

**ORDINANCE NO 594
CITY OF DAYTON**

AN ORDINANCE AMENDING THE CITY OF DAYTON LAND USE AND DEVELOPMENT CODE, FLOOD PLAIN OVERLAY DISTRICT (FP); ADOPTING THE FLOOD INSURANCE RATE MAP IN A DIGITAL FORMAT (DFIRM); AND CORRECTING THE CITY OF DAYTON F.E.M.A. FLOOD ZONES AS PRESENTED IN THE DAYTON ATLAS AND COMPREHENSIVE PLAN, CHAPTER 3.

WHEREAS, the Federal Emergency Management Agency (FEMA) in cooperation with the Oregon Department of Land Conservation and Development (DLCD) directed the City of Dayton to adopt the Flood Insurance Rate Maps in a digital format (DFIRM) and to accordingly amend the City of Dayton Land Use and Development Code (DLUDC) text applicable to the Flood Plain Overlay District and other associated sections; and upon discovering an error in the information used to prepare the map in the City of Dayton Atlas and Comprehensive Plan identified as the City of Dayton F.E.M.A. Flood Zones and the need for a replacement map;

WHEREAS, the Planning Commission conducted a public hearing to consider the proposed amendments on December 8, 2009, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, at the close of the public hearing, the Planning Commission unanimously voted to recommend that the City Council approve the map format and amendments to the DLUDC at the public hearing; and

WHEREAS, the City Council conducted a public hearing to consider the requests on January 4, 2010, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, at the close of the public hearing, the City Council voted to approve the requests subject to the revisions stated at the public hearing; and

WHEREAS, proper notice of the said public hearings was given to the public pursuant to applicable state statutes; and

WHEREAS, the City Council of the City of Dayton hereby adopts the findings of fact set forth in the staff report prepared for the January 4, 2010, Council meeting;

THE CITY OF DAYTON ORDAINS AS FOLLOWS:

Section 1. The adoption of the Flood Insurance Rate Maps in a digital format (DFIRM), amendments to the City of Dayton Land Use and Development Code (DLUDC) text applicable to the Flood Plain Overlay District and other associated sections, and a corrected and replacement Dayton F.E.M.A. Flood Zone map as presented in the City of Dayton Atlas and Comprehensive Plan, Chapter 3; with all as provided in Exhibit A (attached).


First Reading: January 4, 2010

Second Reading: February 1, 2010

PASSED and adopted by the City Council of the City of Dayton on this 1st day of February, 2010, by the following votes and providing an **effective date of March 2, 2010.**

AYES 4 NAYS: 0

Approved by the Mayor on this 2nd day February, 2010.



Jolie White, Mayor

Attest:



Peggy Selberg, City Recorder

CITY OF DAYTON
416 Ferry Street – P O Box 339
Dayton, OR 97114-0039
503-864-2221 FAX: 503-864-2956

NOTICE OF DECISION – City Council
Public Hearing Date: January 4, 2010

- FILE:** Code Amendments 2009-01
- Applicant:** City of Dayton
- Request:** A text amendment to an adopted flood plain ordinance as implemented through the Dayton Development Code and to adopt a Flood Insurance Rate Map (FIRM) in a digital format that becomes effective March 2, 2010. See Attachment A.
- Criteria:** Dayton Land Use and Development Code, Section 7.3.112.03
- Procedure:** Type IV (Land Use and Development Code, Section 7.3.112)
- Exhibits:** Exhibit I: Code amendments
Exhibit II: Flood plain maps

I. PROCESS

According to the Dayton Development Code, subsection 3.101.04, a Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. The amendments are initiated in response to an April 2009 letter from the Federal Emergency Management Agency (FEMA). According to a Type IV process a public hearing was conducted before the Planning Commission making a recommendation to the City Council. City Council conducted a public hearing toward making a final decision. Newspaper publications provide notice for the hearings. (Adoption of an ordinance is required to codify the amendments.)

II. BACKGROUND

In April 2009, the City of Dayton received a letter from the Federal Emergency Management Agency (FEMA) indicating the availability of Digital Flood Insurance Rate Maps (DFIRM) and a Flood Insurance Study (FIS) Report for Yamhill County, Oregon and Incorporated Areas. According to the FIS, the Study “revises and updates information on the existence and severity of flood hazards in the geographic area of Yamhill County” and includes the City of Dayton. Summary information on the City of Dayton is presented on page 7 (FIS). See Staff Report, Attachment C.

One of the FEMA interpreted benefits for the City toward updating the zoning ordinance in regards to the flood ordinance is the better availability, such as a Geographic Information System (GIS) format that can be coordinated with other types of map information. The letter also indicates that the City must "... modify existing ordinances as necessary to reflect any changes in the DFIRM and FIS report, including reference to the new effective date."

The Department of Land Conservation and Development (DLCD) reviewed for the City of Dayton its Development Code and made recommendations about the status of the code references and requirements in relationship to the FEMA requirements. Amendments also allow for the adoption of the Federal Insurance Rate Map (FIRM) that is now being made available to the City and residents in a digital format.

The City of Dayton Planning Commission reviewed the proposed amendments on December 8, 2009, and unanimously voted to recommend adoption to City Council. City Council's January 4, 2010, meeting was the final evidentiary hearing.

III. SUMMARY OF AMENDMENTS

Specific code amendments are as presented in Attachment A. To follow is a summary of the proposed changes.

A. Definitions

The recommended changes and/or additions to the definitions applicable to the flood ordinance that staff recommends include the following:

Below-Grade Crawl Space and Critical Facility. These two (2) definitions are recommended to be added by DLCD based upon a review of the City's document in comparison with the Oregon State Model Ordinance.

In addition to the definition for below-grade crawl space, another reference included in the Code amendments references standards specific to using FEMA Technical Bulletin 11-01 specific to this type area.

DLCD also recommended adding the definition and requirements for critical facilities. Other text indicates that such facilities should be located outside the 100-year flood plain but allowed if no other feasible alternatives are available. There are specific requirements for the lowest floor elevation with information to also address floodproofing and access routes.

A definition of recreational vehicle was offered, however, the Code includes a definition referencing the one listed in the Oregon Revised Statutes (ORS).

Within FEMA documents, the terminology is changed from flood plain Special Flood Hazard Area (SFHA). A definition "line" is listed for that hazard area and referenced back to the flood plain. The flood plain definition will now note the other term.

A definition line for State Building Code is added to indicate the numerous documents used by the State.

B. Text Changes

The Development Code, Section 7.2.113.03, makes reference to the Federal Insurance Administration and the report/map. As instructed by DLCDC, the reference study and map are changed to “Study for Yamhill County, Oregon, and Incorporated Areas for the date of March 2, 2010.”

Within the text the terminology related to base flood level, the lowest floor elevation was previously required to be one (1) foot above the base flood elevation. The words “at least” or “a minimum of” are added. Manufactured homes are required to be a minimum of 18 inches and anchored with the purpose of resisting “flotation, collapse, and lateral movement.”

References to City Administrator are changed to City Manager.

In regards to floodways and manufactured home parks and manufactured homes within the park, there is recognition that some parks and homes may have existed before the regulations. See Section 7.2.113.05. Replacement of dwellings is permitted within certain parameters (7.2.113.07 L 6).

A provision is added to allow stream habitat restoration within a floodway based upon meeting certain requirements.

The State review directs changes for storage of recreational vehicles on individual lots and placement of recreational vehicles within recreational vehicle parks. Staff recommends including the information in the parking section to the RV parking on lots and the RV park section for those being occupied within a park.

There were other areas reviewed and not included. One item is in regards to penalties and the City already addresses how Code violations are accommodated (7.1.102.06). There was a request to deal with the “severability” of this document should there be issues with other sections of the Code. The City already has such language under a “savings clause” (7.2.102.07). Another concern was allowing a process for “interpretations” and that is already addressed in the Code, Section 7.1.102.04. Changes to the water course should not be under the City’s processing but determined by the applicable State and Federal agencies.

A revision to the “Site Development Section” is proposed to accommodate expansion of such things as manufactured home parks and any potential commercial/industrials areas that involve more that expansion of an existing building. Exiting mobile/manufactured parks or subdivision versus expansion of the same are already defined in Dayton’s Land Use and Development Code.

IV. CRITERIA

Amendments to the Development Code text shall be reviewed in accordance with the Type IV review procedure. Text shall be approved if evidence can substantiate the following:

- A. Impact of the proposed amendment on land use and development patterns within the City, as measured by:
 - 1. Traffic generation and circulation patterns;
 - 2. Demand for public facilities and services;
 - 3. Level of park and recreation facilities;
 - 4. Economic activities;
 - 5. Protection and use of natural resources; and
 - 6. Compliance of the proposed with existing and adopted special purpose plans or programs, such as public facilities improvements.

Finding: The current Comprehensive Plan FEMA Flood Zones map for the City of Dayton was prepared by Yamhill County and is inserted as Page 23 of the document. The MWVCOG prepared a draft map using the information provided by FEMA. Adoption of the floodplain ordinance amendments provides an updated map to be used in evaluating applications and other development activities. See Staff Report, Attachment E, for draft maps and comparison between current and proposed mapping.

The flood plain does involve several streets within the City's Urban Growth Boundary on the Northwest, North, and East areas. Map updates were reviewed. It was determined that there are no changes to the boundaries. See Staff Report, Attachment E. Neither the map updates nor the code amendments impact any of the City's water, sewer, or storm water facilities.

- B. A demonstrated need exists for the product of the proposed amendment.

Finding: According to letters sent to the City Manager in April and November 2009, the City is instructed to "adopt new floodplain ordinances or modify existing ordinances as necessary to reflect any changes in the DFIRM or FIS report, including reference to the effective date." Files provided by FEMA "can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. The letter also indicates that the City may be eligible for additional credits under the Community Rating System if City activities are implemented using digital mapping files.

- C. The proposed amendment complies will all applicable Statewide Planning Goals and administrative rule requirements.

Finding: According to the Statewide Planning Goals, Number 7: Areas subject to Natural Hazards, floods is one of the hazard categories. Local governments are to include inventories, policies, and implementing measures to reduce the risk to people and property.

The City of Dayton has within its Comprehensive Plan the needed elements. See Staff Report, Attachment D. The code amendments are proposed based upon updates provided by FEMA and based upon a document review by the DLCD.

D. The amendment is appropriate as measured by at least one of the following criteria:

1. It corrects identified error(s) in the provision of the plan.
2. It represents a logical implementation of the plan.
3. It is mandated by changes in federal, state, or local law.
4. It is otherwise deemed by the council to be desirable, appropriate, and proper.

Finding: The applicable section of the criterion is number 3. Flood plain ordinance updates are provided by FEMA with recommendations from the DLCD regarding different levels of amendments.

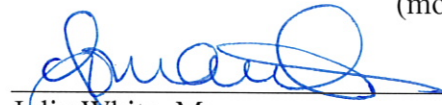
V. CITY COUNCIL ACTION

Based upon the findings as indicated above, the City Councilors present voted unanimously to modify the code amendments as presented in Exhibit I and includes the Flood Insurance Rate Maps (DFIRM) in a digital format with an effective date of March 2, 2010.

APPROVED BY A 5 TO 0 VOTE OF THE CITY COUNCIL ON THE 4th DAY OF JANUARY, 2010.

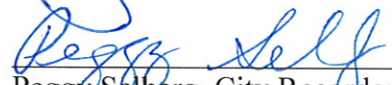
DATED at Dayton, Oregon, this 2 day of February, 2010.
(month and date)

ATTEST:



Jolie White, Mayor

ATTEST:



Peggy Selberg, City Recorder

Please Note: The decision becomes final based upon the subsequent adoption of an ordinance by City of Dayton City Council.

EXHIBIT I – CITY COUNCIL JANUARY 4, 2010 DECISION

City of Dayton
Code Amendments relative to the Flood Plain Ordinance
Revisions highlighted

7.2.113 FLOOD PLAIN OVERLAY DISTRICT (FPO)

7.2.113.01 Purpose

The purpose of the Flood Plain Overlay Zone is to:

- A. Restrict or prohibit uses which 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.
- B. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.
- C. Minimize flood damage to new construction by elevating or flood proofing all structures.
- D. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.
- E. Control filling, grading, dredging and other development which may be subject to or increase flood damage.
- F. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.
- G. Comply with the requirements of the Federal Insurance Administration to qualify the City of Dayton for participation in the National Flood Insurance Program.
- H. Minimize flood insurance premiums paid by the citizens of the City of Dayton by reducing potential hazards due to flood damage.
- I. Implement the flood plain policies in the City of Dayton Comprehensive Plan.
- J. Coordinate and supplement provisions of the State Building Code with local land use and development ordinances.

7.2.113.02 Definitions

For purposes of this Overlay Zone, the following terms shall mean:

- A. **Accessory Structure**: Sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area.
- B. **Area of Special Flood Hazard**: Land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

C. **Base Flood Level:** The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100 year flood plain).

D. **Below-grade Crawl Space:** An enclosed area below the base flood elevation in which the interior grade is not more than two (2) 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, and does not exceed four (4) feet at any point.

E. **Critical Facility:** A facility for which even a slight change of flooding might be too great. Critical facilities include but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

FD. **Conveyance:** Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.

GE. **Development:** Any activity that has the potential to cause erosion or increase the velocity or depth of flood water. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.

HF. **Encroachment:** Any obstruction in the flood plain which affects flood flows.

IG. **Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision:** A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Code.

JH. **Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

KI. **FEMA:** The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

LJ. **Fill:** The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.

MK. **Flood or Flooding:** A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

N#. **Flood Boundary Floodway Map (FBFM):** The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).

O#. **Flood Insurance Rate Map (FIRM):** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Dayton.

P#. **Flood Insurance Study (FIS):** 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 and is on file with the City of Dayton.

Q#. **Flood Plain:** Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Dayton. Also referenced in the State's Model Ordinance and the FEMA documents as the Special Flood Hazard Area (SFHA) as the 100-year flood plain.

R#. **Flood Proofing:** A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

S#. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.

T#. **Floodway Fringe:** The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

U#. **Hazardous Material:** Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

V#. **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 so as to render the structure in violation of the applicable non-elevation design requirements of this Code.

W#. **Manufactured Home:** Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in sub Q., of this Section. For insurance and flood plain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

~~XW.~~ **Manufactured Home Park or Subdivision:** Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~YW.~~ **Mean Sea Level (MSL):** Means, for purposes of the National Flood Insurance Program, the ~~National Geodetic Vertical Datum (NGVD) of 1929~~ North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

~~ZX.~~ **Mobile Home:** A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by sub ~~TC.~~, of this Section.

~~AA.~~ **New Construction:** Any structure(s) for which the start of construction commenced on or after the original effective date of the Flood plain Overlay Zone.

~~BB.~~ **Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.

~~CC.~~ **Recreational Vehicle:** Means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in sub ~~Z.~~, of this Section.

~~DD.~~ **Special Flood Hazard Area (SFHA):** See Flood Plain.

~~EE.~~ **Start of Construction:** The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the

construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

FF. State Building Code: The combined specialty codes adopted by the State of Oregon.

GG. Structure: Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

HH. Substantial Improvement: Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:

1. Before the improvement or repair is started; or

2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:

a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.

b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure.

II. Watercourse: A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified flood plain.

7.2.113.03 General Provisions

The following regulations apply to all lands in identified flood plains as shown graphically on the zoning maps. The flood plain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "~~The Flood Insurance Study for the City of Dayton, Oregon, The Flood Insurance Study for Yamhill County, Oregon, and Incorporated Areas, with an effective date of March 2, 2010,~~" with accompanying Flood Insurance Rate Maps. The report and maps are incorporated in the overlay zone by this reference and are on file at the City of Dayton. When base flood elevation data has not been provided, the City Administrator Manager, or designee, shall have the authority to determine the location of the boundaries of the flood plain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

A. Duties of the City Administrator Manager, or designee, shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements and conditions of this Code have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 7.2.113, are met.

B. Use of Other Base Flood Data: When base flood elevation data has not been provided on the FIRM, or when more detailed data is available, the City ~~Administrator~~ ~~Manager~~, or designee, shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Section.

C. Information to be Obtained and Maintained

1. From the developer of the property, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement and below-grade crawl space) of all new or substantially improved structures. (Note: Below-grade crawl spaces are allowed subject to the standards as found in Federal Emergency Management Agency (FEMA) Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.)

2. For all new or substantially improved flood-proofed structures:

a. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,

b. Maintain any flood-proofing certifications required by this Section.

3. Maintain for public inspection all records pertaining to the provisions of this Code.

D. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A action. Activities requiring conditional use approval shall be reviewed as a Type II action.

Within a Flood Plain Overlay zone no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying zone and the provisions of this overlay zone. Except as provided herein all uses and flood plain development shall be subject to issuance of a determination or a conditional use permit as provided in Sections 7.2.113.06, and 7.2.113.07. The following uses are exempt from the regulations of this overlay zone:

A. Signs, markers, aids, etc., placed by a public agency to serve the public.

B. Driveways, parking lots and other open space use areas where no alteration of topography will occur.

C. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.110.

D. Customary dredging associated with channel maintenance consistent with applicable State or Federal law.

E. Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of flood plain development.

7.2.113.05 Uses – Permitted and Subject to Flood Plain Development Permit

If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit such as commercial and industrial uses, including the placement of fill to elevate a structure or site grading to prepare a site for development, may be allowed subject to a written determination (flood plain development permit) that the following requirements are met:

A. The structure is not located within a floodway. (See 7.2.113.07 L. 6.)

B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.

C. The structures will be located on natural grade or compacted fill.

D. The lowest floor will be elevated to at least one (1) foot above the level of the base flood elevation and the anchoring requirements in Section 2.108.07 D.

E. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Sections 2.110.07.

F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 2.110.07 D., (3), prior to occupancy.

G. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the Zoning Administrator Manager prior to use of the structure.

H. No alteration of topography beyond the perimeter of the structure is proposed.

I. A recreational vehicle may be located in a flood plain only during the non-flood season (June 1 through September 30), provided, it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and, has no permanently attached additions.

~~**7.2.113.06 Conditional Use Procedures and Requirements**~~

~~A. Except as provided in Section 7.2.113.04 and 7.2.113.05, a conditional use permit shall be obtained before construction or development begins within the Flood Plain Overlay Zone. The conditional use permit shall include conditions ensuring that the Flood Protection standards in Section 7.2.113.07 are met.~~

~~B. When base flood elevation data and floodway data have not been provided in accordance with Section 7.2.113.03, the applicant, with the assistance of the City Administrator Manager, or designee, shall obtain any base flood elevation data or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards.~~

~~If data is insufficient, the City Administrator Manager, or designee, may require that the applicant provide data derived by standard engineering methods. The evaluation shall demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.~~

~~C. Prior to occupancy the applicant shall provide a certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures meets the requirements of Sections 7.2.110.07 A., B., and C.~~

~~D. In addition to other information required in a conditional use application, the application shall include:~~

- ~~1. Land elevation in mean sea level data at development site and topographic characteristics of the site.~~
- ~~2. Base flood level expressed in mean sea level data on the site.~~
- ~~3. Plot plan showing property location, flood plain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.~~
- ~~4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone.~~

~~E. Factors of Consideration — In reviewing a conditional use application for a development permit, the following factors shall be considered in making a decision on approval or denial of the permit:~~

- ~~1. The danger to life and property due to increased flood heights or velocities caused by encroachments.~~
- ~~2. The danger that materials may be swept on to other lands or downstream to the injury of others.~~
- ~~3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions.~~
- ~~4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.~~

- ~~5. The importance to the community of the service provided by the proposed facility.~~
- ~~6. The requirements of the facility for a waterfront location.~~
- ~~7. The availability of alternative locations not subject to flooding for the proposed use.~~
- ~~8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.~~
- ~~9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.~~
- ~~10. The safety of access to property in times of flood for ordinary and emergency vehicles.~~
- ~~11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.~~
- ~~12. Such other factors which are relevant to the purpose of this Section.~~

~~F. Imposition of Conditions: The City may attach such conditions deemed necessary to further the purpose of this Section. Such conditions may include, but are not limited to:~~

- ~~1. Limitations on periods of use and operation.~~
- ~~2. Imposition of operation controls, sureties, and deed restrictions.~~
- ~~3. Flood-proofing measures.~~

7.2.113.07 Flood Protection Standards

In all areas of identified flood plain, the following requirements apply:

A. Dwellings and Manufactured Homes

New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this Code shall:

- 1. Have the lowest floor, including basement and below-grade crawl space, elevated on a permanent foundation to a minimum of one (1) foot above base flood elevation; and
- 2. Manufactured homes shall be anchored in accordance with subsection F.; and
- 3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
- 4. 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. Designs for meeting this

requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of 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.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Manufactured Homes in Existing Manufactured Home Parks - Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:

1. Have the ~~lowest floor at, or above,~~ finished floor elevated to a minimum of 18 inches above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; or,
2. Have the chassis 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.

C. Non-residential Development - New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Be certified by a registered professional engineer or architect that the standards in this subsection and subsection E., are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are flood-proofed.
4. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 7.2.110.07 A., (4).
5. 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 constructed to the base flood level will be rated as one (1) foot below that level).

D. Accessory Structures - Sheds or detached garages may be exempt from elevation and flood-proofing standards providing the following development standards are met:

1. The structure cannot be more than 480 square feet in area and shall not be used for human habitation;
2. Shall be designed to have low potential for flood damage;
3. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,
4. Shall be firmly anchored to prevent flotation which may result in damage to other structures.

E. Fill

1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials.
2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

F. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations with manufactured homes more than 50 feet long requiring only one additional tie per side.
 - b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than 50 feet long requiring only four ties per side.
 - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds.
 - d. Any additions or expansions to the manufactured home be similarly anchored.
3. An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater (must be certified).

G. Construction Materials and Methods

1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.

H. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.

2. New and replacement sanitary sewage systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

I. Developments, Generally - Residential developments involving more than one single-family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under A., and C., shall meet the following requirements:

1. Be designed to minimize flood damage.

2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. Have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods (as approved by the Building Official and/or City Engineer) will be required.

J. Storage of Materials and Equipment - Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.

K. Alteration of Watercourses (Floodways) - When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:

1. Adjacent communities, ~~(and)~~ the Oregon Division of State Lands and the Department of Land Conservation and Development, and other appropriate state and federal

agencies shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.

2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

L. Floodways - Located within areas of flood plain established in Section 7.2.110.03 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 shall apply in addition to the requirement in I.: (These provisions shall also apply to areas within a flood plain where a floodway has not been technically determined and the base flood level is three (3) or more feet above the land surface:)

1. Except as provided in number (5) below, Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review.

2. If Section 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 7.2.110.07.

3. Prohibit the placement of any new manufactured home parks and manufactured homes except in an existing manufactured home park.

4. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of flood waters beneath the structure.

5. Projects for stream habitat restoration may be permitted in the floodway provided:

(a)The project is certified by a qualified professional (a Registered Professional Engineer, Yamhill County staff, or an applicable State agency); provides a feasibility analysis and certification indicating that the project was designed to keep any rise in the 100-year flood levels as close to zero as practically possible given the goals of the project; evidence is presented that no structures will be impacted by a potential rise in flood elevation; and evidence that the local approval process requires an agreement to monitor the project, correct problems, and ensure the flood carrying capacity remains unchanged.

6. New installation of manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling Park and Speciality Code). Manufactured dwellings may only be located in floodways according to one of the following conditions.

(a) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or

(b)A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home

will not a threat to life, health, property, or general welfare of the public and it meets the following:

i. Demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during occurrence of the base flood discharge;

ii. Provide evidence that the replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46cm) about the base flood elevation as identified on the Floor Insurance Rate Map;

iii. Provide evidence that the replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by YamhillCounty Building Official. Placement shall be as approved;

iv. Provide evidence that the replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;

v. Provide evidence that the location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and

vi. Provide evidence of compliance with any requirements deemed necessary by the authority having jurisdiction.

M. Recreational Vehicles – For recreational vehicles on individual lots see Off-Street Parking and Loading, Section 7.2.303.10 C.3., and for recreational vehicles within recreational vehicles parks see Section 7.2.408.05, Floodplain.

N. Critical Facilities - Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the base flood elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

7.2.113.08 Generalized Flood Plain Areas

Where elevation data is generalized, such as the unnumbered A zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that

demonstrate the site is not in a flood plain. In such cases, a letter of map amendment may be required by the City ~~Administrator~~ **Manager**.

7.2.113.09 Variances

A. A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 7.2.114.10.

B. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.

C. A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the ~~Administrator~~ **Manager**.

7.2.113.10 Variance Criteria

The following criteria shall be used to review variance applications.

A. Variances shall only be issued upon a showing that:

1. There is a good and sufficient cause;
2. That failure to grant the variance would result in exceptional hardship to the applicant;
3. That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;
4. The variance is the minimum necessary, considering the flood hazard, to afford relief;
5. The variance will be consistent with the intent and purpose of the provision being varied;
6. There has not been a previous land use action approved on the basis that variances would not be allowed; and
7. The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

7.2.113.11 Warning and Disclaimer of Liability

The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This zone 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 zone will not create liability on the part of the City of Dayton, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any decision lawfully made thereunder.

7.2.303 OFF-STREET PARKING AND LOADING

7.2.303.10 Residential Parking Provisions

C. Storage. The storage of vehicles, trucks, motorcycles, utility trailers, house and vacation trailers, boats or other similar vehicles not located within a garage shall be subject to the following:

3. For properties located within a floodplain, all recreational vehicles shall be fully licensed and ready for highway use, on its wheels or jacking system, have no permanently attached additions, and comply with all other applicable City regulations.

7.2.4 SUPPLEMENTAL STANDARDS FOR SPECIAL USES

7.2.408 RECREATIONAL VEHICLE PARKS

7.2.408.01 Scope

Where permitted, recreational vehicle (RV) parks shall meet the use and development standards contained within this Section.

7.2.408.02 Definitions

The following definitions shall apply:

A. Recreational Vehicle: A unit, with or without motive power, which is designed for human occupancy and intended to be used for recreational or temporary living purposes. Recreational vehicle includes:

1. Camping Trailer: A non-motorized vehicle unit mounted on wheels and constructed with sides that can be collapsed when the unit is towed by another vehicle.
2. Motor Home: A vehicular unit built on or permanently attached to a motorized vehicle chassis cab or van which is an integral part of the complete vehicle.
3. Travel Trailer: A vehicular unit without motive power which has a roof, floor, and sides and is mounted on wheels and designed to be towed by a motorized vehicle, but which is not of such size or weight as to require special highway movement permits.
4. Truck Camper: A portable unit which has a roof, floor, and sides and is designed to be loaded onto and unloaded out of the bed of a truck or pick-up truck.
5. Boat, licensed or un-licensed, jet boat, ski-boat, including trailer.

6. All-terrain vehicle (ATV) including snowmobiles.

B. Recreational Vehicle Park: Any area operated and maintained for the purposes of providing space for overnight use by recreational vehicles.

C. Recreational Vehicle Space: The area under a parked and occupied recreational vehicle.

D. Roadway: Interior streets which provide access to the individual RV spaces.

(other intervening sections and end with the following insert)

7.2.408.05 Floodplain

A. All recreational vehicles shall be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or

B. The chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

7.3.106 SITE DEVELOPMENT REVIEW

7.3.106.02 Applicability of Provisions

A. Applicability. Site Development Review shall be applicable to all new developments and major remodeling, except:

1. Single-family detached dwellings;
2. A duplex; or
3. Any commercial, industrial or public facility expansion or remodel that does not exceed 25% percent of the total square footage of the structure existing at the time of the adoption of this Code and/or does not expand the activity/business area on the subject property beyond 25 percent (i.e. outdoor uses).

B. Underlying Zone. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.