

PLALEG-09-06-0002 Planning Commission Workshop

Amendments to the Flood Hazard Overlay of the Wasco County Land Use and Development Ordinance, and the National Scenic Area Land Use and Development Ordinance

OVERVIEW

Staff is requesting amendments to Chapters 3, and 22 of the Wasco County Land Use and Development Ordinance and the NSA Land Use and Development Ordinance and Chapters 2 and 15 of the Wasco County Comprehensive Plan based on the following reasons:

- A. The current Flood Damage Prevention ordinance (Chapter 22) is out of compliance with FEMA regulations. The proposed amendments to Section 3.740 of the County LUDO and Section 3.240 of the NSA LUDO will bring our ordinances into compliance with FEMA regulations. DLCD recommended changes are highlighted in yellow.
- B. The current 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. After meeting with Christine Shirley, DLCD Natural Hazards Specialist, Staff reorganized the criteria to make it easier to understand and implement.
- C. Additional review standards such as definitions, authority, and review type were also included by staff. These additions are thought to be beneficial to the county. Staff recommended changes are highlighted in gray.
- D. Citations to the Flood Insurance Rate Maps are incorrect in Chapter 2 – Physical Characteristics and Chapter 15 – Goals and Policies of the Comprehensive Plan. These citations will be corrected. Additionally, Figure 10 of Chapter 2 is currently a hand-drawn representation of the Flood Hazard Areas in the County. Figure 10 will be updated utilizing a GIS generated map.

PROCESS AND PUBLIC INPUT

- A. Staff has prepared a rough draft of the proposed changes to the Flood Hazard Overlay ordinance. Staff has provided a draft copy of the proposed ordinance to the DLCD Natural Hazards Specialist and the FEMA Region X representative to ensure that the ordinance meets all FEMA requirements.
- B. Today's Planning Commission Workshop is the first step where the public has access to the new Flood Hazard Overlay ordinances. Today's presentation before the Planning Commission represents a first draft of the Ordinance. Staff will entertain questions from the Planning Commission, County Commission and members of the audience, and address any written or electronic comments that have been submitted. Any necessary changes will be incorporated prior to the next hearing.
- C. The Planning Commission will hold a Hearing for the proposed changes on March 2, 2010. During this hearing, the Planning Department will present a Staff Recommendation. Comments from the previous Workshop will be addressed as part of the presentation. Once Planning Staff has completed their presentation, the Planning Commission will take testimony from the audience and address any written or electronic comments that have been submitted. Any necessary changes will be incorporated prior to the next hearing.

- D. A hearing before the County Commission has tentatively been scheduled for April 7, 2010. Notice of this hearing will be provided to those who provided comments or testified at the Planning Commission Hearing. Staff will present the Planning Commission Recommendation. The County Commission will issue a decision during this hearing.
 - E. After the County Commission issues a decision, the proposed amendments will be scheduled before the Columbia River Gorge Commission. No hearing date has been set for the Gorge Commission. Notice of this hearing will be provided to those who provided comments or testified at the Planning Commission Hearing and the County Commission Hearing.
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CHANGES OF NOTE

Key to Changes

Gray Highlight – New Language posed by Planning Department

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

Cyan 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. Wasco County Land Use and Development Ordinance Changes

- 1. 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)

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. Division 1 Flood Hazard Overlay

- a. Relocation: The Flood Hazard Overlay provisions were relocated from Chapter 22 – Flood Damage Prevention. This relocation was done in the County and NSA LUDO.
- b. Overall Reorganization: The entire Flood Hazard Overlay section was reorganized to group similar ideas together. This reorganization was needed to make the

regulations more understandable and to ease the implementation of those regulations. This reorganization was done in the County and NSA LUDO.

3. Section 3.740 Flood Hazard Overlay (page 3.740-1)
 - a. Reorganization of this section includes:
 - i. Statement of Purpose (moved from 22.010 to 3.740.A.2)
 - ii. Methods of Reducing Flood Losses (moved from 22.020 to 3.740.A.3)
 - iii. 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)
 - b. DLCD Recommended Changes:
 - i. Findings of Fact: Recommended verbatim from DLCD model ordinance. This section lays the foundation behind establishing the flood protection ordinance.
 - ii. 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.
 - c. Staff Recommended Changes
 - i. 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. Proposed 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.

4. Section 3.741 Special Definitions (Page 3.740-4)
 - a. Reorganization of this section includes: moving this section from 22.030.
 - b. DLCD Recommended Changes
 - i. Added Appeal:
 - ii. Added Base Flood Elevation:
 - iii. Added Basement:
 - iv. Added Critical Facility:

- v. Added Existing Manufactured Home Park:
 - vi. Added Expansion to an Existing Manufactured Home Park:
 - vii. Added Flood Insurance Study:
 - viii. Amended Manufactured Home to include a recommended statement that “**The term ‘manufactured home’ does not include a ‘recreational vehicle’**”.
 - ix. Added New Construction:
 - x. Added New Manufactured Home Park:
 - xi. Added Recreational Vehicle:
- c. Staff Recommended Changes
- i. Section Header: Added statement to clarify the applicability of Definitions found in this section.
 - ii. Critical Facility: Added language requiring a Variance to place a Critical Facility in the ASFH.
 - iii. 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.
 - iv. Added Flood Resistant Material:
 - v. Added Improvement or Repair Cost:
 - vi. New Manufactured Home Park: Added language requiring a Variance to place a New Manufactured Home Park within the ASFH.
 - vii. Added Raised Structure:
5. Section 3.742 Planning Director **(page 3.740-9)**
- a. Reorganization of this section includes:
- i. Designation of the Planning Director (moved from 22.100)
 - ii. Duties and responsibilities of the Planning Director (moved from 22.120 and 22.140)
- b. DLCD Recommended Changes
- i. Amend Alteration of Watercourses to include maintenance requirement (Subsection b).
 - ii. Amend Information to be Obtained and Maintained by adding language that specifies the as-built elevation of new development.
- c. Staff Recommended Changes
- i. 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)**
 - ii. 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.
 - iii. Added specific jurisdictions to the notification section of Alteration of Watercourses to ensure that the Planner notifies the appropriate agencies.
 - iv. Added two (2) responsibilities to the Planning Director in the Information to be Obtained and Maintained section.
6. Section 3.743 Development Permit **(page 3.740-11)**
- a. Reorganization of this section includes:

- i. Establishment of Development Permit (moved from 22.090)
 - ii. Application Requirements (Moved from part of 22.090)
 - iii. General Standards (moved from 22.130)
 - iv. Specific Standards (moved from 22.120A, 22.130, 22.130.D, 22.150, 22.160, 22.170, and, 22.180.B)
- b. DLCD Recommended Changes
- i. Establishment of Development Permit. Added language indicating that the Development permit is for all structures and all development.
 - ii. Amended Manufactured Homes for compliance with current regulations.
 - iii. Added language as recommended by DLCD to clarify skirting on Manufactured Homes:
 - iv. Added provisions specific to Recreational Vehicles:
 - v. Amended Non-Residential Construction to require flood proofing “at or above” instead of “to” the BFE.
 - vi. Added recommended provisions specific to Critical Facilities:
- c. Staff Recommended Changes
- i. 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”.
 - ii. 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).
 - iii. Added the requirement that residential structures shall be elevated a minimum of one foot above BFE in Residential Construction:
 - iv. Added provisions for Partition Proposals that are based on Subdivision Proposals:
 - v. Added provisions for Storage of Hazardous or Toxic Materials at recommendation from DLCD.
 - vi. Added language to DLCD’s recommended language that will only allow Critical Facilities through a Variance:
 - vii. Since Wasco County does not have Floodways, Staff amended language from Section 22.160 – Floodways to describe requirements associated with Development Within Riparian Areas.
 - viii. Added criteria for reviewing Fish Habitat Structures in Specific Standards.

7. Section 3.744 Variances **(page 3.740-9)**

a. DLCD Recommended Changes

This entire section was added as a recommendation by DLCD

8. Section 3.745 Appeals **(page 3.740-24)**

a. DLCD Recommended Changes

This entire section was added as a recommendation by DLCD. All appeals will be processed as described in Chapter 2 of the LUDO

9. Section 3.746 Compliance Required **(page 3.740-24)**

- a. DLCD Recommended Changes
DLCD recommended that we incorporate provisions regulating the violation of the Flood Hazard Overlay ordinances.
 - b. Staff included this compliance section, which indicates that all violations of provisions of Division 1 – Flood Hazard Overlay are subject to the regulations and policies set forth in the Wasco County Code Compliance and Nuisance Abatement Ordinance.
10. Section 3.747 Revising FIRM Maps (page 3.740-25)
- a. Staff Recommends including new provisions to educate Staff and the public regarding revising FIRM Maps.
11. Section 3.748 Notes on Insurance (page 3.740-27)
- a. Staff Recommends including new provisions to educate Staff and the public regarding Flood Insurance.
12. Chapter 22 – Flood Damage Prevention (Deleting this entire chapter)
This entire chapter will be deleted, and its contents moved into Chapter 3, Section 3.740 – Division 1 – Flood Hazard Overlay
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B. Wasco County Comprehensive Plan

- 1. Chapter 2 – Physical Characteristics (Pages 2-21 – 2-22)
 - a. Replaced the hand-drawn Flood Hazard Area Map (Figure 10) with a modern GIS generated map
 - b. Updated references to the September 24, 1984 FIRMs from the November 1, 1977 HUD maps.
 - c. Changed “special flood hazard areas” to Areas of Special Flood Hazard” to be consistent with LUDO provisions.
 - 2. Chapter 15 – Goals and Policies (Page 15-21)
 - a. Updated references to the September 24, 1984 FIRMs from the November 1, 1977 HUD maps.
 - b. 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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C. National Scenic Area Land Use and Development Ordinance Changes

- 1. 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)
 - a. 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 3.240, Flood Hazard Overlay

This language will be added to each zone in the Scenic Area.

- b. 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.
 2. Determination of Appropriate Review Method (Type I or Type II) (WC 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.
 3. Application Types (WC Section 3.743.B):
This section was not included in the proposed NSA LUDO updates. All development requests within the ASFH of the NSA will be processed as an Administrative (Type II) action
 4. Fish Habitat Structures (WC Section 3.743.E.10):
This section differs from the County LUDO by removing 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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D. Final editorial revisions

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