 1 July 2009, authorized the County Planning and Development department to initiate legislative text amendment to Chapter 22 – Flood Damage Prevention and Associated Chapters of the Land Use and Development Ordinance and Chapter 22 – Flood Damage Prevention and Associated Chapters of the National Scenic Area Land Use and Development Ordinance to create consistency with federal regulations related to development within a floodplain and make other amendments appropriate for Wasco County..

b. Sections 9.060 Recommendation on Amendments to the Land Use and Development Ordinance. (COUNTY and NSA)

After hearing, the Approving Authority shall recommend that the proposed amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his/her assistants shall reduce to writing the Planning Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based. The Director of Planning shall forthwith file the same with the County Clerk.

FINDING: The request will be consistent with criterion b.

- The Planning Commission will conduct a legally notified hearing on 2 March 2010 at 3:00 PM in the lower level classroom of the Discovery Center at 5000 Discovery Drive, The Dalles, Oregon. Staff will present their report and those in the audience will have the opportunity to provide testimony.
- Following the hearing, the recommendation will be reduced to writing which will include a brief statement of the facts and reasons upon which the Planning

Commission bases their vote. This document will be subsequently filed with the County Clerk.

- c. Section 9.070 Notice of Planning Commission Recommendation.
(COUNTY and NSA)
Within ten (10) days of the final Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

FINDING: Criterion c will be met.

- The Wasco County Commission is the petitioner, therefore no notification is required to the County.
- All persons or agencies, or their representatives who submitted written testimony or provided oral testimony at the Planning Commission Hearing or have requested to receive notification of the action of the Planning Commission will be sent a notice of the vote of the Planning Commission less than or equal to 10 days after the scheduled Planning Commission Hearing on 2 March 2010.

- d. Section 9.080, Action by County Commission
(COUNTY and NSA)
Upon receipt of the Planning Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Commission act until at least twenty (20) days after the Planning Commission report has been filed with the County Clerk.

FINDING: Criterion d will be met.

- The report will be filed in a timely manner after the scheduled Planning Commission hearing on 1 December 2009. The County Commission will conduct a hearing no sooner than twenty (20) days after the Planning Commission report has been filed with the County Clerk. At this hearing the County Commission shall take such action as may appear appropriate to it. The County Commission hearing is tentatively scheduled for 7 April 2010.

- e. Section 9.090, Action by the Gorge Commission
(NSA Only)
All ordinance amendments shall require review by the Gorge Commission, and approval, before the ordinance amendments can be implemented. Within ninety (90) days after receipt of the final order by the County Commission of the ordinance amendments, the Gorge Commission, by majority vote including at least three members from

each State, shall approve the ordinance amendments, unless the Gorge Commission determines the ordinance amendments are inconsistent with the Management Plan for the Columbia River Gorge National Scenic Area.

FINDING: Criterion e will be met.

- Planning Staff provided a draft copy of the proposed Ordinance changes to Gorge Commission Staff and US Forest Service Staff via email on December 29, 2009.
 - Planning Staff corresponded with Gorge Commission Staff on January 28, 2010 to discuss the proposed changes.
 - Upon approval of the requested Ordinance amendments by the County Governing Body, a copy of the Final Order will be sent to the Gorge Commission and the Secretary of Agriculture (SMA) for review. The Gorge Commission will then have ninety (90) days to review the proposed changes for consistency with the Management Plan.
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C. WASCO COUNTY COMPREHENSIVE PLAN REVISION PROCESS

A Comprehensive Plan Amendment May Take the Following Forms:

1. Amendment of one or more policies of the plan.
2. Amendment to the text, inventories, maps or figures of the plan.
3. Amendment of a portion of the Comprehensive Plan Land Use Designation map.
4. Amendment to the urban growth boundary.
5. A combination plan change/zone amendment.

FINDING: The requested Comp Plan Revisions represent an Amendment to the text and maps of the plan.

D. Who May Apply For a Plan Revision:

Comprehensive Plan Revision may be initiated by:

1. Wasco County Governing Body. (Legislative)
2. Planning Commission by majority vote confirmed by the Wasco County Governing Body. (Legislative)
3. Property owner or his authorized representative. (Quasi-Judicial)

FINDING: The requested Comp Plan Revisions were initiated by the Wasco County Governing Body through Resolution #09-028, dated 1 July 2009.

E. Legislative Revisions

Legislative revisions include land use changes that have widespread and significant impact beyond the immediate area such as quantitative changes producing large volumes of traffic; a qualitative change in the character of

the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or much different ownership. The Planning Commission and County Governing Body shall evaluate the plan as often as necessary to meet changes in the social, economic, or environmental character of Wasco County.

FINDING: The requested Comp Plan Revisions will potentially affect all properties in the vicinity of the Area of Special Flood Hazard as shown on the FEMA Flood Insurance Rate Maps. Therefore, the proposed revisions are being processed as a Legislative Revision.

F. General Criteria

The following are general criteria which must be considered before approval of an amendment to the Comprehensive Plan is given:

1. Compliance with the statewide land use goal as provided by Chapter 15 or further amended by the Land Conservation and Development Commission, where applicable.
2. Substantial proof that such change shall not be detrimental to the spirit and intent of such goals.
3. A mistake in the original comprehensive plan or change in the character of the neighborhood can be demonstrated.
4. Factors which relate to the public need for healthful, safe and aesthetic surroundings and conditions.
5. Proof of change in the inventories originally developed.
6. Revisions shall be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change must be established.

FINDING: The request complies with criteria F.1 through F.6.

- The requested Comp Plan Revisions will update Chapter 2 – Physical Characteristics and Chapter 15 – Goals and Policies. Specifically, Goal 7 – Areas Subject to Natural Disasters and Hazards will be affected.
- Goal 7 requires the county to control flood hazards through active management of water resources, soil conservation techniques, and flood plain identification.
- The proposed revisions to Chapter 2 of the Comp Plan include updated citations to the September 24, 1984 Flood Insurance Rate Maps instead of the November 1, 1977 maps that are currently cited. This updated citation will accurately reflect the proper FIRM document.
- Additionally, the proposed Comp Plan revisions will update a hand-drawn map of Flood Hazard Zones by utilizing the current Flood Hazard Overlay layer in the Wasco County Geographic Information System. This update will help clarify flood plain identification.

- Goal 7 of Chapter 15 – Goals and Policies will also be updated to include an accurate citation to the 1984 FIRMs instead of the Housing and Urban Development Flood Plain maps.
- With this in mind, staff finds that the proposed revisions to Chapters 2 and 15 of the Comprehensive Plan will not be detrimental to the spirit of the Goals, and in fact are proposed to update the Plan to provide accurate information.

G. Transportation Planning Rule Compliance

1. Review of Applications for Effect on Transportation Facilities - A proposed plan amendment, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”). “Significant” means the proposal would:
 - a. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - b. Change standards implementing a functional classification system; or
 - c. As measured at the end of the planning period identified in the adopted transportation system plan:
 - (1) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (2) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
 - (3) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

FINDING: The request complies with criterion G.

- The requested and Comp Plan revisions have been reviewed to determine if they will significantly affect any transportation facilities.
- As proposed, the Comp Plan revisions will have no foreseen affect on any existing or planned transportation system because no change in uses are proposed.

H. Procedure for the Amendment Process

1. Notification of Hearing:

- (1) Notices of public hearings shall summarize the issues in an understandable and meaningful manner.
- (2) Notice of a legislative or judicial public hearing shall be given as prescribed in ORS 215.503. In any event, notice shall be given by publishing notice in newspapers of general circulation at least twenty (20) days, but not more than forty (40) days, prior to the date of the hearing.
- (3) A quorum of the Planning Commission must be present before a public hearing can be held. If the majority of the County Planning Commission present cannot agree on a proposed change, the Commission will hold another public hearing in an attempt to resolve the difference or send the proposed change to the County Governing Body with no recommendation.
- (4) After the public hearing, the Planning Commission shall recommend to the County Governing Body that the revision be granted or denied, and the facts and reasons supporting their decision. In all cases the Planning Commission shall enter findings based on the record before it to justify the decision. If the Planning Commission sends the proposed change with no recommendation, the findings shall reflect those items agreed upon and those items not agreed upon that resulted in no recommendation.
- (5) Upon receiving the Planning Commission's recommendation, the County Governing Body shall take such action as they deem appropriate. The County Governing Body may or may not hold a public hearing. In no event shall the County Governing Body approve the amendment until at least twenty (20) days have passed since the mailing of the recommendation to parties.

FINDING: The request complies with criterion H.

- All notices of public hearings summarized the issues in an understandable manner. Additionally, all notices directed the reader to the Wasco County Planning Department Website, which included complete copies of all proposed changes.
- Notice of the Legislative Hearing will be posted as required.
- The Planning Commission Hearing will require a quorum. After the Planning Commission Hearing (scheduled for March 2, 2010), the Planning Commission will make a recommendation to the County Commission.
- Upon receiving the Planning Commission's recommendation, the County Commission shall hold a second public hearing (tentatively scheduled for April 7, 2010) and take action on the request.

I. Appeals

The decision of the County Governing Body will be final unless appealed to a higher court.

FINDING: Any Appeals will be processed as required.

VI. SUMMARY OF RECOMMENDED LUDO TEXT AMENDMENTS (COUNTY)

Key to Changes

Gray Highlight – New Language posed by Planning Department

Yellow Highlight – New suggested Language (DLCD) along with ~~language to be stricken.~~

Blue Highlight – Citation

Blue Highlight / Red Text – Indicates movement of a subsection within the Chapter

Please Note: These colors may not be distinguishable if printed in a black and white format. This document is available at the Wasco County Planning Department website <http://co.wasco.or.us/planning/planhome.html>.

A. Chapter 3 – Basic Provisions and Zoning (Pages 3.110-10, 3.120-15, 3.210-13, 3.220-4, 3.230-4, 3.240-3, 3.250-4, 3.310-3, 3.410-3, 3.510-3, 3.601-3, 3.602-3, 3.603-4, 3.604-4, 3.606-3, 3.611-3, 3.612-3, 3.613-3, 3.614-3 and Section 3.740 Division 1 – Flood Hazard Overlay)

1. Amended the “Development Standards” from each Zone as follows:

Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.740, Flood Hazard Overlay

This language will be added to each zone in Wasco County.

2. Section 3.740 Division 1 – Flood Hazard Overlay

a. Overall Reorganization

i. As previously stated Chapter 22 was established using a federal model ordinance. This ordinance was not organized to group similar concepts together and was therefore very difficult to understand and implement.

ii. Staff met with Chris Shirley, DLCD Natural Hazards Specialist, to discuss the possibility of rearranging the chapter to make it more understandable. Ms. Shirley agreed that the ordinance could be

confusing and indicated that she had no problem with us reorganizing the document as long as the necessary criteria were included.

- iii. Staff subsequently sent Ms. Shirley a draft copy of the ordinance via email on December 16, 2009. Ms Shirley's comments were incorporated into the version of the ordinance presented at the Hearing.
- iv. Specific notes on reorganization have been included below:

b. 3.740 FLOOD HAZARD OVERLAY (page 3.740-1)

- i. Reorganization of this section includes:
 - a) Statement of Purpose (moved from 22.010 to 3.740.A.2)
 - b) Methods of Reducing Flood Losses (moved from 22.020 to 3.740.A.3)
 - c) Applicability now includes:
 - (1) Lands to which this Chapter Applies (from 22.040 to 3.740.B.1)
 - (2) Basis for Establishing ASFH (from 22.050 to 3.740.B.2)
 - (3) Abrogation and Greater Restrictions (from 22.060 to 3.740.B.3)
 - (4) Interpretation (moved from 22.070 to 3.740.C)
 - (5) Warning and Disclaimer of Liability (from 22.080 to 3.740.D)
- ii. DLCDC Recommended Changes
 - a) Findings of Fact: Recommended verbatim from DLCDC model ordinance. This section lays the foundation behind establishing the flood protection ordinance.
 - b) Abrogation and Greater Restrictions: Specifically included state building codes in the second sentence to indicate that this ordinance is not meant to usurp other regulations or legal agreements.
- iii. Staff Recommended Changes
 - a) Included a provision under Applicability to let the Planning Director evaluate proposed development that appears to be outside of the ASFH. The reason for this inclusion is to reiterate that Wasco County only includes Approximate A zones with no established Base Flood Elevation. New language is as follows:

Although Wasco County holds and utilizes the official Flood Insurance Rate Maps (FIRMs) supplied by FEMA, there is no Flood Insurance Study (FIS) for the County. This FIS typically provides the detailed information and cross sections necessary to establish the Base Flood Elevation in a given area. For that reason, the Area

of Special Flood Hazard as shown on the FEMA FIRMs is only an approximation of the Floodplain boundary. Without the FIS, the Director may require additional information to determine that a proposed development, which may appear to be located outside of an Area of Special Flood Hazard based on the FIRMs, is in fact reasonably safe from flooding as required by Section 3.742.B – Duties and Responsibilities of the Planning Director. In a situation where the Director determines that it is unclear if a proposed development lies in or out of the Area of Special Flood Hazard, it shall be the responsibility of the applicant to provide the Base Flood Elevation for the property using FEMA approved methodologies.

c. 3.741 SPECIAL DEFINITIONS (Page 3.740-4)

- i. Reorganization of this section includes:
Moving this section from 22.030.
- ii. DLCD Recommended Changes
 - a) Added Appeal:
 - b) Added Base Flood Elevation:
 - c) Added Basement:
 - d) Added Critical Facility:
 - e) Amended Development:
 - f) Added Existing Manufactured Home Park:
 - g) Added Flood Insurance Study:
 - h) Amended Manufactured Home
 - i) Amended Manufactured Home Park or Subdivision
 - j) Added New Construction:
 - k) Added Recreational Vehicle:
 - l) Added Regulatory Floodway:
 - m) Amended Substantial Improvement:
 - n) Added Variance:
 - o) Added Water Dependant:
- iii. Staff Recommended Changes
 - a) Section Header: Added statement to clarify the applicability of Definitions found in this section.
 - b) Critical Facility: Added language to clarify minimal water damage as suggested during the Workshop. Added language requiring a Variance to place a Critical Facility in the ASFH.
 - c) Expansion to an Existing Manufactured Home Park: Added language requiring a Variance to place an Expansion of an Existing Manufactured Home Park within the ASFH.
 - d) Added Flood Resistant Material:
 - e) Added Improvement or Repair Cost:

- f) New Manufactured Home Park: Added language requiring a Variance to place a New Manufactured Home Park within the ASFH.
- g) Added Raised Structure:
- h) Amended Structure :

d. 3.742 PLANNING DIRECTOR (page 3.740-9)

- i. Reorganization of this section includes:
 - a) Designation of the Planning Director (moved from 22.100)
 - b) Duties and responsibilities of the Planning Director (moved from 22.120 and 22.140)
- ii. DLCD Recommended Changes
 - a) Amend Alteration of Watercourses to include maintenance requirement (Subsection b).
 - b) Amend Information to be Obtained and Maintained by adding language that specifies the as-built elevation of new development.
- iii. Staff Recommended Changes (
 - a) Added Determination of Appropriate Review Method to clarify which review process (Type I or Type II) would be used. This section gives the Director the authority to determine if a request can be reviewed through the Ministerial process. (COUNTY ONLY)
 - b) Added “Development” to the title of Development Permit Review: This addition clarifies that the permit being described is specifically a Development Permit associated with the Flood Hazard Overlay.
 - c) Added specific jurisdictions to the notification section of Alteration of Watercourses to ensure that the Planner notifies the appropriate agencies.
 - d) Added two (2) responsibilities to the Planning Director in the Information to be Obtained and Maintained section.

e. 3.743 DEVELOPMENT PERMIT (page 3.740-11)

- i. Reorganization of this section includes:
 - a) Establishment of Development Permit (moved from 22.090)
 - b) Application Requirements (Moved from part of 22.090)
 - c) General Standards (moved from 22.130)
 - d) Specific Standards (moved from 22.120A, 22.130, 22.130.D, 22.150, 22.160, 22.170, and, 22.180.B)
- ii. DLCD Recommended Changes
 - a) Establishment of Development Permit. Added language indicating that the Development permit is for all structures and all development.

- b) Amended Manufactured Homes for compliance with current regulations.
- c) Added language as recommended by DLCD to clarify skirting on Manufactured Homes:
- d) Added provisions specific to Recreational Vehicles:
- e) Amended Non-Residential Construction to require flood proofing “at or above” instead of “to” the BFE.
- f) Added recommended provisions specific to Critical Facilities:

iii. Staff Recommended Changes

- a) Added provisions for Establishing the Development Permit. The added provisions allow the director to evaluate development that may appear to be located outside of the ASFH to ensure that the proposal is “reasonably safe from flooding”.
- b) Added a section describing Application Types. This section identifies the situations where a Type I (Ministerial) application can be requested instead of the Type II (Administrative).
- c) Added the requirement that residential structures shall be elevated a minimum of one foot above BFE in Residential Construction:
- d) Added provisions for Partition and Property Line Adjustment Proposals that are based on Subdivision Proposals:
- e) Added provisions for Storage of Hazardous or Toxic Materials at recommendation from DLCD.
- f) Added language to DLCD’s recommended language that will only allow Critical Facilities through a Variance:
- g) Since Wasco County does not have Floodways, Staff amended language from Section 22.160 – Floodways to describe requirements associated with Development Within Riparian Areas.
- h) Added criteria for reviewing Fish Habitat Structures in Specific Standards.

f. 3.744 VARIANCES [\(page 3.740-20\)](#)

- i. DLCD Recommended Changes
This entire section was added as a recommendation by DLCD

g. 3.745 APPEALS [\(page 3.740-24\)](#)

- i. DLCD Recommended Changes
This entire section was added as a recommendation by DLCD

h. 3.746 COMPLIANCE REQUIRED [\(page 3.740-24\)](#)

- i. DLCD Recommended Changes
DLCD recommended that we incorporate provisions regulating the violation of the Flood Hazard Overlay ordinances.

ii. Staff included the compliance section:

i. 3.747 REVISING FIRM MAPS (page 3.740-25)

i. Staff Recommends including new provisions to educate Staff and the public regarding FIRM Maps:

j. 3.748 NOTES ON INSURANCE (page 3.740-27)

i. Staff Recommends including new provisions to educate Staff and the public regarding Flood Insurance:

B. Chapter 22 – Flood Damage Prevention (Deleting Chapter)

This entire chapter will be deleted, and its contents moved into Chapter 3, Section 3.740 – Division 1 – Flood Hazard Overlay

VII. SUMMARY OF RECOMMENDED COMP PLAN AMENDMENTS (COUNTY)

A. Chapter 2 – Physical Characteristics (Pages 2-21 – 2-22)

1. Replaced the hand-drawn Flood Hazard Area Map (Figure 10) with a modern GIS generated map
2. Updated references to the September 24, 1984 FIRMs from the November 1, 1977 HUD maps.
3. Changed “special flood hazard areas” to Areas of Special Flood Hazard” to be consistent with LUDO provisions.

B. Chapter 15 – Goals and Policies (Page 15-21)

1. Updated references to the September 24, 1984 FIRMs from the November 1, 1977 HUD maps.
 2. Corrected typographical error to a LUDO Section Reference pertaining to Geologic Hazard Protection. The citation currently reads “Chapter 3.700”, and will be amended to read Chapter 3.750”.
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VIII. SUMMARY OF RECOMMENDED LUDO TEXT AMENDMENTS (NSA)

A. Chapter 3 – Basic Provisions and Zoning (Pages 3-27(A-1), 3-42 (A-2), 3-51 (F-1), 3-62 (F-3), 3-68 (R-R), 3-76 (PR), 3-85 (OS), and 3-90 (AS)), and Section 3.240 Division 1 – Flood Hazard Overlay)

1. The “Development Standards” section from each Zone was amended to indicate that any development proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.740, Flood Hazard Overlay. This language will be added to each zone in the NSA.
 2. Planning Staff utilized the proposed changes to the Wasco County LUDO to establish changes to the NSA LUDO. However, it was noted that we would not be able to use the option to review certain requests for development permits within the Area of Special Flood Hazard through the Ministerial (Type I) process. Therefore, certain sections of the LUDO as specified were deleted or modified to eliminate reference to the Ministerial (Type I) process.
- B. Determination of Appropriate Review Method (Type I or Type II) (Wasco County LUDO Section 3.742.B.3):
This section has not been included with the proposed updates in the NSA LUDO because there doesn't appear to be a situation where a floodplain review could be performed through the Ministerial (Type I) process.
- C. Application Types (Wasco County LUDO Section 3.743.B):
This section has been removed. All development requests within the ASFH of the NSA will be processed as an Administrative (Type II) action.
- D. Fish Habitat Structures (Wasco County LUDO Section 3.743.E.10):
This section was amended to remove reference to the Ministerial (Type I) process. All development requests within the ASFH of the NSA will be processed as an Administrative (Type II) action.
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IX. Final editorial revisions

If approved a final editorial revision will be required for the County LUDO, NSA LUDO, and Comprehensive Plan. This will not change the substance of what is approved by the Wasco County Commission. It will be limited to editorial changes including but not limited section numbers, references to section numbers and headers and footers.