

**ORDINANCE No. 666  
CITY OF DAYTON**

**AN ORDINANCE AMENDING SECTION 7.2.113 - FLOODPLAIN OVERLAY DISTRICT (FPO) OF  
TITLE 7 (DAYTON LAND USE AND DEVELOPMENT CODE) OF THE DAYTON MUNICIPAL  
CODE**

**WHEREAS**, on July 15, 2024, the City of Dayton received a letter announcing the start of the Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. through the enactment of one of three PICMs.

**WHEREAS**, on October 7, 2024, the Dayton City Council, selected PICM Option 1 (Model Code update) and so initiated legislative proceedings; and

**WHEREAS**, on January 9, 2025, the Dayton Planning Commission held a work session to consider draft amendments to the City of Dayton Land Use and Development Code incorporating the FEMA Region 10 Model Floodplain Management Ordinance; and

**WHEREAS**, on February 7, 2025, the city provided the required notice of draft amendments to the Department of Land Conservation and Development, identifying city case file LA 2025-01; and

**WHEREAS**, public notice for LA 2025-01 was posted in the McMinnville News-Register, a newspaper of general circulation for the Planning Commission and Council hearing dates 20 days prior to the first public hearing; and

**WHEREAS**, on March 13, 2025, the Dayton Planning Commission conducted the first of two required public hearings for LA 2025-01 at which time interested parties were provided full opportunity to be present and heard; and

**WHEREAS**, on March 13, 2025, the Dayton Planning Commission voted unanimously in support of a recommendation to the City Council for adoption of LA 2025-01 as detailed in the staff report attached and incorporated herein as Exhibit A; and

**WHEREAS**, on May 5, 2025, the Dayton City Council initiated the second required public hearing for LA 2025-01 at which time interested parties were provided full opportunity to be heard, and

**WHEREAS**, on May 5, 2025, the Dayton City Council adopted LA 2025-01 identified in Exhibit A and set forth below.

**NOW, THEREFORE, THE CITY OF DAYTON ORDAINS AS FOLLOWS:**

**Section 1. Development Code Amendments.** The City of Dayton hereby adopts amendments to the Dayton Land Use and Development Code shown as Exhibit A in the staff report dated May 5, 2025:

**Section 2. Findings.** The findings set forth in the staff report dated May 5, 2025, The City of Dayton hereby adopts LA 2025-01 as shown in Exhibit A of staff report, and the findings therein.

**Section 3. Unamended Provisions.** All unamended provisions of the Dayton Land Use and Development Code shall remain in full force and effect.

**Section 4. Effective Date.** This ordinance shall become effective thirty days after final passage and its signature by the Mayor.

**PASSED AND ADOPTED by the Dayton City Council this 2<sup>nd</sup> day of June 2025, and effective on 2<sup>nd</sup> day of July 2025.**

**Mode of Enactment:**

Date of first reading: May 5, 2025, In full \_\_\_\_\_ or by title only XX

Date of second reading: June 2, 2025, In full \_\_\_\_\_ or by title only XX

XX No Council member present at the meeting requested that the ordinance be read in full

\_\_\_\_ A copy of the ordinance was provided to each Council member; three copies of the ordinance were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the ordinance.

**Final Vote:**

**In Favor:** Frank, Hildebrandt, Mackin, Pederson, Teichroew

**Opposed:**

**Absent:** Maguire, Wildhaber

**Abstained:**

\_\_\_\_\_  
**Annette Frank, Mayor**

\_\_\_\_\_  
**Date Signed**

**ATTEST:**

\_\_\_\_\_  
**Rocio Vargas, City Recorder**

\_\_\_\_\_  
**Date of Enactment**

Attachment: Exhibit A



## STAFF REPORT

### LA 2025-01 PUBLIC HEARING BEFORE CITY COUNCIL

|                                  |  |
|----------------------------------|--|
| <b><u>Hearing Date:</u></b>      | May 5, 2025  |
| <b><u>Subject:</u></b>           | Legislative Public Hearing for a Development Code Amendment, Section 7.2.113<br>– FEMA Model Code Update for NFIP-ESA Integration.   |
| <b><u>Approval Criteria:</u></b> | Dayton Land Use Development Code, Section 7.3.112.03, A – D.   |
| <b><u>Exhibits:</u></b>          | <b>Exhibit A:</b> Code amendments with changes shown in strikethrough format<br><b>Exhibit B:</b> PICM Community Letter City of Dayton<br><b>Exhibit C:</b> FEMA Region 10 Model Code<br><b>Exhibit D:</b> Published Public Notice |

### I. REQUESTED ACTION

Conduct a public hearing on proposed legislative amendments to the Dayton Land Use Development Code (DLUDC), case file LA 2025-01. Options for action on LA 2025-01 include the following:

- A. Adopt the findings in the staff report and recommend that the City Council adopt LA 2025-01:
  - 1. As presented and recommended by staff; or
  - 2. As amended by the City council (indicating desired revisions).
- B. Recommend that the City Council take no action on LA 2025-01.
- C. Continue the public hearing, preferably to a date/time certain.

### II. BACKGROUND

This legislative amendment proposal is specific to Section 7.2.113 of the Dayton Land Use and Development Code (DLUDC) titled Floodplain Overlay Zone (FPO). The last updates to the FPO were enacted in 2010 and do not reflect the most recent version of the model flood hazard ordinance published in 2019 by DLCD. The proposed replacement code in Exhibit A incorporates FEMA's recent Model Floodplain Ordinance of August 2024 which specifically addresses National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) integration in Oregon. The need for these changes is discussed in Exhibit B and explains that cities can implement ESA integration through the enactment of one of three Pre Implementation Compliance Measures (PICMs). On October 7, 2024, the Dayton City Council, in review of FEMA's correspondence in Exhibit B, selected Option 1 (Model Code update) and so initiated legislative proceedings.

### III. PROCESS

Section 7.3.112.01 requires text amendments to the DLUDC to be approved through a Type IV review procedure as specified in Section 7.3.2.

On January 9, 2025, Planning Commission held a work session to review a draft of the code amendments described in Exhibit A.

On February 7, 2025, staff issued the required 35-day notice to the Department of Land Conservation and Development and mailed notice to potentially affect property owners within the City's Floodplain Overlay District. Written notice of the hearing before the Planning Commission and subsequent hearing before City Council was submitted to the McMinnville News-Register for publication

The scope of the proposed text amendments associated with LA 2025-01 involves striking the content of Section 7.2.113 entirely and replacing it with the model code language. The amendments are shown in Exhibit A in ~~strike through~~ format.

#### **IV. FINDINGS AND APPROVAL CRITERIA**

##### 7.3.112.01 Process

*Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Section 7.3.201.*

##### 7.3.112.03 Criteria for Approval

*Amendments to the Comprehensive Plan or Development Code text shall be approved if the 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;*

**Findings:** The proposed amendments do not impact traffic generation and circulation patterns. Staff find no impact to traffic generation and circulation patterns.

*2. Demand for public facilities and services;*

**Findings:** The proposed amendments do not impact demand for public facilities and services. Staff find no impact to public facilities and services.

*3. Level of park and recreation facilities;*

**Findings:** The amendments do not involve changes to the uses allowed in the underlying zoning districts that would affect the level of service provided by existing park and recreation facilities. Staff find no impact to park and recreation facilities.

*4. Economic activities;*

**Findings:** The proposed amendments do not impact economic activities. Staff find the impact to economic activity is negligible.

*5. Protection and use of natural resources;*

**Findings:** The proposed amendments increase the required level of protection and use of natural resources present within the Floodplain Overlay district by implementing the NFIP-ESA no net loss standards to avoid or offset adverse impacts on threatened and endangered species and their critical habitat within the regulated floodplain. The criterion is met.

*6. Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.*

**Findings:** The proposed amendments do not impact compliance with existing adopted special purpose plans or programs. Staff find this criterion is satisfied.

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

**Findings:** As discussed in Section II of this staff report, the amendment is needed to comply with changes in federal law – FEMA adopted measures for NFIP-ESA compliance. Staff find this criterion is met.

*C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.*

Applicable Statewide Planning Goals.

*Goal 1, Citizen Involvement.*

**Findings:** A public hearing on the proposed amendments is scheduled before the Planning Commission on March 13, 2025, at City Hall at 6:30 p.m. and a second public hearing is scheduled before City Council on April 7, 2025. Public notice has been provided in accordance with noticing requirements in the Dayton Land Use and Development Code for legislative public hearings by the Planning Commission and the City Council. Goal 1 is satisfied.

*Goal 2. Land Use Planning.*

**Findings:** Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. These are in place. The scope of this legislative proposal does not involve any amendments to the Comprehensive Plan policies. Staff finds Goal 2 is satisfied.

*Goal 3 & 4. Agricultural Lands and Forest Lands*

**Findings:** Goal 3 and 4 primarily pertain to rural areas, typically outside urban areas. Staff finds Goals 3 and 4 to be not applicable due to the limited scope of the proposed text amendments.

*Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces.*

**Findings:** Chapter 3 of the Dayton Comprehensive Plan includes policies intended to protect recognized natural resources, including fish and wildlife, and discuss the importance of Dayton’s riverine floodplain areas in providing essential habitat for fish and wildlife.

The proposed changes in Exhibit A are intended to comply with current FEMA floodplain management standards and recent requirements for NFIP-ESA integration. One of the issues the NFIP-ESA integration is intended to address is reducing the potential impact to 16 anadromous fish species and the Southern Resident Killer Whale that are listed as threatened or endangered. The amendments respond to this issue through the implementation of performance standards and mitigation ratios to achieve a “no net loss” standard for habitat for such species. The phrase “no net loss” means any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The proposed changes shown in Exhibit A will implement goals and policies shown under Chapter 3 as they pertain within the Floodplain Overlay District.

Goal 5 is satisfied.

*Goal 6. Air, Water and Land Resources Quality.*

**Findings:** While the amendments included in LA 2025-01 are likely to have reciprocal positive impacts on water resources, the proposal does not directly address Goal 6 resources. Based on the limited scope of proposed text amendments, staff find Goal 6 to be not applicable.

*Goal 7. Areas Subject to Natural Hazards.*

**Findings:** Chapter 4 of the Dayton Comprehensive Plan includes policies intended to protect people and property from natural hazards, including floods. Proposed changes as shown in Exhibit A will implement goals and policies primarily shown under Chapter 4 as pertain to floodplain management. The overall goal is to protect people and property from the effects of natural hazards. The following Chapter 4 policies apply to floodplain management.

5. *The City shall continue to participate in the National Flood Insurance Program.*
6. *The City shall 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.*
7. *The City shall require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.*

Proposed changes in Exhibit A are intended for consistency with current FEMA floodplain management standards and recent changes for NFIP-ESA integration. Exhibit A does not encompass a map change or study related to natural hazards. Staff finds the proposed changes to Section 7.2.113 to be consistent with the Comprehensive Plan policies in Chapter 4 that describe participating in the National Flood Insurance Program (NFIP), restricting development dangerous to health, safety and property due to water or in damaging increases in flood heights or velocities, and requirements that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Staff also incorporate Section 2 of the FEMA Model Ordinance for NFIP-ESA Integration (titled “Regulatory Crosswalk” provided as Exhibit C of this report) as findings. While Exhibit C is made part of the record to identify related rule / statute and the relationship with statewide Goal 7. Goal 7 is satisfied.

*Goal 8. Recreation Needs.*

**Findings:** The proposal does not address Goal 8 resources. Based on the limited scope of work included in this report staff finds Goal 8 to be not applicable.

*Goal 9. Economic Development.*

**Findings:** Proposed amendments do not change the permitted employment uses in employment zones or impact employment areas identified in Chapter 8 of the City of Dayton Planning Atlas and Comprehensive Plan. Accordingly, staff find that Goal 9 does not apply.

*Goal 10. Housing.*

**Findings:** Staff finds that proposed changes to Exhibit A do not impact or impede the ability to satisfy Dayton Housing needs. Further, the amendments are necessary to comply with federal regulations. Staff find Goal 10 to be not applicable.

*Goal 11. Public Facilities and Services.*

**Findings:** Public facilities under Goal 11 include water, sanitary sewer, police, and fire protection. Other services (e.g., health, communication services) are also listed in Goal 11. The proposed amendments do not have any direct impact on any of the master planning documents required under Goal 11. The proposed amendments are consistent with Goal 11.

*Goal 12. Transportation.*

**Findings:** The proposed amendments to the DLUDC do not involve changes or amendments to local transportation requirements or road classifications. Goal 12 is met.

*Goal 13. Energy Conservation.*

**Findings:** Based on the limited scope of work described in this report, staff finds Goal 13 to be not applicable.

*Goal 14. Urbanization.*

**Findings:** Based on the limited scope of the text amendments described in this report, staff finds Goal 14 to be not applicable. No change to the existing Urban Growth Boundary (UGB) is proposed.

*Goal 15 for the Willamette River Greenway and Goals 16 – 19 for the Coastal Goals.*

**Findings:** Staff observe Goals 15 through 19 to apply only to specific regions of the state (*Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, Ocean Resources*). Goals 15 – 19 do not apply because the city is not on the Willamette River or in a coastal area.

**Conclusion:** Based on the facts and findings above, the proposed Legislative Amendment (LA 24-03) complies with applicable statewide planning goals and applicable goals, policies, and objectives of the Dayton Comprehensive Plan.

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

- 1. It corrects identified error(s) in the provisions 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.*

**Findings:** As discussed in Section II of this Staff report, the amendment is mandated by changes in federal law – FEMA adopted measures for NFIP-ESA compliance. Staff find criterion D.3 is met.

**V. CITY COUNCIL ACTION – Sample Motion**

A councilor may make a motion to either:

1. Adopt the staff report and recommend the City Council approve the amendments. A sample motion is:  
  
I move the City Council adopt the staff report and recommend the City Council approve the amendments.
2. Adopt a revised staff report with changes by the City council and recommend the City Council approve the revised amendments. A sample motion is:  
  
I move the City council adopt a revised staff report with the following revisions...state the revisions...and recommend the City Council approve the revised amendments.
3. Recommend the City Council deny the proposed amendments. A sample motion is:  
  
I move the City council recommend the City Council deny the proposed amendments for the following reasons...and state the reasons for the denial.
4. Continue the hearing to a date/time certain. A sample motion is:  
  
I move the City council to continue the hearing to a date (state the date) and time (state the time) to obtain additional information and state the information to be obtained.

# EXHIBIT A: Draft Code Amendments

## **7.2.113 Flood Plain Overlay District (FPO)**

7.2.113.01 Purpose

7.2.113.02 Definitions

7.2.113.03 General Provisions

7.2.113.04 Uses – Exempt

7.2.113.05 Uses – Permitted And Subject To Flood Plain Development Permit

7.2.113.06 (Reserved)

7.2.113.07 Flood Protection Standards

7.2.113.08 Generalized Flood Plain Areas

7.2.113.09 Variances

7.2.113.10 Variance Criteria

7.2.113.11 Warning And Disclaimer Of Liability

7.2.113.01 Purpose

The purpose of the Flood Plain Overlay Zone is to:

- ~~1. 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.~~
- ~~2. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.~~
- ~~3. Minimize flood damage to new construction by elevating or flood proofing all structures.~~
- ~~4. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.~~
- ~~5. Control filling, grading, dredging and other development which may be subject to or increase flood damage.~~
- ~~6. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.~~
- ~~7. Comply with the requirements of the Federal Insurance Administration to qualify the City of Dayton for participation in the National Flood Insurance Program.~~
- ~~8. Minimize flood insurance premiums paid by the citizens of the City of Dayton by reducing potential hazards due to flood damage.~~
- ~~9. Implement the flood plain policies in the City of Dayton Comprehensive Plan.~~
- ~~10. Coordinate and supplement provisions of the State Building Code with local land use and development ordinances. (Amended ORD 594 2/1/10 & enacted 3/2/10)~~

7.2.113.02 Definitions

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



1. ~~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.~~
2. ~~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.~~
3. ~~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).~~
4. ~~Below-Grade 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. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
5. ~~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. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
6. ~~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.~~
7. ~~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.~~
8. ~~Encroachment: Any obstruction in the flood plain which affects flood flows.~~
9. ~~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.~~
10. ~~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).~~
11. ~~FEMA: The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.~~
12. ~~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.~~
13. ~~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.~~

14. 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 Plain, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).
15. 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.
16. 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.
17. 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. (Amended ORD 594 2/1/10, Enacted 3/2/10)
18. 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.
19. 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.
20. 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.
21. Hazardous Material: Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.
22. 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.
23. 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.
24. 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.
25. Mean Sea Level (MSL): Means, for purposes of the National Flood Insurance Program, the 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. (Amended ORD 594 2/1/10, Enacted 3/2/10)

26. **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 CC., of this Section.
27. **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.
28. **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.
29. **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.
30. **Special Flood Hazard Area (SFHA):** See Flood Plain. (Amended ORD 594, Effective 3/2/10)
31. **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.
32. **State Building Code:** The combined specialty codes adopted by the State of Oregon. (Amended ORD 594 2/1/10, Enacted 3/2/10)
33. **Structure:** Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

34. 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:
  1. 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.
  2. 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 as determined by the City Manager or Planning Commission using alteration criteria. (Amended 11/4/10 ORD 600)

35. 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 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 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. (Amended ORD 594 2/1/10, Enacted 3/2/10)

1. Duties of the City 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. (Amended ORD 594 2/1/10, Enacted 3/2/10)
  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.
2. 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 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.

~~3.—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.) (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
- ~~2.—For all new or substantially improved flood-proofed structures:~~
  - ~~1.—Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,~~
  - ~~2.—Maintain any flood-proofing certifications required by this Section.~~
- ~~3.—Maintain for public inspection all records pertaining to the provisions of this Code.~~
- ~~4.—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.~~

~~7.2.113.04 Uses—Exempt~~

~~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:~~

- ~~1.—Signs, markers, aids, etc., placed by a public agency to serve the public.~~
- ~~2.—Driveways, parking lots and other open space use areas where no alteration of topography will occur.~~
- ~~3.—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.~~
- ~~4.—Customary dredging associated with channel maintenance consistent with applicable State or Federal law.~~
- ~~5.—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:~~

1. ~~The structure is not located within a floodway. (See 7.2.113.07 L.) (Amended ORD 594, Enacted 3/2/10)~~
2. ~~The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.~~
3. ~~The structures will be located on natural grade or compacted fill.~~
4. ~~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 7.2.113.07.F.. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
5. ~~The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Sections 7.2.113.A.4.07.~~
6. ~~The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 7.2.113.03.C, prior to occupancy.~~
7. ~~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 Manager prior to use of the structure.~~
8. ~~No alteration of topography beyond the perimeter of the structure is proposed.~~
9. ~~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 (Reserved)

#### 7.2.113.07 Flood Protection Standards

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

1. ~~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 (Amended ORD 5942/1/10, enacted 3/2/10)~~
  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:~~

1. ~~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.~~
2. ~~The bottom of all openings shall be no higher than one foot above grade.~~
3. ~~Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~
2. ~~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 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, (Amended ORD 5942/1/10, enacted 3/2/10)~~
  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. (Amended ORD 5942/1/10, enacted 3/2/10)~~

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

3. ~~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 7.2.110.07A,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).~~
4. ~~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.~~

~~5. 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.~~

~~6. 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:~~
  - ~~1. 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.~~
  - ~~2. 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.~~
  - ~~3. All components of the anchoring system be capable of carrying a force of 4,800 pounds.~~
  - ~~4. 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).~~

~~7. 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.~~

~~8. 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.~~
- 9.—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. (Amended ORD 594 2/1/10, Effective 3/2/10)~~
- ~~10. 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.~~
11. 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, 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. (Amended ORD 594 2/1/10, Effective 3/2/10)~~
  - ~~2.—Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.~~
- ~~12. 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. (Amended ORD 594 2/1/10, Enacted 3/2/10)

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. (Amended ORD 594 2/1/10, Enacted 3/2/10)
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: (Added ORD 594 2/1/10, Enacted 3/2/10)
  1. 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. (Added ORD 594 2/1/10, Enacted 3/2/10)
6. New Installation of Manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling Park and Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions. (Added ORD 594 2/1/10, Enacted 3/2/10)
  1. 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 (Added ORD 594 2/1/10, Enacted 3/2/10)
  2. 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 be a threat to life, health, property, or general welfare of the public and it meets the following: (Added ORD 594 2/1/10, Enacted 3/2/10)
    1. Demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or property improvements (encroachments) will not result in any increase in flood levels during occurrence of the base flood discharge; (Added ORD 594 2/1/10, Enacted 3/2/10)
    2. 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 Flood Insurance Rate Map;  
(Added ORD 594 2/1/10, Enacted 3/2/10)

3. 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 Yamhill County Building Official. Placement shall be as approved; (Added ORD 594 2/1/10, Enacted 3/2/10)
4. 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; (Added ORD 594 2/1/10, Enacted 3/2/10)
5. Provide evidence that the location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and; (Added ORD 594 2/1/10, Enacted 3/2/10)
6. Provide evidence of compliance with any requirements deemed necessary by the authority having jurisdiction. (Added ORD 594 2/1/10, Enacted 3/2/10)

13. ~~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 vehicle parks see Section 7.2.408.05, Floodplain. (Added ORD 594 2/1/10, Enacted 3/2/10)

14. ~~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. Flood proofing 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. (Added ORD 594 2/1/10, Enacted 3/2/10)

#### 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 Manager.

#### 7.2.113.09 Variances

1. ~~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.~~
2. ~~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.~~
3. ~~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 Manager.~~

#### 7.2.113.10 Variance Criteria

~~The following criteria shall be used to review variance applications.~~

1. ~~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~~

### **7.2.113 Floodplain Overlay District (FPO)**

#### **7.2.113.01 Purpose.**

*The flood hazard areas of Dayton preserve the natural and beneficial values served by floodplains but are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.*

*These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.*

*The purpose of the Flood Plain Overlay District (FPO) is to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:*

- A. Protect human life and health;*
- B. Minimize expenditure of public money for costly flood control projects;*
- C. Preserve natural and beneficial floodplain functions;*
- D. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- E. Minimize prolonged business interruptions;*
- F. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;*
- G. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;*
- H. Notify potential buyers that the property is in a special flood hazard area;*
- I. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;*
- J. Participate in and maintain eligibility for flood insurance and disaster relief.*

#### **7.2.113.02 Methods of Reducing Flood Losses.**

*In order to accomplish its purposes, this ordinance includes methods and provisions for:*

- A. Restricting or prohibiting development which is 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. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;*
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;*

- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- F. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

### **7.2.113.03 Definitions.**

*For the FPO only, the following terms, words or phrases shall be interpreted so as to give them the meaning they have in common usage.*

**Appeal:** *A request for a review of the interpretation of any provision of this ordinance or a request for a variance.*

**Area of shallow flooding:** *A designated Zone AO, AH, AR/AO or AR/AH on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*

**Area of special flood hazard:** *The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard.”*

**Base flood:** *The flood having a one percent chance of being equaled or exceeded in any given year.*

**Base flood elevation (BFE):** *The elevation to which floodwater is anticipated to rise during the base flood.*

**Basement:** *Any area of the building having its floor subgrade (below ground level) on all sides.*

**Development:** *Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*

**Fill:** *Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered “development.”*

**Fish Accessible Space:** *The volumetric space available to fish to access.*

**Fish Egress-able Space:** *The volumetric space available to fish to exit or leave from.*

**Flood or Flooding:**

(a) *A general and temporary condition of partial or complete inundation of normally dry land areas from:*

(1) *The overflow of inland or tidal waters.*

(2) *The unusual and rapid accumulation or runoff of surface waters from any source.*

(3) *Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.*

*(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.*

*Flood elevation study:* *an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.*

*Flood Insurance Rate Map (FIRM):* *The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).*

*Flood Insurance Study (FIS):* *See "Flood elevation study."*

*Floodway:* *The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."*

*Functionally Dependent Use:* *A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.*

*Green Infrastructure:* *Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.*

*Habitat Restoration Activities:* *Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).*

*Hazard Trees:* *Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.*

*Highest adjacent grade:* *The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.*

*Historic structure:* *Any structure that is:*

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**Hydraulically Equivalent Elevation:** A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

**Hydrologically Connected:** The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

**Impervious Surface:** A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then “flushed” into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

**Low Impact Development:** An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

**Lowest floor:** 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 ordinance.

**Manufactured dwelling:** 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 attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle” and is synonymous with “manufactured home.”



Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Higher-High Water: The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Dayton and includes any subsequent improvements to such structures.

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

Reach: A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational vehicle: A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riparian: Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

Riparian Buffer Zone Fringe: The area outside of the RBZ and floodway but still within the SFHA.

Silviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area: See "Area of special flood hazard" for this definition.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. 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 part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Undeveloped Space: The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

Variance: A grant of relief by City of Dayton from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation

*certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.*

#### **7.2.113.04 Applicability.**

- A. Lands to which this Ordinance applies: This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Dayton.*
- B. Basis for Establishing the Areas of Special Flood Hazard. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas, dated March 2, 2010," with accompanying flood insurance map (FIRM) is hereby adopted by reference and declared to be part of this chapter. The flood insurance study and the FIRM are on file at the City Hall.*
- C. Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Dayton administers and enforces the State of Oregon Specialty Codes, the City of Dayton does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.*
- D. Compliance. All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.*
- E. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of this ordinance are subject to enforcement by the City of Dayton under Section 7.04.06.*
- F. Abrogation. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.*
- G. Severability. This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.*
- H. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:*
  - 1. Considered as minimum requirements;*
  - 2. Liberally construed in favor of the governing body; and*
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.*

#### **7.2.113.05 Warning and disclaimer of liability**

- A. Warning. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance 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.*

- B. *Disclaimer of liability. This ordinance shall not create liability on the part of the City of Dayton, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.*

**7.2.113.06 Administration.**

- A. *Designation of the Floodplain Administrator. The City Manager (or designee) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.*

- B. *Duties and Responsibilities of the Floodplain Administrator. Duties of the floodplain administrator, or their designee, shall include, but not be limited to:*

*1. Permit Review. Review of all floodplain development permits to:*

- a. Determine that the permit requirements of this ordinance have been satisfied;*
- b. Determine that all other required local, state, and federal permits have been obtained and approved;*
- c. Determine if the proposed development is in a floodway.*
  - i. If located in the floodway assure that the floodway provisions of this ordinance in Section 7.113.09 are met; and*
  - ii. Determine if the proposed development is in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of Section 7.113.09; and*
  - iii. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a floodplain development permit.*
- d. Determine if the proposed development qualifies as a substantial improvement as defined in Section 7.113.03.*
- e. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 7.113.09.A.*
- f. Determine if the proposed development activity includes the placement of fill or excavation.*
- g. Determine whether the proposed development activity complies with the no net loss standards in Section 7.113.11.*

- C. *Information to be obtained and maintained.*

*The following information shall be obtained and maintained and shall be made available for public inspection as needed:*

- 1. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 7.113.09.H.*
- 2. The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Sections 7.113.06.B.1 and 7.113.07 are adhered to.*

3. *Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).*
  4. *Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.*
  5. *Maintain all Elevation Certificates (EC) submitted to the community.*
  6. *The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 7.113.09.H.*
  7. *All floodproofing certificates required under this ordinance.*
  8. *All variance actions, including justification for their issuance.*
  9. *All hydrologic and hydraulic analyses performed as required under Section 7.113.10.D.*
  10. *All Substantial Improvement and Substantial Damage calculations and determinations as required under Section 7.113.06.D.4.*
  11. *Documentation of how no net loss standards have been met (see Section 7.113.11.A).*
  12. *All records pertaining to the provisions of this ordinance.*
- D. Requirement to notify other entities and submit new technical data.*
1. *Community Boundary Alterations.*  
*The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.*
  2. *Watercourse Alterations.*
    - a. *The Floodplain Administrator shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:*
      - (i). A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or*
      - (ii). Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.*

- b. The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 7.113.06.D.*
- 3. Requirement to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:*
  - a. Proposed floodway encroachments that increase the base flood elevation; and*
  - b. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.*

*An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).*

- 4. Substantial Improvement and Substantial Damage Assessments and Determinations.*

*Conduct Substantial Improvement (SI) (as defined in Section 7.113.03) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 7.113.06.C. Conduct Substantial Damage (SD) (as defined in Section 7.113.03) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in Section 7.113.06.B) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.*

#### **7.2.113.07 Floodplain Development Permit**

- A. Floodplain Development Permit Required.*

*A floodplain development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in 7.113.06.B. The floodplain development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Section 7.113.03, including fill and other development activities.*

- B. Application for Floodplain Development Permit.*

*Application for a floodplain development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:*

- 1. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of Section 7.113.06.C.*

2. *Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.*
3. *Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in Section 7.113.10.C.3.*
4. *Description of the extent to which any watercourse will be altered or relocated.*
5. *Base Flood Elevation data for subdivision proposals or other development when required per Sections 7.113.06.B.1 and 7.113.09.G.*
6. *Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.*
7. *The amount and location of any fill or excavation activities proposed.*

#### **7.2.113.08 Variance Procedure.**

- A. *A variance as described in this section is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.*
- B. *Conditions for variances.*
  1. *Generally, variances 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 provisions of Sections 7.113.08.B.3 and 5, and 7.113.08.C. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.*
  2. *Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
  3. *Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.*
  4. *Variances shall only be issued upon finding:*
    - a. *A showing of good and sufficient cause;*
    - b. *A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,*
    - c. *A determination 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 laws or ordinances.*
  5. *Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.*
  6. *Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space;*

*pervious surface; or trees 6 inches dbh or greater (see Section 7.113.11 and associated options in Table 1).*

**C. Variance Notification**

*Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 7.113.06.C.*

**7.2.113.09 Provisions for Flood Hazard Reduction.**

*General Standards. In all special flood hazard areas, the no net loss standards (see Section 7.113.11.A) and the following standards shall be adhered to:*

**A. Alteration of Watercourses.**

*Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with Section 7.113.06.D.2. and 7.113.06.3.*

**B. Anchoring.**

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.*
- 2. All manufactured dwellings shall be anchored per Section 7.113.10.C.4.*

**C. Construction Materials and Methods.**

- 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
- 2. All new construction and substantial improvements shall also be constructed using methods and practices that minimize flood damage.*

**D. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.**

*All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.*

**E. Electrical, Mechanical, Plumbing, and Other Equipment.**

*Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In*



*addition, electrical, heating, ventilating, air- conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section if replaced as part of a substantial improvement.*

**F. Tanks.**

*Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.*

**G. Subdivision proposals and other proposed developments.**

- 1. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals Base Flood Elevation data.*
- 2. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:*
  - i. Be consistent with the need to minimize flood damage.*
  - ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.*
  - iii. Have adequate drainage provided to reduce exposure to flood hazards.*
  - iv. Comply with no net loss standards in Section 7.113.11.A.*

**H. Use of Other Base Flood Elevation Data.**

- 1. When Base Flood Elevation data has not been provided in accordance with Section 7.113.04.B, the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Section 7.113.09. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 7.113.09.G.*
- 2. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.*

**10. Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon**

**I. Structures Located In Multiple Or Partial Flood Zones**

*In coordination with the State of Oregon Specialty Codes:*

- 1. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.*

2. *When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.*

#### **7.2.113.10 Specific Standards for Riverine Flood Zones.**

*These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 7.113.09 of this ordinance and the no net loss standards (see Section 7.113.11.A).*

##### **A. Flood Openings.**

*All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:*

1. *Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;*
2. *Be used solely for parking, storage, or building access;*
3. *Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:*
  - a. *A minimum of two openings;*
  - b. *The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;*
  - c. *The bottom of all openings shall be no higher than one foot above grade;*
  - d. *Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,*
  - e. *All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.*

##### **B. Garages**

1. *Attached Garages. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:*
  - a. *If located within a floodway the proposed garage must comply with the requirements of section 7.113.10.D;*
  - b. *The floors are at or above grade on not less than one side;*
  - c. *The garage is used solely for parking, building access, and/or storage;*
  - d. *The garage is constructed with flood openings in compliance with section 7.113.10.A to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;*
  - e. *The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;*
  - f. *The garage is constructed in compliance with the standards in section 7.113.09.I and,*

- g. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.*
  - 2. Detached Garages. Detached garages must be constructed in compliance with the standards for appurtenant structures in Section 7.113.10.C.6 or non-residential structures in section 7.113.10.C.3 depending on the square footage of the garage.*
- C. For Riverine Special Flood Hazard Areas with Base Flood Elevations.*

*In addition to the general standards listed in Section 7.113.10. A the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.*

*1. Before Regulatory Floodway.*

*In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated 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 foot at any point within the community and will not result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in Section 7.113.11.A.*

*2. Residential Construction.*

*New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 7.113.10.A.*

*3. Non-Residential Construction.*

*a. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:*

- i. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE); or*
- ii. Together with attendant utility and sanitary facilities:*
  - (a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and, c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 7.113.06.C.*
  - (b). Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 7.113.10.A.*

- (c). *Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one (1) foot below).*

4. *Manufactured Dwellings.*

- a. *Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with Section 7.113.10.A.*
- b. *The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;*
- c. *Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;*
- d. *Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).*

5. *Recreation Vehicles.*

*Recreational vehicles placed on sites are required to:*

- a. *Be on the site for fewer than 180 consecutive days, and*
- b. *Be fully licensed and ready for highway use, 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; or*
- c. *Meet the requirements of Section 7.113.10.C.4, including the anchoring and elevation requirements for manufactured dwellings.*

6. *Appurtenant (Accessory) Structures.*

*Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine flood zones may be granted for appurtenant structures that meet the following requirements:*

- a. *Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 7.113.10.D.*
- b. *Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;*
- c. *In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;*
- d. *The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;*

- e. *The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;*
- f. *The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 7.113.10.A.*
- g. *Appurtenant structures shall be located and constructed to have low damage potential;*
- h. *Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with Section 7.113.09.F; and,*
- i. *Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.*

**D. Floodways.**

*Where the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:*

1. *Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:*
  - a. *Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or*
  - b. *A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in section 7.113.11.A.*
2. *If the requirements of Section 7.113.10.D. are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Sections 7.113.09 and 7.113.11.*

**E. Standards for Shallow Flooding Areas.**

*Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.*

1. *Standards for AH Zones.*

*Development within AH Zones must comply with the standards in 7.113.09 and 7.113.10.*

## **2. Standards for AO Zones.**

*In AO zones, the following provisions apply in addition to the requirements in 7.113.10.*

- a. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) or at least two (2) feet if no depth number is specified. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.*
- b. New construction, conversion to, and substantial improvements of nonresidential structures within AO zones shall either:*
  - i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) or at least two (2) feet if no depth number is specified; or*
  - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 5.2.3.3(A)(4).*
- c. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:*
  - i. Be on the site for fewer than 180 consecutive days, and*
  - ii. Be fully licensed and ready for highway use, 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; or*
  - iii. Meet the elevation requirements of Section 7.113.10.E.2 and the anchoring and other requirements for manufactured dwellings of Section 7.113.10.E.2(c).*
- d. In AO zones, new and substantially improved appurtenant structures must comply with the standards in Section 7.113.10.C.6*
- e. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in Section 7.113.10.A*

### **7.2.113.11 Standards for Protection of SFHA Floodplain Functions**

*The standards described below apply to all special flood hazard areas as defined in Section 7.113.03.*

#### **A. No Net Loss Standards.**

*No net loss of the three proxies for the floodplain functions is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then*

*replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:*

- 1. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);*
  - 2. Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;*
  - 3. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.*
- B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.*
- C. No net loss must be provided within, in order of preference:*
- 1. The lot or parcel that floodplain functions were removed from,*
  - 2. The same reach of the waterbody where the development is proposed, or*
  - 3. The special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.*
- D. Undeveloped Space.*
- 1. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.*
  - 2. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.*
  - 3. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).*
    - a. Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:*
      - (1) Ordinary High Water Mark to 10-year,*
      - (2) 10-year to 25-year,*
      - (3) 25-year to 50-year,*
      - (4) And 50-year to 100-year*
    - b. Hydrologically connected to the waterbody that is the flooding source;*
    - c. Designed so that there is no increase in velocity; and*

- d. *Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.*

E. *Impervious Surfaces.*

*Impervious surface mitigation shall be mitigated through any of the following options:*

1. *Development proposals shall not result in a net increase in impervious surface area within the SFHA, or*
2. *Use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or*
3. *If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to minimize pollutant loading. See Section 7.113.11.G for stormwater retention specifications.*

F. *Trees.*

*Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.*

1. *Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.*
2. *Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.*

G. *Stormwater Management.*

*Any development proposal that cannot mitigate as specified in Section 7.113.11.E.1. and 2. must include the following:*

1. *Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and*
2. *Retention facilities that must:*
  - a. *Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year peak flow using a continuous simulation for flows between 50 percent of the 2-year event and the 10-year flow event (annual series).*
  - b. *Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.*
  - c. *Be designed to not entrap fish and drain to the source of flooding.*
  - d. *Be certified by a qualified professional.*
3. *Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:*



- a. *Access to stormwater treatment facilities at the site by the City of Dayton for the purpose of inspection and repair.*
- b. *A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.*
- c. *For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.*
- d. *The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by the City of Dayton for five years.*

#### *H. Activities Exempt from No Net Loss Standards.*

*The following activities are not subject to the no net loss standards in Section 7.113.11.A; however, they may not be exempt from floodplain development permit requirements.*

- 1. *Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;*
- 2. *Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include expansion of paved areas;*
- 3. *Routine maintenance of landscaping that does not involve grading, excavation, or filling;*
- 4. *Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;*
- 5. *Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;*
- 6. *Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;*
- 7. *Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;*
- 8. *Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.*
- 9. *Habitat restoration activities.*

#### *I. Riparian Buffer Zone (RBZ)*

- 1. *The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 70 feet horizontally on each side of the*

stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

2. *Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.*
3. *Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.*
4. *Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.*
5. *Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.*

**Table 1 No Net Loss Standards**

| <i>Basic Mitigate Ratios</i>  | <i>Undeveloped Space (ft<sup>3</sup> )</i> | <i>Impervious Surface (ft<sup>2</sup> )</i> | <i>Trees (6"&lt;dbh≤20")</i> | <i>Trees (20"&lt;dbh≤39")</i> | <i>Trees (39"&lt;dbh)</i> |
|---|--|---|------------------------------|-------------------------------|---------------------------|
| <i>RBZ and Floodway</i>   | <i>2:1*</i>                                | <i>1:1</i>                                  | <i>3:1*</i>                  | <i>5:1</i>                    | <i>6:1</i>                |
| <i>RBZ - Fringe</i>   | <i>1.5:1*</i>                              | <i>1:1</i>                                  | <i>2:1*</i>                  | <i>4:1</i>                    | <i>5:1</i>                |
| <i>Mitigation multipliers</i>   |  |   |                              |                               |                           |
| <i>Mitigation onsite to Mitigation offsite, same reach</i>                                  | <i>100%</i>                                | <i>100%</i>                                 | <i>100%</i>                  | <i>100%</i>                   | <i>100%</i>               |
| <i>Mitigation onsite to Mitigation offsite, different reach, same watershed (5th field)</i> | <i>200% *</i>                              | <i>200% *</i>                               | <i>200% *</i>                | <i>200%</i>                   | <i>200%</i>               |

*Notes (table above):*

1. *Ratios with asterisks are indicated in the BiOp*
2. *Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.*
  - a. *For example, if only 500 square feet of the total 1000 square feet of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500*

*square feet of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.*

3. *RBZ impacts must be offset in the RBZ, on-site or off-site.*
4. *Additional standards may apply in the RBZ (See Riparian Buffer Zone)*



## FEMA

July 15, 2024

Annette Frank  
416 Ferry Street  
Post Office Box 339  
Dayton, Oregon 97114

Dear Annette Frank:

The purpose of this letter is to announce the start of the United States Department of Homeland Security's Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. The intent of PICM is to ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act (ESA). These measures include coordination with communities to provide appropriate technical assistance, help identify available resources, deliver trainings, and facilitate workshops to ensure on-going community participation in the NFIP. These pre-implementation compliance measures will assist communities in preparing for the Final NFIP-ESA Implementation Plan by helping them develop short and long-term solutions to ensure their on-going participation in the NFIP.

FEMA is currently conducting a National Environmental Policy Act (NEPA) evaluation of impacts associated with the Oregon NFIP-ESA Implementation Plan. FEMA developed this plan, in part, due to a Biological Opinion in 2016 from National Marine Fisheries Services. The Biological Opinion recommended specific measures for FEMA to take to avoid jeopardizing endangered species, including interim compliance measures. The release of the Final Implementation Plan (Plan) is anticipated by 2026, following the Record of Decision in the Environmental Impact Statement (EIS) process, then FEMA will fully implement the Plan in 2027.

FEMA has heard concerns from several communities regarding challenges they are facing to meet the expectations of this Plan. To provide communities with the support needed to incorporate ESA considerations to their permitting of development in the floodplain, FEMA will inform, educate, and support our Oregon NFIP participating communities through the PICM before the Final Implementation Plan is released.

NFIP participating communities in Oregon must select one of the PICM pathways which include the following: (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard; (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or (3) putting in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA). Communities must pick a PICM pathway by December 1, 2024. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway. Communities will be required to report their floodplain development activities to FEMA beginning in January of 2025. Failure to report may result in a

compliance visit.

As a part of the PICM, FEMA will implement a delay in the processing of two types of Letters of Map Changes in the Oregon NFIP-ESA Implementation Plan area, specifically Letters of Map Changes associated with the placement of fill in the floodplain: Conditional Letter of Map Revision Based on Fill (CLOMR-F) and Letter of Map Revision Based on Fill (LOMR-F) requests. This action was specifically requested by NMFS in their 2016 Biological Opinion and serves to remove any perceived programmatic incentive of using fill in the floodplain. This delay in processing will begin on August 1, 2024, and will be in place until the Final Implementation Plan is released.

Your community's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In City Of Dayton there are currently 1 of NFIP policies in force representing \$250000 in coverage for your community.

FEMA will be conducting informational virtual webinars this summer to provide an overview and status update for the Oregon NFIP-ESA integration, introduce the Pre-Implementation Compliance Measures, and provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff. In the fall, FEMA will hold workshops to provide in-depth opportunities for local technical staff to work with FEMA technical staff, to understand and discuss issues relating to the PICM.

The webinars will be held virtually over Zoom. The information at each webinar is the same so your jurisdiction only needs to attend one. You can register for a webinar using the links below.

- Wednesday, July 31 at 3-5pm PT: <https://kearnswest.zoom.us/meeting/register/tZEkc-murjstGdPJiFioethjRk-id8N-k0hj>
- Tuesday, August 13 at 9:30-11:30am PT: <https://kearnswest.zoom.us/meeting/register/tZAod-isrTsqGN0KqckRLPPeaZuu4rv96lcR>
- Thursday, August 15 at 2-4pm PT: [https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH\\_zt](https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH_zt)
- Wednesday, August 21 at 12:30-2:30pm PT: <https://kearnswest.zoom.us/meeting/register/tZYqcuGsrD8rH9DZO22vG0v9KrNzVeUZA9gy>

FEMA will also develop a questionnaire to allow communities to identify how they currently incorporate or plan to incorporate ESA considerations, both in the short-term and long-term. To assist communities in making this determination, FEMA will be offering guidance on the potential pathways that help ensure current compliance. Communities will also be asked to help identify what technical assistance and training would be most beneficial. Feedback from this questionnaire will drive FEMA's engagement and outreach.

Upon completion of the Environmental Impact Statement review and determination, the Final Implementation Plan will be distributed along with several guidance documents and a series of Frequently Asked Questions. FEMA will also be starting NFIP Compliance Audits, in which we will be reviewing permits issued by communities for development in the floodplain and will expect the community to be able to demonstrate what actions are being taken to address ESA considerations.

If you have any questions, please contact us through our project email address [fema-r10-mit-](mailto:fema-r10-mit-)

Frank  
July 15 2024  
Page 3

[PICM@fema.dhs.gov](mailto:PICM@fema.dhs.gov). Thank you for your community's on-going efforts to reduce flood risk in your community and for your support as we worked toward these milestones.

Sincerely,

A handwritten signature in blue ink, appearing to read "Willie G. Nunn", followed by a horizontal flourish.

Willie G. Nunn  
Regional Administrator  
FEMA Region 10

cc: DaveRucklos, City Of Dayton  
John Graves, Floodplain Management and Insurance Branch Chief  
Deanna Wright, Oregon State National Flood Insurance Program Coordinator

Enclosure: Pre-Implementation Compliance Measures Fact Sheet

# Oregon National Flood Insurance Program Endangered Species Act Integration

## Pre-Implementation Compliance Measures Overview

Beginning this summer, FEMA will assist communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon.

### Why are the changes needed?

As the result of a Biological Opinion issued by the National Marine Fisheries Service, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in Special Flood Hazard Areas. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA). FEMA outlined these changes in the [draft Oregon NFIP-ESA Implementation Plan](#).

### Current status

FEMA is evaluating proposed changes to the NFIP outlined in the Implementation Plan through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).



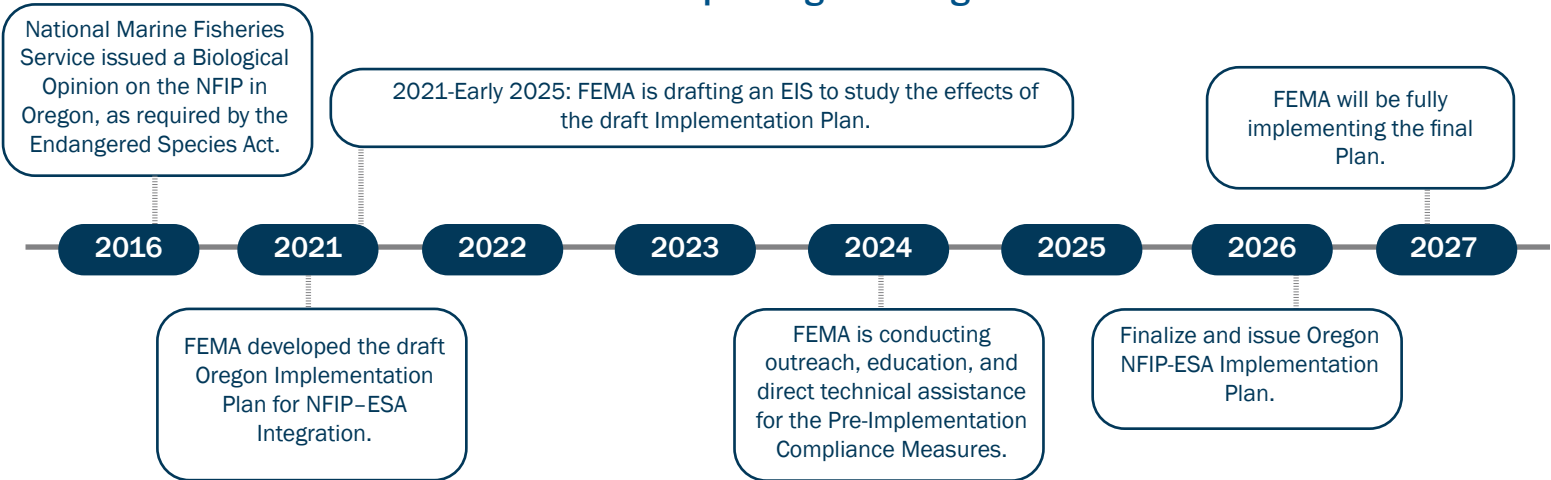
The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

### What is “no net loss”?

Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities need to begin taking action to protect habitat and achieve “no net loss.” FEMA is offering several resources for communities to learn more and implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

### Timeline for Updating the Oregon NFIP



## What can communities do to comply with these changes?

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as PICMs. FEMA developed these measures in response to concerns from communities about the time and resources needed to meet requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits, which will begin when the Final Implementation Plan is in place.

### Communities can select one of the following three PICMs:

- Prohibit all new development in the floodplain.
- Incorporate the ESA into local floodplain ordinances.
- Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”

Communities must report to FEMA on their implementation of interim measures.

In addition to the above measures, as of August 1, 2024, FEMA is temporarily suspending processing applications for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs) in NFIP communities to avoid potentially negative effects on ESA-listed species.

## FEMA is here to support your community.

FEMA is offering several resources to assist communities in preparing for the Oregon NFIP-ESA Implementation Plan.

- **Informational Webinars (Summer 2024):** Learn about what FEMA is doing to revise the Implementation Plan and receive an introduction to the PICMs.
- **Questionnaire (Summer 2024):** Share what floodplain management measures your community is currently implementing to comply with the ESA, which PICMs you’re most interested in, and what support you need. Your feedback will help us plan the fall workshops and identify needs for technical assistance.
- **Workshops (Fall 2024):** Get an in-depth look at PICMs and talk through questions and concerns with FEMA staff.
- **Technical Assistance (Begins in Fall 2024):** Get support from FEMA to begin implementing PICMs.

### Learn more and participate

Visit [www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration](https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration) to read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at [FEMA-R10-MIT-PICM@fema.dhs.gov](mailto:FEMA-R10-MIT-PICM@fema.dhs.gov)



# EXHIBIT C



NFIP Oregon Implementation Program Guidance

# Model Floodplain Management Ordinance

For Participating Communities in the  
Implementation Plan Area



# FEMA

Federal Emergency Management Agency  
Region 10  
Department of Homeland Security  
130 - 228<sup>th</sup> Street SW  
Bothell, WA 98021

Note to Communities: This document presents the draft model ordinance that for the Pre-Implementation Compliance Measures and is intended to closely represent most of the language that will be presented as Pathway A of the Draft Implementation Plan. It is built off the 2020 State of Oregon Model Flood Hazard Management Ordinance and the 2018 iteration of the Oregon Model ordinance for ESA Integration. It reflects the NMFS 2016 Biological Opinion (BiOp) (except where noted) and is informed by the 2023 NEPA Scoping effort.

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## Acronyms and Abbreviations

|       |                                     |
|-------|-------------------------------------|
| BiOp  | Biological Opinion                  |
| CFR   | Code of Federal Regulations         |
| CLOMR | Conditional Letter of Map Revision  |
| CRS   | Community Rating System             |
| dbh   | diameter breast height              |
| ESA   | Endangered Species Act              |
| FEMA  | Federal Emergency Management Agency |
| LID   | Low-Impact Development              |
| LOMR  | Letter of Map Revision              |
| MHHW  | Marine Higher-High Water line       |
| NFIP  | National Flood Insurance Program    |
| NMFS  | National Marine Fisheries Service   |
| OHWM  | Ordinary High Water Mark            |
| ORS   | Oregon Revised Statutes             |
| ORSC  | Oregon Residential Specialty Code   |
| OSSC  | Oregon Structural Specialty Code    |
| RBZ   | Riparian buffer zone                |
| SFHA  | Special Flood Hazard Area           |
| TB    | Technical Bulletin                  |

# SECTION 1. Introduction

FEMA has developed this model flood hazard management ordinance (“2024 model ordinance”) to address the requirements outlined in the Draft Implementation Plan for National Flood Insurance Program (NFIP)-Endangered Species Act (ESA) Integration in Oregon (“Oregon Implementation Plan”). The Federal Emergency Management Agency (FEMA) consulted with the National Marine Fisheries Service (NMFS) on potential effects of the implementation of the NFIP in Oregon on listed species under NMFS authority. In 2016, NMFS issued a Biological Opinion (BiOp), which recommended changes to the implementation of the NFIP in Oregon within the plan area (see the 2024 Draft Oregon Implementation Plan for NFIP-ESA Integration [2024 Draft Implementation Plan] for a description of the plan area).

As a result of the BiOp issued by NMFS, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in the SFHA while the 2024 Draft Implementation Plan undergoes an Environmental Impact Statement (EIS). The 2024 model ordinance provides the tools a community would need to implement “Path A” of the 2024 Draft Implementation Plan and serves as one of three actions a community can take under Pre-Implementation Compliance Measures (PICM).

The regulatory language contained within the 2024 model ordinance can be adopted verbatim and incorporated into local floodplain and land use regulations, or a community may select those sections that are missing from its current floodplain ordinance and adopt those sections. The State of Oregon’s Model Flood Hazard Management Ordinance (2020) was used as a starting point, with additions to provide compliance with the Oregon Implementation Plan. The additional sections are clearly noted with yellow highlighting to simplify implementation for Oregon communities in the plan area that have already adopted the Oregon Model Flood Hazard Management Ordinance (2020).

This 2024 model ordinance provides a set of provisions to protect the built environment from flood damage and to minimize potential impacts of construction and reconstruction on public health and safety, property, water quality, and aquatic and riparian habitats. The requirements pertain to new development in Special Flood Hazard Area (see definitions), which includes the maintenance, repair, or remodel of existing structures and utilities when the existing footprint is expanded and/or the floodplain is further encroached upon.

The Oregon Implementation Plan and this model ordinance do not change the definition of development in 44 Code of Federal Regulations [CFR] 59.1.

“Development” is defined as “any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.” (44 C.F.R. 59.1)

The 2024 model ordinance provides compliance with federal and state statutes and with the Oregon Implementation Plan. The 2024 model ordinance conforms to the following:

1. The requirements of the NFIP, as specified in 44 CFR 59 and 60.
2. Oregon State codes to protect structures from flood damage that are specified in Oregon Structural Specialty Code (OSSC), Section 1612 and Oregon Residential Specialty Code (ORSC), Section R322.
3. Oregon Statewide Land Use Planning Goals
4. Provisions needed to meet the requirements of the Oregon Implementation Plan for NFIP-ESA Integration. These sections are highlighted in yellow in the model ordinance.

This 2024 model ordinance provides communities with ordinance language that complies with the NFIP-ESA Integration Implementation Plan. Adoption of the ordinance language will ensure compliance with the minimum standards for participation in the NFIP in the plan area in Oregon. Prior to adoption of the ordinance language, communities must have their locally proposed draft language reviewed by FEMA and/or the Oregon Department of Land Conservation and Development.

The model flood hazard ordinance includes standards and provisions that encourage sound floodplain management. The language is based on the minimum requirements of the NFIP found in 44 CFR 59 and 60, Oregon's statewide land use planning Goal 7, and Oregon specialty codes. The new language added to the state model floodplain ordinance, highlighted in yellow, provides compliance with the ESA for floodplain development in the plan area.

Adherent to the NMFS 2016 Biological Opinion, mitigation is necessary to ensure a no net loss in floodplain functions. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide measurable actions that can prevent the no net loss of the parent floodplain functions. These proxies include undeveloped space, pervious surfaces, and trees to account for a no net loss in respective floodplain functions of floodplain storage, water quality, and vegetation. Mitigation of these proxies must be completed to ensure compliance with no net loss standards. No net loss applies to the net change in floodplain functions as compared to existing conditions at the time of proposed development and mitigation must be addressed to the floodplain function that is receiving the detrimental impact.

### **1.1. How to Use this Document**

This 2024 model ordinance includes a Table of Contents and a Regulatory Crosswalk that identifies the federal and state standards that align to and are reflected in each section. Communities will need to review their ordinances and ensure that all the required components are included.

Please refer to [FEMA's website](#) for information on how to determine whether or not your community is within the plan area.

### 1.1.1. ORDINANCE LANGUAGE LEGEND:

The colors are used in the text in the model ordinance to denote specific actions or sections with specific applicability.

- Black: Represents the existing NFIP and current state minimum requirements that are found in the 2020 Oregon Model Flood Hazard Management Ordinance.
- Red: Represents language that must be replaced with community specific information. Only include the appropriate language for your community.
- Purple: Represents language required for communities with Coastal High Hazard Areas mapped by FEMA (V Zones or Coastal A Zones). (DELETE ALL PURPLE LANGUAGE IF NOT A COASTAL COMMUNITY).
- Blue: Represents hyperlinks to other sections of the document or external websites.
- Yellow highlighting: Represents new ordinance language not in the 2020 Oregon Model Flood Hazard Management Ordinance. Communities that have previously adopted the state model ordinance may focus on the yellow highlighted sections.

### 1.2. Changes from the 2020 Oregon Model Flood Hazard Management Ordinance

This 2024 version of the Oregon Model Flood Hazard Ordinance (to be referred to herein as the “2024 Model Ordinance”), varies from the 2020 Oregon Model Flood Hazard Management Ordinance. with the addition of new content to be included for ESA compliance for NFIP-participating communities in the plan area. If no part of the Special Flood Hazard Area (SFHA) in your NFIP-participating community is in the Oregon NFIP-ESA Integration plan area, your community may continue to use the 2020 Oregon Model Flood Hazard Management Ordinance.

In general, the ordinance was revised to ensure that the implementation of the NFIP-ESA integration no net loss standards avoids or offsets adverse impacts on threatened and endangered species and their critical habitat. A summary of the primary changes found in the 2024 model ordinance is provided below:

1. New language has been added to incorporate the following no net loss standards:
  - a. No net loss of undeveloped space (see Section 6.1.1).
  - b. No net loss of pervious surface. (see Section 6.1.2).
  - c. No net loss of trees equal to or greater than 6 inches dbh (i.e., tree diameter measured at 4.5 feet from the ground surface). (see Section 6.1.3).



2. Some definitions (see 2.0) have been added to provide context for the new no net loss standards from the Oregon Implementation Plan.
3. Language has been added:
  - a. (see 6.3) to address activities that may require a floodplain development permit but are exempt from the no net loss requirement per the BiOp.
  - b. (see 6.4) to address the specific requirements of the Riparian Buffer Zone (RBZ).
4. In general, the language in the 2024 model ordinance mirrors the language from the 2020 Oregon Model Flood Hazard Management Ordinance. Minor edits to the 2020 language have been made for clarity, punctuation, and grammar.

### 1.3. Community Rating System

Implementation of the new no net loss standards related to NFIP-ESA integration may be eligible for credit under the Community Rating System (CRS). The CRS is explained further in CRS Credit for Habitat Protection, available online at: <https://crsresources.org/files/guides/crs-credit-for-habitat-protection.pdf>, and the 2017 CRS Coordinators' Manual, available online at: [https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-system\\_coordinators-manual\\_2017.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf), and the 2021 Addendum to the 2017 CRS Coordinator's Manual, available online at: [https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-system\\_coordinator-manual\\_addendum-2021.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinator-manual_addendum-2021.pdf). The Association of State Floodplain Managers' Green Guide, also provides useful information on development techniques that avoid impacts on natural functions and values of floodplains. This document is available at: [www.floodsciencecenter.org/products/crs-community-resilience/green-guide/](http://www.floodsciencecenter.org/products/crs-community-resilience/green-guide/). Communities interested in CRS credits should contact their CRS specialist for additional information and review.

Implementation of the no net loss standards would most likely contribute to credits under the following CRS activities:

- Activity 430 Higher Regulatory Standards
  - Development Limitations
    - Prohibition of all fill (DL1a): This credit is for prohibiting all filling in the regulatory floodplain. To meet this standard, communities may NOT approve Conditional Letters or Letters of Map Revision based on Fill (CLOMR-F or LOMR-F). If a CLOMR-F or LOMR-F is issued for a property in a community, then DL1 credit will be denied. This applies to CLOMRs and LOMRs that include filling as part of the reason for requesting a map change. Minor filling may be allowed where needed to protect or restore natural floodplain functions, such as part of a channel restoration project.



- The CRS manual describes a number of regulatory approaches that do not warrant credit under DL1; however, because the Oregon NFIP-ESA integration no net loss standards exceed the approaches described in the manual, a community meeting the Oregon no net loss standards should qualify for credit under DL1.

- Compensatory storage (DL1b): This credit is for regulations that require new development to provide compensatory storage at hydraulically equivalent sites up to a ratio of 1.5:1. Credit is not provided for:

- Compensatory storage requirements in floodways only or in V Zones only, or

- Stormwater management regulations that require a developer to compensate for any increase in runoff created by the development. This is credited under Activity 450.

- Activity 450 Stormwater Management

- Stormwater management regulations (SMR – 452a): This credit is the sum of four sub-elements: Size of development (Section 452.a(1), SZ); design storm used (Section 452.a(2), DS); low-impact development (LID) regulations (Section 452.a(3), LID); and public agency authority to inspect and maintain, at the owner's expense, private facilities constructed to comply with the ordinance (Section 452.a.(4), PUB).

- LID credits the community's regulatory language that requires the implementation of LID techniques to the maximum extent feasible to control peak runoff when new development occurs. LID techniques can significantly reduce or eliminate the increase in stormwater runoff created by traditional development, encourage aquifer recharge, and promote better water quality.

## SECTION 2. Regulatory Crosswalk

The following table presents a crosswalk of the model ordinance sections against the relevant federal and state laws, regulations, and policies. The new sections related to the Oregon NFIP-ESA integration implementation (yellow highlighted sections of the model ordinance) are not listed in this table and are related to compliance with the ESA.

| Ordinance Section  | 44 CFR and Technical Bulletin (TB) Citation(s)                                | State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS]) |
|--|---|---|
| 1.1 Statutory Authorization  | 59.22(a)(2)   | Goal 7; ORS 203.035 (Counties), ORS 197.175 (Cities)                                  |
| 1.2 Findings of Fact   | 59.22(a)(1)   | Goal 7  |
| 1.3 Statement of Purpose   | 59.2; 59.22(a)(1) and (8); 60.22  | Goal 7  |
| 1.4 Methods of Reducing Flood Losses   | 60.22   | Goal 7  |
| 2.0 Definitions  | 59.1; 33 CFR 328.3(c)(7)  | Goal 7  |
| 3.1 Lands to Which this Ordinance Applies  | 59.22(a)  | Goal 7  |
| 3.2 Basis for Establishing the Special Flood Hazard Areas                                    | 59.22(a)(6); 60.2(h)  | Goal 7  |
| 3.3 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division |   | ORS 455   |
| 3.4.1 Compliance   | 60.1(b) – (d)   | Goal 7  |
| 3.4.2 Penalties for Noncompliance  | 60.1(b) – (d)   | Goal 7  |
| 3.5.1 Abrogation   | 60.1(b) – (d)   | Goal 7  |
| 3.5.2 Severability   |   |   |
| 3.6 Interpretation   | 60.1(b) – (d)   | Goal 7  |
| 3.7.1 Warning  |   |   |
| 3.7.2 Disclaimer of Liability  |   |   |
| 4.1 Designation of the Floodplain Administrator  | 59.22(b)(1)   | Goal 7  |
| 4.2.1 Permit Review  | 60.3(a)(1) – (3); 60.3(c)(10)   | Goal 7  |
| 4.2.2 Information to be Obtained and Maintained  | 59.22(a)(9)(iii); 60.3(b)(5)(i) and (iii); 60.3(c)(4); 60.3(b)(3); 60.6(a)(6) | Goal 7; 105.9; 110.33; R106.1.4; R109.1.3; R109.1.6.1; R322.1.10; R322.3.6            |

| Ordinance Section   | 44 CFR and Technical Bulletin (TB) Citation(s)  | State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS]) |
|---|---|---|
| 4.2.3.1 Community Boundary Alterations  | 59.22(a)(9)(v)  | Goal 7  |
| 4.2.3.2 Watercourse Alterations   | 60.3(b)(6) – (7),<br>65.6(12-13)  | Goal 7  |
| 4.2.3.3 Requirement to Submit New Technical Data                                    | 65.3, 65.6, 65.7, 65.12   | Goal 7  |
| 4.2.4 Substantial Improvement and Substantial Damage Assessments and Determinations | 59.1; 60.3(a)(3);<br>60.3(b)(2); 60.3(b)(5)(i);<br>60.3(c)(1), (2), (3), (5) –<br>(8), (10), (12);<br>60.3(d)(3);<br>60.3(e)(4), (5), (8) | Goal 7  |
| 4.3.1 Floodplain Development Permit Required  | 60.3(a)(1)  | Goal 7  |
| 4.3.2 Application for Development Permit  | 60.3(a)(1); 60.3(b)(3);<br>60.3(c)(4)   | Goal 7; Oregon Residential Specialty Code (R) 106.1.4; R322.3.6                       |
| 4.4 Variance Procedure  | 60.6(a)   | Goal 7  |
| 4.4.1 Conditions for Variances  | 60.6(a)   | Goal 7  |
| 4.4.2 Variance Notification   | 60.6(a)(5)  | Goal 7  |
| 5.1.1 Alteration of Watercourses  | 60.3(b)(6) and (7)  | Goal 7  |
| 5.1.2 Anchoring   | 60.3(a)(3); 60.3(b)(1), (2),<br>and (8)   | Goal 7; R322.1.2  |
| 5.1.3 Construction Materials and Methods  | 60.3(a)(3), TB 2; TB 11   | Goal 7;<br>R322.1.3;<br>R322.1.3  |
| 5.1.4.1 Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems            | 60.3(a)(5) and (6)  | Goal 7; R322.1.7  |
| 5.1.4.2 Electrical, Mechanical, Plumbing, and Other Equipment                       | 60.3(a)(3)  | Goal 7; R322.1.6;   |
| 5.1.5 Tanks   |   | R322.2.4; R322.3.7  |
| 5.1.6 Subdivision Proposals   | 60.3(a)(4)(i) – (iii);<br>60.3(b)(3)  | Goal 7  |
| 5.1.7 Use of Other Base Flood Data  | 60.3(a)(3); 60.3(b)(4);<br>60.3(b)(3); TB 10-01   | Goal 7; R322.3.2  |
| 5.1.8 Structures Located in Multiple or Partial Flood Zones                         |   | R322.1  |
| 5.2.1 Flood Openings  | 60.3(c)(5); TB 1; TB 11   | Goal 7;<br>R322.2.2;  |

| Ordinance Section   | 44 CFR and Technical Bulletin (TB) Citation(s)                   | State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])   |
|---|--|---|
|   |  | R322.2.2.1  |
| 5.2.2 Garages   | TB 7-93  | R309  |
| 5.2.3.1 Before Regulatory Floodway  | 60.3(c)(10)  | Goal 7  |
| 5.2.3.2 Residential Construction  | 60.3(c)(2)   | Goal 7  |
| 5.2.3.3 Non-residential Construction  | 60.3(c)(3) – (5); TB 3   | Goal 7;<br>R322.2.2;<br>R322.2.2.1  |
| 5.2.3.4 Manufactured Dwellings  | 60.3(b)(8); 60.3(c)(6)(iv);<br>60.3(c)(12)(ii)                   | Goal 7; State of OR<br>Manufactured Dwelling<br>Installation Specialty<br>Code (MDISC) and<br>associated statewide<br>Code Interpretation<br>dated 1/1/2011                           |
| 5.2.3.5 Recreational Vehicles   | 60.3(c)(14)(i) – (iii)   | Goal 7  |
| 5.2.3.6 Appurtenant (Accessory) Structures  | 60.3(c)(5); TB 1; TB 7-93  | Oregon Structural<br>Specialty Code (S)<br>105.2; R105.2  |
| 5.2.4 Floodways   | 60.3(d); FEMA Region X<br>Fish Enhancement Memo<br>(Mark Riebau) | Goal 7  |
| 5.2.5 Standards for Shallow Flooding Areas  | 60.3(c)(7), (8), (11),<br>and (14)                               | Goal 7  |
| 5.3 Specific Standards for Coastal High<br>Hazard Flood Zones, and<br>5.3.1 Development Standards | 60.3(e); TB 5; TB 8; TB 9  | Goal 7; R322.3.1;<br>R322.3.2; R322.3.3;<br>R322.3.4; R322.3.5  |
| 5.3.1.1 Manufactured Dwelling Standards<br>for Coastal High Hazard Zones                          | 60.3(e)(8)(i) – (iii)  | Goal 7;<br>RR322.3.2;<br>State of OR<br>Manufactured<br>Dwelling<br>Installation<br>Specialty Code<br>(MDISC) and<br>associated<br>statewide Code<br>Interpretation<br>dated 1/1/2011 |

| Ordinance Section  | 44 CFR and Technical Bulletin (TB) Citation(s) | State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS]) |
|--|--|---|
| 5.3.1.2 Recreational Vehicle Standards for Coastal High Hazard Zones | 60.3(e)(9)(i)- (iii)                           | Goal 7  |
| 5.3.1.3 Tank Standards for Coastal High Hazard Zones                 |  | R322.2.4; R322.3.7  |

\*[Link to Oregon Specialty Codes \(https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx\)](https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx)

# SECTION 3. Model Ordinance Language

## 1.0 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

### 1.1 STATUTORY AUTHORIZATION

The State of Oregon has in **ORS 203.035 (COUNTIES) OR ORS 197.175 (CITIES)** delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the **COMMUNITY NAME** does ordain as follows:

### 1.2 FINDINGS OF FACT

- A. The flood hazard areas of **COMMUNITY NAME** **preserve the natural and beneficial values served by floodplains but** are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

### 1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. **Preserve natural and beneficial floodplain functions;**
- D. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- E. Minimize prolonged business interruptions;

- F. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- G. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- H. Notify potential buyers that the property is in a special flood hazard area;
- I. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;
- J. Participate in and maintain eligibility for flood insurance and disaster relief.

### 1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting development which is 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. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- F. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

### 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

**Appeal:** A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

**Area of shallow flooding:** A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel

does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard:** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR (V, V1-30, VE). “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard.”

**Base flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE):** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway wall:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Coastal high hazard area:** An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Fill:** Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered “development.”

**Fish Accessible Space:** The volumetric space available to fish to access.

**Fish Egress-able Space:** The volumetric space available to fish to exit or leave from.

**Flood or Flooding:**

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.



(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study:** an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood Insurance Rate Map (FIRM):** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS):** See "Flood elevation study."

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**Functionally Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Green Infrastructure:** Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.

**Habitat Restoration Activities:** Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).

**Hazard Trees:** Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.

**Highest adjacent grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure:** Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**Hydraulically Equivalent Elevation:** A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

**Hydrologically Connected:** The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

**Impervious Surface:** A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then “flushed” into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

**Low Impact Development:** An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

**Lowest floor:** 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 ordinance.

**Manufactured dwelling:** 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 attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with “manufactured home.”

**Manufactured dwelling park or subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

**Mean Higher-High Water:** The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

**Mean sea level:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**New construction:** For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by **COMMUNITY NAME** and includes any subsequent improvements to such structures.

**No Net Loss:** A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function

from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

**Offsite:** Mitigation occurring outside of the project area.

**Onsite:** Mitigation occurring within the project area.

**Ordinary High Water Mark:** The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

**Qualified Professional:** Appropriate subject matter expert that is defined by the community.

**Reach:** A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

**Recreational vehicle:** A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Riparian:** Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

**Riparian Buffer Zone (RBZ):** The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

**Riparian Buffer Zone Fringe:** The area outside of the RBZ and floodway but still within the SFHA.

**Silviculture:** The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

**Special flood hazard area:** See "Area of special flood hazard" for this definition.

**Start of construction:** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. 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 part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Undeveloped Space:** The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete

structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

**Variance:** A grant of relief by **COMMUNITY NAME** from the terms of a floodplain management regulation.

**Violation:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

### 3.0 GENERAL PROVISIONS

#### 3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of **COMMUNITY NAME**.

#### 3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for **EXACT TITLE OF FLOOD INSURANCE STUDY FOR COMMUNITY**", dated **DATE (MONTH DAY, FOUR DIGIT YEAR)**, with accompanying Flood Insurance Rate Maps (FIRMs) **LIST ALL EFFECTIVE FIRM PANELS HERE (UNLESS ALL PANELS ARE BEING REPLACED THROUGH A NEW COUNTY\_WIDE MAP THAT INCORPORATES ALL PREVIOUS PANELS/VERSIONS, IN THAT SITUATION PANELS DO NOT NEED TO BE INDIVIDUALLY LISTED)** are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at **INSERT THE LOCATION (I.E. COMMUNITY PLANNING DEPARTMENT LOCATED IN THE COMMUNITY ADMINISTRATIVE BUILDING)**.

#### 3.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that the **COMMUNITY NAME** administers and enforces the State of Oregon Specialty Codes, the **COMMUNITY NAME** does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

#### 3.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

##### 3.4.1 COMPLIANCE

All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

**3.4.2 PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a (INFRACTION TYPE (I.E. MISDEMEANOR) AND PENALTIES PER STATE/LOCAL LAW ASSOCIATED WITH SPECIFIED INFRACTION TYPE (I.E. ANY PERSON WHO VIOLATES THE REQUIREMENTS OF THIS ORDINANCE SHALL UPON CONVICTION THEREOF BE FINED NOT MORE THAN A SPECIFIED AMOUNT OF MONEY...)) Nothing contained herein shall prevent the COMMUNITY NAME from taking such other lawful action as is necessary to prevent or remedy any violation.

**3.5 ABROGATION AND SEVERABILITY**

**3.5.1 ABROGATION**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**3.5.2 SEVERABILITY**

This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**3.6 INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**3.7 WARNING AND DISCLAIMER OF LIABILITY**

**3.7.1 WARNING**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance 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.

### **3.7.2 DISCLAIMER OF LIABILITY**

This ordinance shall not create liability on the part of the **COMMUNITY NAME**, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## **4.0 ADMINISTRATION**

### **4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The **INDIVIDUAL JOB TITLE** is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

[Additional Recommended Language Provided in Appendix B](#)

### **4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

#### **4.2.1 PERMIT REVIEW**

Review all development permits to:

- A. Determine that the permit requirements of this ordinance have been satisfied;
- B. Determine that all other required local, state, and federal permits have been obtained and approved;
- C. Determine if the proposed development is located in a floodway.
  - i. If located in the floodway assure that the floodway provisions of this ordinance in section **5.2.4** are met; and
  - ii. Determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections **5.1.7**; and



- iii. Provide to building officials the Base Flood Elevation (BFE) (ADD FREEBOARD IF COMMUNITY HAS HIGHER ELEVATION STANDARDS) applicable to any building requiring a development permit.

- D. Determine if the proposed development qualifies as a substantial improvement as defined in section 2.0.
- E. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 5.1.1.
- F. Determine if the proposed development activity includes the placement of fill or excavation.

- G. Determine whether the proposed development activity complies with the no net loss standards in Section 6.0.

#### **4.2.2 INFORMATION TO BE OBTAINED AND MAINTAINED**

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- A. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section 5.1.7.
- B. The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 4.2.1(B), 5.2.4, and 5.3.1(F), are adhered to.
- C. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- D. Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- E. Maintain all Elevation Certificates (EC) submitted to the community.
- F. The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where

Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section 5.1.7.

G. All floodproofing certificates required under this ordinance.

H. All variance actions, including justification for their issuance.

I. All hydrologic and hydraulic analyses performed as required under section 5.2.4.

J. All Substantial Improvement and Substantial Damage calculations and determinations as required under section 4.2.4.

K. Documentation of how no net loss standards have been met (see Section 6.0)

L. All records pertaining to the provisions of this ordinance.

#### **4.2.3 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA**

##### **4.2.3.1 COMMUNITY BOUNDARY ALTERATIONS**

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

##### **4.2.3.2 WATERCOURSE ALTERATIONS**

A. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

- ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

- B. The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 4.2.3.3. Ensure compliance with all applicable requirements in sections 4.2.3.3 and 5.1.1.

#### 4.2.3.3 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

- A. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.
- B. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
  - i. Proposed floodway encroachments that increase the base flood elevation; and
  - ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- C. An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

[Additional Recommended Language Provided in Appendix B](#)

#### 4.2.4 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) (as defined in section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 4.2.2. Conduct Substantial Damage (SD) (as defined in section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 3.2) are damaged to the extent that the cost of restoring

the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

#### **4.3 ESTABLISHMENT OF DEVELOPMENT PERMIT**

##### **4.3.1 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED**

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 3.2. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 2.0, including fill and other development activities.

##### **4.3.2 APPLICATION FOR DEVELOPMENT PERMIT**

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 4.2.2.
- B. In coastal flood zones (V zones and coastal A zones), the proposed elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all structures, and whether such structures contain a basement.
- C. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
- D. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section 5.2.3.3.
- E. Description of the extent to which any watercourse will be altered or relocated.
- F. Base Flood Elevation data for subdivision proposals or other development when required per sections 4.2.1 and 5.1.6.
- G. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

H. The amount and location of any fill or excavation activities proposed.

#### 4.4 VARIANCE PROCEDURE

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

##### 4.4.1 CONDITIONS FOR VARIANCES

- A. Generally, variances 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 provisions of sections **4.4.1 (C) and (E), and 4.4.2**. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon:
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - iii. A determination 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 laws or ordinances.
- E. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section **4.4.1 (B) – (D)** are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- F. Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section 6.0 and associated options in Table 1).

[Additional Optional Language Provided in Appendix B.](#)

#### 4.4.2 VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 4.2.2.

### 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 5.1 GENERAL STANDARDS

In all special flood hazard areas, the no net loss standards (see Section 6.0) and the following standards shall be adhered to:

##### 5.1.1 ALTERATION OF WATERCOURSES

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 4.2.3.2 and 4.2.3.3.

##### 5.1.2 ANCHORING

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All manufactured dwellings shall be anchored per section 5.2.3.4.

##### 5.1.3 CONSTRUCTION MATERIALS AND METHODS

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

##### 5.1.4 UTILITIES AND EQUIPMENT

###### 5.1.4.1 WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

#### 5.1.4.2 ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level (ANY COMMUNITY FREEBOARD REQUIREMENT) or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:

A. If replaced as part of a substantial improvement shall meet all the requirements of this section.

B. Not be mounted on or penetrate through breakaway walls.

#### 5.1.5 TANKS

A. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

B. Above-ground tanks shall be installed at or above the base flood level (COMMUNITY FREEBOARD REQUIREMENT) or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

C. In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.

#### 5.1.6 SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENTS

A. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals Base Flood Elevation data.



B. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

- i. Be consistent with the need to minimize flood damage.
- ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- iii. Have adequate drainage provided to reduce exposure to flood hazards.

iv. Comply with no net loss standards in section 6.0.

#### 5.1.7 USE OF OTHER BASE FLOOD ELEVATION DATA

A. When Base Flood Elevation data has not been provided in accordance with section 3.2 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section 5.0. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section 5.1.6.

B. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc... where available. (REFERENCE TO ANY OF THIS TYPE OF INFORMATION TO BE USED FOR REGULATORY PURPOSES BY YOUR COMMUNITY, I.E. BASE LEVEL ENGINEERING DATA, HIGH WATER MARKS, HISTORICAL OR OTHER DATA THAT WILL BE REGULATED TO. THIS MAY BE NECESSARY TO ENSURE THAT THE STANDARDS APPLIED TO RESIDENTIAL STRUCTURES ARE CLEAR AND OBJECTIVE. IF UNCERTAIN SEEK LEGAL ADVICE, AT A MINIMUM REQUIRE THE ELEVATION OF RESIDENTIAL STRUCTURES AND NON-RESIDENTIAL STRUCTURES THAT ARE NOT DRY FLOODPROOFED TO BE 2 FEET ABOVE HIGHEST ADJACENT GRADE). Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

#### 5.1.8 STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES

In coordination with the State of Oregon Specialty Codes:



A. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

B. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

[Additional Recommended Language Provided in Appendix B.](#)

## 5.2 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 5.1 of this ordinance **and the no net loss standards (see Section 6.0).**

### 5.2.1 FLOOD OPENINGS

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- A. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- B. Be used solely for parking, storage, or building access;
- C. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
  - i. A minimum of two openings;
  - ii. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;
  - iii. The bottom of all openings shall be no higher than one foot above grade;
  - iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,
  - v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

**5.2.2 GARAGES**

- A. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
- i. If located within a floodway the proposed garage must comply with the requirements of section **5.2.4**;
  - ii. The floors are at or above grade on not less than one side;
  - iii. The garage is used solely for parking, building access, and/or storage;
  - iv. The garage is constructed with flood openings in compliance with section **5.2.1** to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;
  - v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
  - vi. The garage is constructed in compliance with the standards in section **5.1**; and,
  - vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- B. Detached garages must be constructed in compliance with the standards for appurtenant structures in section **5.2.3.6** or non-residential structures in section **5.2.3.3** depending on the square footage of the garage.

**5.2.3 FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS**

In addition to the general standards listed in section **5.1** the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

**5.2.3.1 BEFORE REGULATORY FLOODWAY**

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated 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 foot at any point within the community and will not

result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in section 6.1.C.

### 5.2.3.2 RESIDENTIAL CONSTRUCTION

- A. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE) (ADDITIONAL FREEBOARD FOR YOUR COMMUNITY – RECOMMEND MINIMUM OF 1FT ABOVE BFE).
- B. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 5.2.1.

### 5.2.3.3 NON-RESIDENTIAL CONSTRUCTION

- A. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:
  - i. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) (ANY ADDITIONAL FREEBOARD REQUIREMENTS FOR YOUR COMMUNITY); or
  - ii. Together with attendant utility and sanitary facilities:
    - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section 4.2.2.
- B. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section 5.2.1.

- C. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.

#### **5.2.3.4 MANUFACTURED DWELLINGS**

- A. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with section **5.2.1**;
- B. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
- C. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- D. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

#### **5.2.3.5 RECREATIONAL VEHICLES**

Recreational vehicles placed on sites are required to:

- A. Be on the site for fewer than 180 consecutive days, and
- B. Be fully licensed and ready for highway use, 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; or
- C. Meet the requirements of section **5.2.3.4**, including the anchoring and elevation requirements for manufactured dwellings.

#### **5.2.3.6 APPURTENANT (ACCESSORY) STRUCTURES**

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

- A. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section **5.2.4**;
- B. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

- C. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;
- D. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- E. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- F. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 5.2.1;
- G. Appurtenant structures shall be located and constructed to have low damage potential;
- H. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with section 5.1.5; and,
- I. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

#### 5.2.4 FLOODWAYS

Located within the special flood hazard areas established in section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
  - i. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

ii. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in section 6.0.

B. If the requirements of section 5.2.4 (A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 5.0 and 6.0.

## 5.2.5 STANDARDS FOR SHALLOW FLOODING AREAS

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

### 5.2.5.1 STANDARDS FOR AH ZONES

Development within AH Zones must comply with the standards in sections 5.1, 5.2, and 5.2.5.

### 5.2.5.2 STANDARDS FOR AO ZONES

In AO zones, the following provisions apply in addition to the requirements in sections 5.1 and 5.2.5:

A. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (COMMUNITY FREEBOARD REQUIREMENT) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

B. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate

Maps (FIRMS) (**COMMUNITY FREE BOARD REQUIREMENT**) (at least two (2) feet if no depth number is specified); or

- ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM (**COMMUNITY FREEBOARD REQUIREMENT**) or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section **5.2.3.3(A)(4)**.

C. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

- i. Be on the site for fewer than 180 consecutive days, and
- ii. Be fully licensed and ready for highway use, 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; or
- iii. Meet the elevation requirements of section **5.2.5.2(A)**, and the anchoring and other requirements for manufactured dwellings of section **5.2.3.4**.

D. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section **5.2.3.6**.

E. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section **5.2.1**.

### **5.3 SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD FLOOD ZONES**

Located within special flood hazard areas established in section **3.2** are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the area between the Limit of Moderate Wave Action (LiMWA) and the Zone V boundary. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions of this ordinance and the State of Oregon Specialty Codes, the following provisions shall apply in addition to the general standards provisions in section **5.1**.

5.3.1 DEVELOPMENT STANDARDS

A. All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) shall be elevated on pilings and columns such that:

i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and

ii. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those specified by the State of Oregon Specialty Codes;

B. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

C. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information in accordance with section 4.2.2.

D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

i. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and



ii. Such enclosed space created by breakaway walls shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

iii. Walls intended to break away under flood loads shall have flood openings that meet or exceed the criteria for flood openings in section 5.2.1.

E. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum water loading values to be used in this determination shall be those associated with the base flood. Maximum wind loading values used shall be those specified by the State of Oregon Specialty Codes.

F. Prohibit the use of fill for structural support of buildings.

G. All new construction shall be located landward of the reach of mean high tide.

H. Prohibit man-made alteration of sand dunes which would increase potential flood damage.

I. All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages shall comply with all the requirements of section 5.3.1 Floodproofing of non-residential structures is prohibited.

#### 5.3.1.1 MANUFACTURED DWELLING STANDARDS FOR COASTAL HIGH HAZARD ZONES

All manufactured dwellings to be placed (new or replacement) or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall meet the following requirements:

A. Comply with all of the standards within section 5.3

B. The bottom of the longitudinal chassis frame beam shall be elevated to a minimum of one foot above the Base Flood Elevation (BFE); and

C. Electrical crossover connections shall be a minimum of 12 inches above the BFE.

#### 5.3.1.2 RECREATIONAL VEHICLE STANDARDS FOR COASTAL HIGH HAZARD ZONES

Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall either:

- A. Be on the site for fewer than 180 consecutive days, and
- B. Be fully licensed and ready for highway use, on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

### 5.3.1.3 TANK STANDARDS FOR COASTAL HIGH HAZARD ZONES

Tanks shall meet the requirements of section 5.1.5 and 6.0.

## 6.0 STANDARDS FOR PROTECTION OF SFHA FLOODPLAIN FUNCTIONS

The standards described below apply to all special flood hazard areas as defined in Section 2.0.

### 6.1 NO NET LOSS STANDARDS

- A. No net loss of the three proxies for the floodplain functions mentioned in Section 1 is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:
  - i. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);
  - ii. Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;
  - iii. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.
- B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.
- C. No net loss must be provided within, in order of preference: 1) the lot or parcel that floodplain functions were removed from, 2) the same reach of the waterbody where the development is proposed, or 3) the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

**6.1.1 UNDEVELOPED SPACE**

A. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.

B. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.

C. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).

i. Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:

(1) Ordinary High Water Mark to 10-year,

(2) 10-year to 25-year,

(3) 25-year to 50-year,

(4) And 50-year to 100-year

ii. Hydrologically connected to the waterbody that is the flooding source;

iii. Designed so that there is no increase in velocity; and

iv. Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.

**6.1.2 IMPERVIOUS SURFACES**

Impervious surface mitigation shall be mitigated through any of the following options:

A. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or

B. use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or

C. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to

1072 minimize pollutant loading. See section 6.2.C for stormwater retention  
1073 specifications.

1074 **6.1.3 TREES**

1075 A. Development proposals shall result in no net loss of trees 6-inches dbh or  
1076 greater within the special flood hazard area. This requirement does not  
1077 apply to silviculture where there is no development.

1078 i. Trees of or exceeding 6-inches dbh that are removed from the RBZ,  
1079 Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.

1080 ii. Replacement trees must be native species that would occur naturally  
1081 in the Level III ecoregion of the impact area.

1082 **6.2 STORMWATER MANAGEMENT**

1083 Any development proposal that cannot mitigate as specified in 6.1.2(A)-(B) must include  
1084 the following:

1085 A. Water quality (pollution reduction) treatment for post-construction  
1086 stormwater runoff from any net increase in impervious area; and

1087 B. Water quantity treatment (retention facilities) unless the outfall discharges  
1088 into the ocean.

1089 C. Retention facilities must:

1090 i. Limit discharge to match the pre-development peak discharge rate  
1091 (i.e., the discharge rate of the site based on its natural groundcover  
1092 and grade before any development occurred) for the 10-year peak  
1093 flow using a continuous simulation for flows between 50 percent of  
1094 the 2-year event and the 10-year flow event (annual series).

1095 ii. Treat stormwater to remove sediment and pollutants from impervious  
1096 surfaces such that at least 80 percent of the suspended solids are  
1097 removed from the stormwater prior to discharging to the receiving  
1098 water body.

1099 iii. Be designed to not entrap fish and drain to the source of flooding.

1100 iv. Be certified by a qualified professional.

1101 D. Stormwater treatment practices for multi-parcel facilities, including  
1102 subdivisions, shall have an enforceable operation and maintenance  
1103 agreement to ensure the system functions as designed. This agreement will  
1104 include:

i. Access to stormwater treatment facilities at the site by the  
**COMMUNITY TYPE (e.g., city, county)** for the purpose of inspection  
and repair.

ii. A legally binding document specifying the parties responsible for the  
proper maintenance of the stormwater treatment facilities. The  
agreement will be recorded and bind subsequent purchasers and  
sellers even if they were not party to the original agreement.

iii. For stormwater controls that include vegetation and/or soil  
permeability, the operation and maintenance manual must include  
maintenance of these elements to maintain the functionality of the  
feature.

iv. The responsible party for the operation and maintenance of the  
stormwater facility shall have the operation and maintenance  
manual on site and available at all times. Records of the  
maintenance and repairs shall be retained and made available for  
inspection by the **COMMUNITY TYPE (e.g., city, county)** for five years

### 6.3 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS

The following activities are not subject to the no net loss standards in Section 6.1;  
however, they may not be exempt from floodplain development permit requirements.

A. Normal maintenance of structures, such as re-roofing and replacing siding,  
provided there is no change in the footprint or expansion of the roof of the  
structure;

B. Normal street, sidewalk, and road maintenance, including filling potholes,  
repaving, and installing signs and traffic signals, that does not alter  
contours, use, or alter culverts. Activities exempt do not include expansion  
of paved areas;

C. Routine maintenance of landscaping that does not involve grading,  
excavation, or filling;

D. Routine agricultural practices such as tilling, plowing, harvesting, soil  
amendments, and ditch cleaning that does not alter the ditch configuration  
provided the spoils are removed from special flood hazard area or tilled into  
fields as a soil amendment;

E. Routine silviculture practices that do not meet the definition of  
development, including harvesting of trees as long as root balls are left in  
place and forest road construction or maintenance that does not alter  
contours, use, or alter culverts;

F. Removal of noxious weeds and hazard trees, and replacement of non-native  
vegetation with native vegetation;

G. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;

H. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.

I. Habitat restoration activities.

#### 6.4 RIPARIAN BUFFER ZONE (RBZ)

A. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

B. Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.

C. Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.

D. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.

E. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.

Table 1 No Net Loss Standards

| Basic Mitigate Ratios | Undeveloped Space (ft <sup>3</sup> ) | Impervious Surface (ft <sup>2</sup> ) | Trees (6" < dbh ≤ 20") | Trees (20" < dbh ≤ 39") | Trees (39" < dbh) |
|-----------------------|--------------------------------------|---------------------------------------|------------------------|-------------------------|-------------------|
| RBZ and Floodway      | 2:1*                                 | 1:1                                   | 3:1*                   | 5:1                     | 6:1               |
| RBZ-Fringe            | 1.5:1*                               | 1:1                                   | 2:1*                   | 4:1                     | 5:1               |
|                       |                                      |                                       |                        |                         |                   |

| <u>Mitigation multipliers</u>  |        |        |        |      |      |
|--|--------|--------|--------|------|------|
| Mitigation onsite to Mitigation offsite, same reach  | 100%   | 100%   | 100%   | 100% | 100% |
| Mitigation onsite to Mitigation offsite, different reach, same watershed (5 <sup>th</sup> field) | 200% * | 200% * | 200% * | 200% | 200% |

**Notes:**

1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
  - a. For example, if only 500 ft<sup>2</sup> of the total 1000 ft<sup>2</sup> of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft<sup>2</sup> of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See 6.4 Riparian Buffer Zone)



## NOTICE OF PUBLIC HEARINGS

### CITY OF DAYTON LAND USE AND DEVELOPMENT CODE AMENDMENT

#### CITY CASE FILE LA 2025-01

FEMA Model Floodplain Management Ordinance for NFIP-ESA Integration in Oregon

NOTICE IS HEREBY GIVEN that the City of Dayton will hold public hearings to consider adoption of proposed legislative amendments to the Dayton Land Use and Development Code, also recognized as Title 7 of the Dayton Municipal Code. Proposed legislative amendments are specific to Chapter 7.2.113., titled *Floodplain Overlay District*. The proposal is to remove all codified provisions in Chapter 7.2.113 and replace with similar updated provisions as contained in 2024 Federal Emergency Management Agency's (FEMA) Model Floodplain Management Ordinance. The FEMA model ordinance (recently changed for National Flood Insurance Program–Endangered Species Act integration in Oregon) can be viewed at:

[https://www.fema.gov/sites/default/files/documents/fema\\_r10\\_oregon-nfip-esa-model-ordinance\\_082024.pdf](https://www.fema.gov/sites/default/files/documents/fema_r10_oregon-nfip-esa-model-ordinance_082024.pdf)

This notice has also been mailed to the owners of all properties encumbered by portions of the existing Floodplain Overlay District within the City of Dayton. Chapter 7.2.113 (standards / regulations) pertain only to land where encumbered by the 100-year floodplain / overlay area.

Oregon Revised Statutes (ORS) 227.186 requires public notices to contain the text (above) across the top of face page, extending from left margin to right margin. ORS 227.186 also requires the same notice to state that *adoption of an Ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property*. No analysis or determination has been made (or will be made) on how proposed updates affect permissible use of property or property value.

The first public hearing is scheduled for **Thursday, March 13, 2025, at 6:30 p.m.** before the Dayton Planning Commission; the second public hearing is scheduled for **Monday, April 7, 2025, at 6:30 p.m.** before the Dayton City Council. Both hearings will be held at the Dayton City Hall Annex, addressed at 408 Ferry Street, Dayton, OR 97114. Proposed changes to Chapter 7.2.113 are available for inspection at city offices, addressed at 416 Ferry Street, Dayton OR 97114 or may be purchased at a reasonable cost. An electronic version of the changes to Chapter 7.2.113 will also posted on the city website.

Persons wishing to participate in the public hearings may appear in person or by representative at the dates and times listed above, or virtually (meeting agendas include a Zoom link for this purpose). The legislative amendment procedure and approval criteria are described in Section 7.3.112 of the Dayton Land Use and Development Code. Failure of an issue to be raised at the hearing, in person or in writing, or failure to provide sufficient specificity to afford the City Council an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.

For more information, please contact Rocio Vargas City Recorder at [rvargas@daytonoregon.gov](mailto:rvargas@daytonoregon.gov) or 503-864-2221.