

Section 3.255. Landslide Hazard Overlay Zone (LHZ)

1. Purpose: The purpose of this section is to implement the landslide hazard policies set forth in Chapter 7 of the Curry County Comprehensive Plan and to manage development in a manner that reduces the risk to life and property from landslide hazards by:

- a) Identifying areas subject to landslide hazard;
- b) Assessing the risks to life and property posed by new development in areas of known landslide hazard; and
- c) Applying standards to the siting and design of new development on lands subject to landslide hazard that will reduce the risk to life and property from these hazards.

2. Applicability: This section shall apply to all lands within existing landslides mapped in DOGAMI Open File Report 0-14-10, "Landslide Inventory of coastal Curry County, Oregon" and the lands noted on the Comprehensive Plan Landslide Overlay zone map.

3. Landslide Hazard Area Requirements

a) Except for activities identified in subsection 3. b) as exempt, any new development activity as defined in Section 1.034 on land subject to this Section shall be subject to the requirements of this Section. Compliance with this Section is required prior to the issuance of a Conditional or Permitted Use Permit or Planning Clearance and a building permit or grading permit.

b) The following development activities are exempt from the requirements of this Section:

- i) Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation and do not exceed 50% of the existing area of the structure.
- ii) An excavation and/or fill which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
- iii) Exploratory excavations under the direction of a certified engineering geologist or registered geotechnical engineer;
- iv) Construction of structures for which a building permit is not required;
- v) Removal of trees smaller than 8-inches dbh (diameter breast height);
- vi) Yard area vegetation maintenance and other vegetation removal;
- vii) Forest operations subject to regulation under ORS 527 (the Oregon Forest Practices Act);

- viii) Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside of previously disturbed area;
 - ix) Maintenance and repair of utility lines, and the installation of individual utility service connections;
 - x) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazard;
 - xi) Restoration, repair or replacement of a lawfully established structure damaged or destroyed by fire or other casualty in accordance with subsection 7. of this section.
 - xii) Except for on-site construction and maintenance of facilities, farm uses as defined in ORS 215.203(2) that are identified in the underlying zoning district as an outright use.
- c) Application, review, decisions, and appeals for Conditional or Permitted Use Permits or Planning Clearances for development in a Landslide Hazard Area shall be in accordance with the requirements for administrative decisions pursuant to Section 2.060 (1).
- d) In addition to a completed application as set forth in Section 2.060, all applications for a Conditional or Permitted Use Permit or Planning Clearance and a building permit or grading permit in a Landslide Hazard Area shall include:
- i) An engineering geologic report prepared by a certified engineering geologist and conforming to the requirements of subsection 5. of this section; and,
 - ii) If geotechnical remediation is required to make the site suitable for the proposed development, an engineering report prepared by a geotechnical engineer or certified engineering geologist which provides design and construction specifications for the required remediation.
 - iii) Hazard Disclosure Statement: A Hazard Disclosure Statement shall be filed against a property title prior to issuance of a Conditional or Permitted Use Permit, if a Conditional or Permitted Use Permit is required. If a Planning Clearance is required, the Hazard Disclosure Statement shall be recorded against the property prior to issuance of a Building Permit. The Hazard Disclosure Statement shall include the following:
 - a. Property address is subject to potential chronic natural hazards and that development thereon is subject to risk of damage from such hazards;
 - b. Name of property owner has commissioned a geologic report for the subject property, a copy of which is on file with the Curry County Community Development Department, and that Name of property owner has reviewed the geologic report and has thus been informed and is aware of the type and extent of hazards present and the risks associated with development at Property address;

c. Name of property owner accepts and assumes all risks of damage from natural hazards associated with the development of Property address.

e) In the event the reviewing authority determines that additional review of a Conditional or Permitted Use Permit or Planning Clearance for development in a Landslide Hazard Area should be undertaken by an appropriately licensed and/or certified engineering geologist professional to determine compliance with this section, Curry County shall, at the applicant's expense, retain the services of such a professional for this purpose. All costs incurred by the County for this additional review shall be paid by the applicant as a part of the application fee for a Conditional or Permitted Use Permit or Planning Clearance in a Landslide Hazard Area.

f) In approving a Conditional or Permitted Use Permit or Planning Clearance for development in a Landslide Hazard Area, the reviewing authority shall impose any conditions which are necessary to ensure compliance with this section, including the geologic report recommendations and any other applicable provisions of the Curry County Zoning Ordinance.

g) Approval Criteria: A decision to approve a Conditional or Permitted Use Permit or Planning Clearance for development in a Landslide Hazard Area shall require findings of compliance with the following criteria:

i) The engineering geologic report conforms to the requirements of subsection 5. of this section.

ii) The development plans conform, or can be made to conform, to all recommendations and specifications contained in the engineering geologic report.

iv) The engineering geologic report contains a statement that, in the professional opinion of the certified engineering geologist that prepared the report, the proposed development will not create or be subject to risk from landslide hazards that exceeds acceptable level of risk, considering site conditions and any recommended mitigation and/or remediation. As used in this section, acceptable level of risk is defined as that level of risk that provides reasonable protection of the public safety, though it does not necessarily ensure continued structural integrity and functionality of the project. For development subject to this section, acceptable level of risk is further defined as:

a. No substantial risk to life safety from rapidly moving landslide hazards; and,

b. The proposed development can be sited and constructed in a manner that reasonably limits the risk of structural or other property damage from a landslide affecting the site and/or adjacent sites.

4. Development Limitations: In addition to conditions, requirements and limitations imposed by a required engineering geologic report, all development subject to Conditional or Permitted Use Permits or a Planning Clearance in a Landslide Hazard Area shall be subject to the following limitations:

a) Safest Site Requirement: All new construction shall be located on the portion of the subject property that is capable of accommodating the proposed development and is subject to the least exposure to risk from landslide hazards, as determined by a certified engineering geologist as part of an engineering geologic report prepared in accordance with subsection 5. of this section. Notwithstanding the provisions of Article IV, as necessary to comply with this requirement any required set-back from a property line may be reduced by up to 50%, without a variance.

b) New Lot or Parcel Development Prohibition: On lots and parcels created after *[insert effective date of this section]*, new construction must be located outside the area subject to this provision unless a geologic report as specified in Section 3.254(5) is submitted by the applicant that identifies an appropriate location for new lots or parcel development and compliance with Section 3.254(6).

c) Land Division Requirements: Any new lot or parcel subject to this provision shall provide a building foot print that:

- i) Provides a minimum of 750 square feet and is identified on the preliminary map;
- ii) Complies with all required set-backs; and,
- iii) Is located outside the landslide hazard area unless a geologic report ,as specified in Section 3.254(5) is submitted by the applicant with the subdivision application for a new lot or parcel inside the liquefaction area identifying an appropriate location for new lots or parcels in compliance with Section 3.254(6).

d) Residential density limitation: Notwithstanding the residential density allowances of the subject zone, additional dwelling units beyond the initial unit, or existing development lawfully sited prior to *[insert effective date of this section]*, are prohibited.

5. Engineering Geologic Report Requirements

a) Engineering geologic reports required pursuant to this section shall be prepared consistent with standard geologic practices and employing generally accepted scientific and engineering principles. Such reports shall be generally consistent with the "Guideline for Preparing Engineering Geologic Reports", Second Edition, May, 2014, published by the Oregon Board of Geologist Examiners.

b) In addition to the general requirements set forth in subsection 5.a), engineering geologic reports required pursuant to this provision shall include the following:

- i) An analysis and evaluation of the information, data and mapping contained in DOGAMI Open File Report 0-14-10 for the landslide or landslides identified as affecting subject property. This analysis should include an identification of mapped attributes including landslide activity, landslide features, depth of failure and classification of movement, and a discussion and interpretation of these attributes and their impact on the subject property based on field observations.

- ii) An identification of the safest area, or areas, of the subject property for the siting of the proposed development considering landslide risk.
- iii) A statement of the professional opinion of the certified engineering geologist preparing the report as to whether the proposed development can be sited and constructed in a manner that is within acceptable level of risk, as defined in subsection 3. g) iii) of this section.

6. Certification of Compliance: Permitted development or subdivision of land subject to this section shall comply with all recommendations in any required engineering geologic report as conditions of approval for a Conditional or Permitted Use Permit or Planning Clearance or Subdivision permit. Certification of compliance shall be provided as follows:

a) Plan Review Compliance: Building, construction or other development plans shall be accompanied by a written statement from a certified engineering geologist that the plans comply with the recommendations contained in the engineering geologic report for the approved development subject to the requirements of the Conditional or Permitted Use Permit or Planning Clearance in a Landslide Hazard Area.

b) Inspection Compliance: Upon completion of any development activity for which the engineering geologic report recommends inspection or observation by a certified engineering geologist, a written statement from a certified engineering geologist certifying that the development activity has been completed in conformance with the applicable recommendations shall be provided.

c) Final compliance: Development subject to this section shall not receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the director, or building official, receives:

- i) A written statement by a certified engineering geologist that all performance, mitigation, and monitoring measures specified in the engineering geologic report has been satisfied;
- ii) If mitigation measures for the subject development incorporate engineering solutions designed by a licensed professional engineer, a written statement of compliance from the design engineer.

7. Restoration and/or Replacement of Existing Structures

a) Notwithstanding any other provisions of this ordinance, application of this section shall not have the effect of rendering any lawfully existing use or structure non-conforming as defined in Section 1.030.

b) Replacement, repair or restoration of a lawfully established building or structure subject to this section that is damaged or destroyed by fire, other casualty or natural disaster not associated with landslide hazard shall be permitted, subject to all other applicable provisions of this ordinance, and subject to the following limitations:

- i) Replacement pursuant to this subsection is limited to a building or buildings not larger than the damaged building.
- ii) Replacement or restoration authorized by this subsection shall commence within 18 months of the fire or other casualty which necessitates restoration or replacement.
- iii) Application for a building permit for restoration or replacement authorized by this subsection shall be accompanied by an engineering geologic report meeting the requirements of subsection 3.255(5) and 3.255(6) of this section.

Draft for BOC review 08.02.2017