

CITY OF GEARHART CITY COUNCIL
STAFF REPORT

April 25, 2018

From: Carole Connell, City Planner

Re: Legislative Zone Code Text Amendments to Article 5 Flood Hazard Overlay Zone
City File #18-005ZTA

I. Background

The City of Gearhart is included in a revision process of Flood Insurance Rate Maps for coastal Clatsop County. This is part of a national effort to improve flood map data in coastal areas, and every other Oregon coastal county will also see their flood maps improved within the next two years. The Clatsop County maps will become effective on **June 20, 2018**. This is the culmination of a multi-year process of map study and public outreach, including a public open house and appeal period. When new maps become effective all communities included in the revision area must formally adopt the new maps in their floodplain development ordinance to give legal standing for local regulation. This is done by simply updating the existing map reference date with the new date of the revised Flood Insurance Study.

At the same time, local ordinances must also be reviewed to check their consistency with Title 44 of the Code of Federal Regulations and any existing higher standards in place in the State of Oregon. This review only occurs when new maps are adopted or when a community has an NFIP program audit, so it is common for these reviews to happen every ten years or more. Changes to State and Federal code that have happened since the last review are then incorporated into the revised ordinance.

Communities must have compliant ordinances *in effect* the same day the new maps become effective. FEMA will suspend communities from the National Flood Insurance Program immediately if amended ordinances have not been adopted or are not yet in effect. While a community is suspended from the NFIP, no new NFIP policies may be purchased in the community and existing policy holders will not be able to renew their flood insurance. The City will lose access to disaster relief and hazard mitigation grants and no Federal mortgages will be allowed in mapped flood hazard areas.

Currently, there are 190 National Flood Insurance Program policies in Gearhart, providing over \$55 million in insurance coverage. The State of Oregon provides a model floodplain development ordinance which can be used to apply new or modified ordinance language required by this process. The model code is considered to meet all State and Federal minimum standards.

On April 12, 2018 the City of Gearhart Planning Commission held the initial hearing and made a unanimous decision to recommend approval of the legislative amendments to the Gearhart Zoning Ordinance Article 5 Flood Hazard Overlay Zone in order to comply with federal regulatory requirements. Staff recommends approval of the suggested revisions by the state Department of Land Conservation and Development (DLCD) staff dated March 15, 2018.

The amendments to the Gearhart Zoning Ordinance are attached as Exhibit A.

II. APPLICABLE REVIEW CRITERIA AND PROCEDURES

A. Applicable Criteria of the Gearhart Zoning Ordinance (GZO)

1. Article 5 Flood Hazard Overlay Zone
2. Article 11 Amendments
3. Article 13 Administrative Provisions
4. Gearhart Comprehensive Plan

B. Amendment Process

An amendment to the Gearhart Zoning Code text is a legislative amendment. Before amendments to the text of the zoning code are approved, findings will be made that the amendments are consistent with the goals and policies of the Comprehensive Plan, and that there is a public need for the proposed amendment in accordance with Article 11 Amendments.

In accordance with Article 13 the Planning Commission conducted the first legislative public hearing on April 12, 2018. Their recommendation was forwarded to the City Council who renders a decision by ordinance. On March 20, 2018 Public Notice was posted and mailed to all property owners affected by the Flood Hazard Zone, an estimated 202 owners. The notice advertised the Planning Commission hearing and the City Council hearing on 5-2-18.

III. ATTACHMENTS

- A. Exhibit A Draft GZO Article 5 Amendments dated March 15, 2018
- B. FEMA letter dated 3-20-18

IV. PROPOSED AMENDMENT LANGUAGE

Please see the text amendments to GZO Article 5 Flood Hazard Overlay Zone in the attached Exhibit A.

V. FINDINGS OF COMPLIANCE FOR THE PROPOSED CODE AMENDMENTS

GZO Section 10.040 Amendment Criteria.

The following is a response to the code amendment approval criteria:

A. *Is the amendment consistent with the policies of the Gearhart Comprehensive Plan?*

The proposed code amendment relates to the Comprehensive Plan as follows:

(1) Citizen Involvement, Revision, Implementation and Process Goals (LCDC Goal 1 & 2)

Plan Goals 1 and 2 are intended to assure citizen involvement is provided in the amendment process. Policy 1 states “*the City will ensure that citizens, including residents and property owners, have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and development of policies.*”

The process also requires an advertised public hearing with a recommendation by the Planning Commission and a decision by the City Council based on findings that there is a public need for the amendments and that the amendments are in compliance with the Gearhart Comprehensive Plan.

FINDINGS: The City finds that notice of a public hearing of the amendment was published, posted and mailed to 202 affected property owners on March 20, 2018 advertising both the Planning Commission and City Council hearings. The DLCD was notified more than 35 days before the initial Planning Commission hearing on April 12, 2018, in accordance with GZO Article 11 Administrative Provisions. All meetings are taped to maintain a record.

(2) Open Space, Scenic Areas, Historic and Natural Resources (LCDC Goal 5)

The Gearhart Open Space, Scenic Areas, Historic and Natural Resources (Goal 5) and Goal policies strive to conserve, preserve, and protect open space, scenic areas, historic and natural resources in and around the Gearhart Community for future generations.

FINDINGS: The City finds the code amendments support the goal to conserve, preserve and protect open space and natural resource lands needed to retain flood waters based on the most current mapping conducted by FEMA.

(3) Air, Water, and Land Resource Quality (LCDC Goal 6)

The Air Water and Land Resource Quality policies assure there will be standards that protect air, water, and land resource quality including laws that prevent noise pollution.

FINDINGS: The City finds the amendments protect water quantity and quality policies by prohibiting development that is not in compliance with current federal and state flood hazard regulations.

(4) Flood Hazards (LCDC Goal 7)

City flood protection policies are established in coordination with applicable local, state and federal standards to identify geologic hazard areas and flood hazard zone identified by the FEMA Flood Rate Insurance Map. In particular,

Plan Policy 2. *The city will rely on the requirements of its Flood Hazard Overlay Zone to regulate development in flood hazard areas to ensure that provisions of the National Flood Insurance program are met.*

FINDINGS: The City finds the code amendments to Article 5 bring the City's flood hazard protection requirements up to date with June 20 2018 FEMA mapping for Clatsop County and current federal development regulations.

(5) Recreation (LCDC Goal 8)

The Gearhart Recreation Goal policies encourage further development of recreation facilities in the Gearhart area that are commensurate with air, land, water, environmental, and scenic resources.

FINDING: The City finds the flood protection amendments are not directly related to city or state recreation goals.

(6) Economy and Energy (LCDC Goal 9 and 13)

The Gearhart Economy and Energy Goal policies ensure a stable and healthy economy in Gearhart through all available resources, both human and natural resources.

FINDING: The City finds the code amendment does not directly relate to this goal.

(7) Housing (LCDC Goal 10)

The Gearhart Housing Goal policies ensure decent, affordable housing and housing availability for all residents of the Gearhart area.

FINDING: The City finds the code amendments do not directly relate to this goal.

(8) Public Facilities and Services (LCDC Goal 11)

The Gearhart Public Facilities and Services Goal policies assure compliance with applicable local, state, and federal environmental noise, air, water, and solid waste standards.

FINDING: The City finds the code amendments do not directly relate to this goal.

(9) Transportation (LCDC Goal 12)

The Gearhart Transportation Goal policies are established to provide and encourage safe, convenient, and economic systems for all modes of transportation in the Gearhart area.

FINDING: The City finds the code amendments do not directly relate to this goal.

(10) Urban Growth (LCDC Goal 14)

The Gearhart Urban Growth Goal policies are established to manage urban growth.

FINDING: The City finds the code amendments do not directly relate to this goal.

(11) Necanicum Estuary (LCDC Goals 16)

The Gearhart Necanicum Estuary is a conservation estuary designated for long term uses that do not require major alteration of the estuary except for purposes of restoration. Necanicum Estuary goals and policies are established to maintain all identified marsh areas in their natural, productive condition and protect the integrity of the marshes themselves. Under this goal is the following relevant policy:

Plan Policy 1. Page 27 Development that takes place in areas upland from the estuary shall respect the natural functions of the adjacent water areas. Development of adjacent shoreland areas should, at a minimum give consideration to the control of vegetation removal, storm water runoff and public access. A general rule should be the more intensive the adjacent shoreland development, the more careful the control of it potential adverse impacts.

FINDINGS: The City finds the FEMA maps and flood control provisions regulate shoreland development from Necanicum Estuary flooding. Property owners adjoining the estuary benefit from the NFIP insurance policies and periodic updating of flood boundary maps and methods of flood damage protection provided by FEMA. The proposed amendments help to protect the natural functions of the estuary and the shoreland property owners.

(12) Coastal Shorelands (LCDC Goal 17)

The Gearhart Coastal Shorelands Goal is to conserve, protect, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. In particular,

Plan Policy 4 page 32: *The City will rely on the requirements of its Flood Hazard Overlay Zone to regulate development in flood hazard areas to ensure that the provisions of the National Flood Insurance Program are met.*

FINDING: The City finds the proposed amendments comply with current NFIP and FEMA regulations as required by the above city shorelands policy.

(13) Beaches and Dunes (LCDC Goal 18)

The Gearhart Beaches and Dunes Goal is to conserve, protect, and where appropriate restore the resources and benefits of coastal beach and dune area. In addition, the goal is to reduce the hazard to human life and property from actual or man-induced actions associated with coastal beach and dune area. In particular:

Plan page 36 Policy 7: *All construction shall be in conformance with applicable FEMA Flood Management requirements.*

FINDING: The City finds the amendments assure the city flood regulations are in conformance with current FEMA flood management requirements.

(14) Ocean Resources (LCDC Goal 19)

The Gearhart Ocean Resources Goal policies are established to assure cooperation with appropriate state and federal agencies in conserving the long term values, benefits and natural resources of the near-shore ocean and the continental shelf.

FINDING: The City finds the code amendments do not directly relate to this goal.

B. *Is there a public need for the amendments?*

FINDING: There is a public need for flood prone property owners to be eligible for the National Flood Insurance Program (NFIP). If the amendments are not adopted by June 20, 2018 affected property owners will be suspended from NFIP policies. There is a need to assure that all new development complies with updated flood hazard regulations. There is an urgent need to meet the deadline.

VI. RECOMMENDATION

Motion: Based on federal regulatory requirements, the Planning Commission recommendation and the findings in this report I move to approve the proposed text amendments in Exhibit A dated March 15, 2018 and direct staff to prepare an ordinance.