



Planning Commission - Regular Session Meeting
 Wednesday, April 9, 2025 @ 6:00 PM
 Jessie Mays Community Center
 and also via ZOOM

Join Zoom Meeting

<https://us02web.zoom.us/j/89199254524?pwd=c2duRlMraFovRzZCNy9nVUlPbUJpTXc3UT09>
 Meeting ID: 891 9925 4524
 Passcode: 107702

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1. <u>CALL TO ORDER:</u>	
2. <u>PLEDGE OF ALLEGIANCE</u>	
3. <u>ROLL CALL</u>	
4. <u>PUBLIC COMMENT:</u>	
<p style="color: red;">We encourage those wishing to comment to do so in advance of the meeting by emailing comments to info@northplains.org. Comments will be read into the record. Persons wishing to speak on matters not on the agenda may be recognized at this time.</p>	
A. <u>Public Comment Guidelines</u>	3
<input type="checkbox"/> Public Comment Guidelines	
5. <u>APPROVAL OF MINUTES:</u>	
A. <u>Review and approval of March 12, 2025, Regular Session Minutes</u>	4 - 6
<input type="checkbox"/> 03 - Planning Commission Meeting - 12 Mar 2025 - Minutes	
6. <u>PUBLIC HEARING:</u>	
A. <u>EXT 25-02 -- Frank's Excavation</u>	7 - 21
<input type="checkbox"/> EXT 25-002 Frank's Presentation	
<input type="checkbox"/> EXT 25-002 Franks Staff Report Updated	
B. <u>TA 25-001 -- Floodplain Code Text Amendment</u>	22 - 79
<input type="checkbox"/> TA 25-001 Floodplain Code Text Amendment Staff Report to PC 04.02.2025	
<input type="checkbox"/> TA 25-001 NP Floodplain Code To Be Adopted 04022025	
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<input type="checkbox"/> Final Order & NOD Amending NP Floodplain Code 04022025	
<input type="checkbox"/> Public Hearing Notice FEMA NORTHPLAIN-91-354037-1	
7. <u>UNFINISHED BUSINESS:</u>	
8. <u>NEW BUSINESS:</u>	
9. <u>BUILDING PERMITS & CITY PROJECT MONTHLY REPORTS</u>	
A. <u>Building Permits - previous 30 days</u>	80
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B. **City Project Monthly Update Report**

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□ [3J Update 2025-03-17](#)

10. PLANNING COMMISSION COMMENTS
11. CITY COUNCIL COMMENTS
12. STAFF COMMENTS
13. ADJOURNMENT:

North Plains Planning Commission meetings are accessible for disabled individuals. The City will also endeavor to provide services for persons with impaired hearing or vision and other services, if requested, at least 5 days prior to the meeting. To obtain services, please call City Hall at [\(503\) 647-5555](tel:5036475555)

The following Planning Commission Meetings are scheduled to be held at:
Jessie Mays Community Center - 30975 NW Hillcrest Street

The meetings will be held on the following dates at 6:00 p.m.:

Wednesday, May 14, 2025 Wednesday, June 11, 2025 Wednesday, July 9, 2025

ZOOM LINK INFO:

Join Zoom Meeting

<https://us02web.zoom.us/j/89199254524?pwd=c2duRlMraFovRzZCNy9nVUlpTXc3UT09>

Meeting ID: 891 9925 4524

Passcode: 107702



SUBJECT: PUBLIC COMMENTS

This is a time provided for citizens to address the Council or any City Board or Committee on any matters other than those on the agenda scheduled for public hearing. If you wish to comment on an item that is *on the agenda*, you must wait until the Mayor or Board/Committee Chair calls that item to be presented.

GUIDELINES FOR PUBLIC COMMENT:

- Complete a Public Comment card and return it to the City Recorder
 - *Please fill out card completely and legibly*
- The Mayor or Board/Committee Chair will call your name to come up to the speaker table.
- Speaker will clearly state first and last name and city of residence for the record.
- Speaker will have five (5) minutes.
 - Please speak directly into the microphone.
 - Speaker is responsible for the content of their comments, even if reading something written by someone else.
 - Comments impugning the character or motivation of Council Members, City Staff or Community Members are out of order and are not permitted.
 - Bullying will not be tolerated.
- Councilors, Board & Committee Members will give their attention to the speaker during their time by being respectful and quiet.
- Council or Board or Committee members may ask clarifying questions. The Mayor/Chair will refer to staff for readily available information or to follow up as needed.
- If you plan to present a handout, please provide 8 copies to the City Recorder to distribute to the Council or Board members.

Reminder: Public comment is a time for comment, not for debate, nor is it a time for the public to ask questions of and receive answers from council or staff.



MINUTES

Planning Commission - Regular Session Meeting
Wednesday, March 12, 2025 6:00 PM
Jessie Mays Community Center
and also via Zoom

COMMISSION MEMBERS:

Chairperson Stewart King; Vice Chairperson Heather LaBonte, Tom Hauth, Lonnie Knodel, Chi Miller, Ignacio (Iggly) Parra, Doug Nunnenkamp

COMMISSIONERS ABSENT:

STAFF PRESENT:

Planning Director Steve Miller, City Recorder Lori Lesmeister, Downtown Coordinator/Asst. Planner Rowan Maiorano

OTHER:

Ex Officio: Councilor Katie Reding

CALL TO ORDER: at 6:00 pm

PLEDGE OF ALLEGIANCE

ROLL CALL

All Commissioners were in attendance.
Ex Officio Councilor Aaron Dumbrow was in attendance.

PUBLIC COMMENT:

No public in attendance.
No public comment from any Zoom attendees.

APPROVAL OF MINUTES:

Review and approval of February 12, 2025, Regular Session Minutes
Motion to approve the February 12, 2025 Regular Session Planning Commission Minutes with the correction of removing Mike VanDomelen from the Commission and adding Doug Nunnenkamp, as well as a couple of spelling corrections.

Moved by Commissioner Parra. Second by Commissioner Miller.
Motion was approved unanimously.

NEW BUSINESS:

Discussion: UGB Re-Look Work Session with City Council that took place March 3, 2025

Planning Manager Steve Miller updated the commission on the UGB re-look work session that was held with City Council on March 3, 2025. Due to the length of presentations, there was limited time for discussion between the Planning Commission and the City Council. Planning Manager Miller said that the city manager will raise this issue with the city council to consider a second work session with the planning commission in May.

Chair King expressed that the work session appeared to be more of a presentation with limited time for comments and exchange of ideas. He suggested having a work session where there is actual communication of interests, concerns, and comments. The planning commission unanimously agreed that they would like to see an actual workshop on the UGB re-look. Staff will relay this feedback to the city manager.

LAND USE APPLICATIONS & CITY PROJECT MONTHLY REPORTS

Land Use Applications - previous 30 days

Staff reported that Frank's Excavation submitted an extension request for approval. This will be brought before the commission at their April meeting.

Discussion - NC Zone

Staff provided an update on the NC Zone, particularly regarding the one-acre parcel in Sunset Ridge. Key points included:

Planning Manager Steve Miller said that the only NC Zone land currently available for development is the one-acre parcel in Sunset Ridge. The original approval for Sunset Ridge Phase 2 in 2017 did not include the current NC Zone requirements for mixed-use development.

Staff is seeking legal counsel to determine if the current NC Zone rules apply retroactively to this parcel.

The planning commission expressed concerns about protecting the parcel for mixed-use development and not losing it to residential development. Staff suggested waiting for the comprehensive code update, which is expected to start by the end of the year if grant funding is approved.

Chair King emphasized the importance of protecting the parcel for future mixed-use development to serve the community. The commission agreed to review the development agreement and other relevant documents before deciding on whether to pursue immediate changes to the NC Zone code.

Planning Manager Steve Miller will do more research on the original plans from 2017 on the Sunset Ridge development, and specifically that parcel of land that is still not developed and email all the commissioners with what he finds out.

City Project Monthly Update Report

Staff provided updates on ongoing projects:

- Phase 5 of Brynhill has about 40-50 building permits left to obtain for non-multifamily development.
- Greenlight has submitted their building permit application for their project in Brynhill
- A sign permit for Central Welding was recently approved.

PLANNING COMMISSION COMMENTS: None

STAFF COMMENTS

Planning Manager Steve Miller reported back on items that the commission requested more information on at their February meeting. These updates included:

- Painted curbs near fire hydrants: This is a fire code requirement, not a city requirement. Staff will follow up with the fire marshal for more information.
- ADA ramps at intersections: The city engineer explained that topography and changing standards could affect ramp alignment. Commissioners were asked to provide specific examples for further investigation.
- Brynhill Parks - have they been named?: All parks in the Brynhill Subdivision are privately owned with a public access overlay. The Homeowners Association (HOA) not the city, would be responsible for naming these parks.
- Regarding the lake northwest of the city: The earthen dam is inspected annually by a state agency. The city has looked into insurance options for potential park development. If the area is included in a UGB expansion, initial plans would likely involve passive use of the lake. Water rights for the property would most likely go with the property to the new owners, which would most likely be developers (not the city).

Items that will be coming before the commissioners at their April 9th meeting include the FEMA text amendment for review, as well as the extension request from Frank's Excavation. Staff will send the commissioners the necessary information to prepare for the FEMA text amendment discussion prior to the meeting.

CITY COUNCIL COMMENTS

ADJOURNMENT: 6:46 pm

Next Planning Commission Meeting is scheduled for April 9, 2025 at 6:00 pm

Submitted by:

Lori Lesmeister

Lori Lesmeister, City Recorder

Date Minutes Approved: April 9, 2025

EXTENSION EXT 25-002

FRANK'S EXCAVATING

Planning Commission
April 9, 2025



NORTH PLAINS
— COMMUNITY DEVELOPMENT

APPLICANT'S REQUEST

The Applicant is requesting an Extension to Design Review DR 24-001 Frank's Excavating approval (final April 30, 2024) for a period of one year to April 30, 2026.

APPLICABLE ZDC SECTIONS

155.010 Termination of Approvals and Extensions

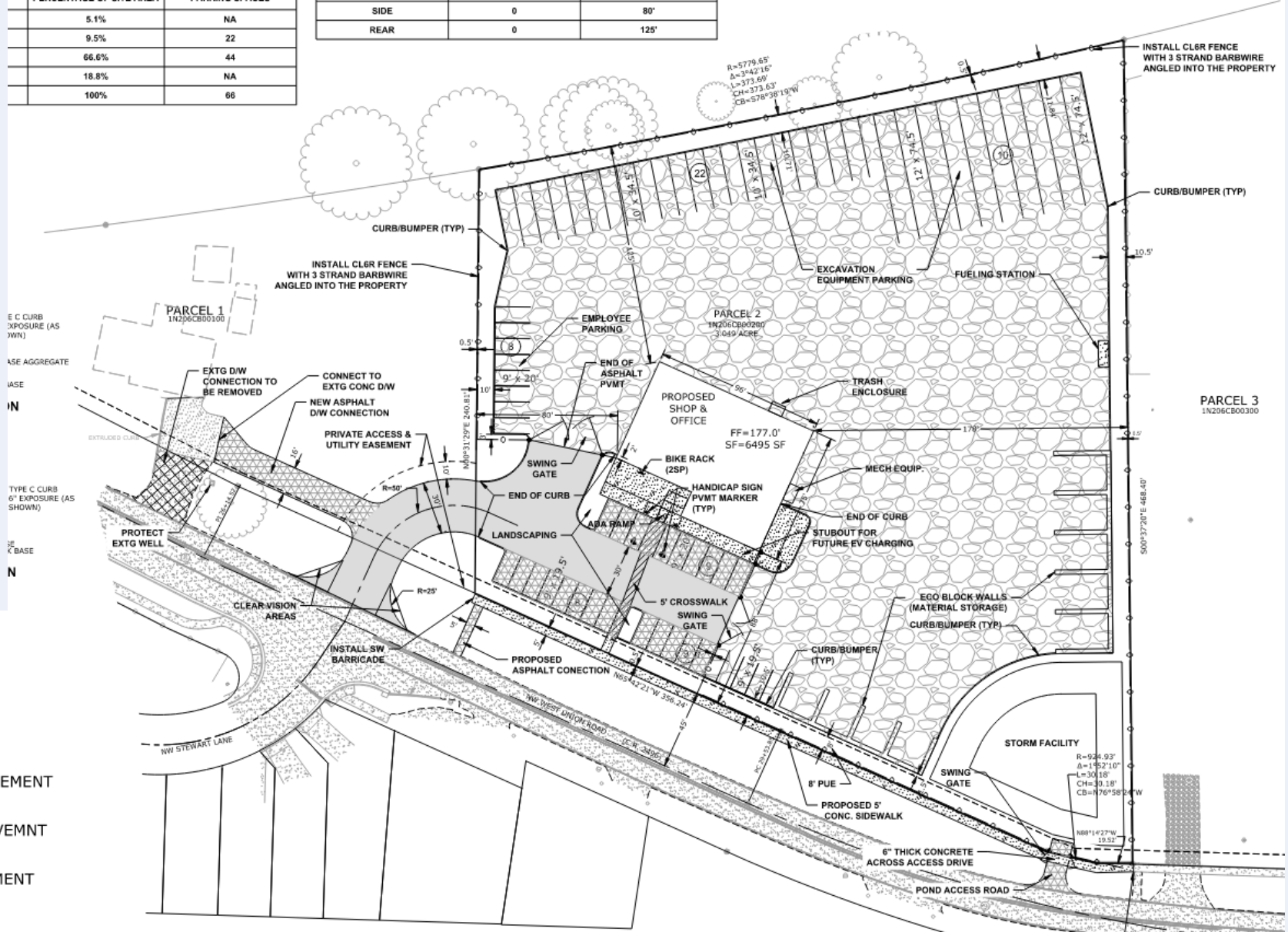
VICINITY MAP








SITE PLAN

5.1%	NA
9.5%	22
66.6%	44
18.8%	NA
100%	66

SIDE	0	80'
REAR	0	125'



LEGEND

-  - CONCRETE
-  - GRAVEL
-  - LIGHT DUTY HMAC PAVEMENT
-  - HEAVY DUTY HMAC PAVEMENT
-  - EXISTING HMAC PAVEMENT

EXTENSION REQUEST

Contributing Factors

- Application was approved in late-April, subsequent permitting and construction unlikely to begin in the 2024 building season
- It is well known that permitting with Washington County and other agencies regularly exceeds six months
- North Plains approval period of 1 year is uniquely short among Washington County jurisdictions

STAFF RECOMENDATION

**Staff recommend approval of extension EXT 25-002 of
DR 24-001 Frank's Excavating**

QUESTIONS?

**CITY OF NORTH PLAINS
STAFF REPORT:**

**EXTENSION
EXT 25-002**



APRIL 1, 2025

APPLICANT: Frank Can – Frank’s Excavating LLC
PO Box 1565
Hillsboro, OR 97123

APPLICANT’S

REPRESENTATIVE: Ben Mealue – Pace Engineers
4500 Kruse Way
Suite 250
Lake Oswego, OR 97035

OWNER: Floyd H & Mary Anne Vandomelen
30175 NW West Union Road
North Plains, OR 97133

SITE ADDRESS: NW Union Road
North Plains, OR 97133
Parcel 2 Partition Plat No. 2008-68

LEGAL

DESCRIPTION: 1N206; TAX LOT 0200

ZONING: General Industrial (M-2)

APPLICATION SUBMITTAL: February 19, 2025

APPLICATION COMPLETE: March 5, 2025

PUBLIC NOTICE MAILED: March 11, 2025

PUBLIC HEARING DATE: April 9, 2025

120 DAY DEADLINE: July 3, 2025

APPLICATION PROPOSAL:

The Applicant is requesting an extension to the April 30, 2024, approval of the Design Review application for Frank’s Excavating (DR 24-001). The initial Design Review was approved for the construction of a new 6,590 square foot office and shop building and a materials and equipment storage yard.

APPLICABLE REVIEW CRITERIA:

The following sections of the North Plains Zoning and Development Code have been deemed by Staff to be applicable to the proposal.

- **155.010** Termination of Approvals and Extensions

SITE DESCRIPTION

The subject property currently does not have a situs address. The property is located adjacent to, and accessed from, NW West Union Road in the City of North Plains. The tax lot ID is 1N206CB00200 and the property is zoned General Industrial (M-2). The site is 3.05 acres and is bordered by a single-family residence (zoned M-2) to the west, railroad right-of-way to the north, and the Kindel Public Services Building (zoned IPU) to the east. The proposal required the use to take access via an easement over the property east of the subject property, tax lot ID 1N206CB00100 (zoned M-2).

ZONING CODE REVIEW & FINDINGS

Below are applicable citations/applicable review criteria from the North Plains Zoning Ordinance and findings in response to the criteria. Unless discussed below, the applicant has met the requirements of the applicable review criteria fully, and/or the Code’s criteria are not applicable to this proposal and therefore do not warrant discussion.

CITY OF NORTH PLAINS ZONING AND DEVELOPMENT CODE

§ 155.010 TERMINATION OF APPROVALS AND EXTENSIONS.

- A) Except as otherwise provided in this chapter, approval of an application or permit is void after one year or such lesser time as the approval may specify unless substantial construction has taken place or the proposed use has occurred. Approval of a partition, subdivision or PUD is void after two years, or such lesser time as the approval may specify, unless substantial construction has taken place or the proposed use has occurred.**

FINDING: The original Design Review application (DR 24-001) was approved on April 16, 2024, and became effective on April 30, 2024, following a two-week appeal period. The approval is valid for a period of one year, until April 30, 2025. No substantial construction has taken place nor is the proposed use occurring.

B) The Planning Commission may grant two-year extensions for partitions, subdivisions and PUDs and one-year extensions for all other applications. Extensions may be granted administratively if the original approval was made administratively. The request for an extension must be filed with the city on or before the expiration date.

FINDING: The applicant has requested a one-year extension of their approved Design Review (DR 24-001) application. The application will be decided by the planning commission. The extension application was filed on February 19, 2025, prior to the expiration of DR 24-001 on April 30, 2025. This criterion is met.

C) The applicant is responsible for requesting an extension. An extension is a discretionary decision and is not granted automatically. The following criteria must be satisfied in order for the city to approve an extension:

- 1) The city determines just cause for the delay and the reason for the delay is outside the control of the applicant;**
- 2) No significant changes to the applicable standards of this chapter or the applicable regulations of other affected jurisdictions (Clean Water Services, Washington County, Tualatin Valley Fire and Rescue and the like) have been made. Any extension requests shall be referred to affected city departments or other governmental jurisdictions for comment; and**
- 3) No significant changes have been made to properties within 250 feet of the exterior boundaries of the subject property.**

FINDING: The Applicant has applied for an extension and the application has not been automatically approved.

The Applicant's Representative, Ben Mealue, has provided an inability to obtain necessary permits for site-work and building to proceed with substantial construction as justification for the delay in development. Mr. Mealue has also provided a detailed account of permit submittals, mostly occurring within January and February of 2025. Staff experience with the collaborating agencies suggests these permits may be issued in spring or early-summer. Staff believe this to be a timeline representative of the area standard. With respect to the application history, staff believe land use approval granted in April provides insufficient time to complete all other permitting and begin substantial construction within the Oregon building season and is unlikely to provide sufficient time to begin substantial

construction in the following building season. Staff are aware of the difficulties the one-year approval period presents spring applicants with and are working to modify the Zoning and Development Code to permit longer approval periods with respect to Oregon's building season. Based upon the above circumstances, staff find the delay is just and out of the control of the Applicant.

No significant changes to the standards of North Plains Municipal Code Chapter 155 nor to the applicable regulations of affected jurisdictions nor to the properties within 250 feet of the exterior boundaries of the subject property have been made in the period since DR 24-001 was approved. The above criteria are met.

CONCLUSION

STAFF CONCLUSION:

The Planning Commission is considering approval of a 1-year extension, EXT 25-002, to the approval of Design Review, DR 24-001, of Frank's Excavating to April 30, 2026.

Staff recommends approval of Extension EXT 25-002 with DR 24-001 conditions of approval as identified below.

CONDITIONS OF APPROVAL:

PRIOR TO ANY WORK ON THE SITE

Obtain a Washington County Facility Permit for the following public improvements on West Union Road.

- 1) Submit to Washington County Public Assurance Staff: A completed "Design Option" form (original copy), City's Notice of Decision (NOD) and County's Letter dated March 22, 2024.
- 2) \$5,000.00 Administration Deposit.

NOTE: The Administration Deposit is a cost-recovery account used to pay for County services provided to the developer, including plan review and approval, field inspections, as-built approval, and permit processing. The Administration Deposit amount noted above is an estimate of what it will cost to provide these services. If, during the project, the Administration Deposit account is running low, additional funds will be requested to cover the estimated time left on the project (at then-current rates per the adopted Washington County Fee Schedule). If there are any unspent funds at project close out, they will be refunded to the applicant. Any point of contact with County staff can be a chargeable cost. If project plans are not complete or do not comply with County standards and codes, costs will be higher. There is a charge to cover the cost of every field inspection. Costs for enforcement actions will also be charged to the applicant.

- 3) Electronic submittal of engineering plans, geotech/pavement report, engineer's estimate and the "Engineer's Checklist" (Appendix 'E' of County Road Standards) for construction of the following public improvements, include construction access and construction traffic circulation plan (if proposed on County-maintained streets):

Note: Improvements within the ROW may be required to be relocated or modified to permit the construction of public improvements. All public improvements and modifications shall meet current County and ADA standards. Public improvements that do not meet County standards shall submit a design exception to the County Engineer for approval.

- a) Construction of a 5-foot sidewalk at ultimate location and shape/grade the ditch along the site's frontage of West Union Road and up to the new access. ADA ramps shall be included per the County Engineer.
- b) Stop-controlled private access to West Union Road per county standards. Include truck turning templates. The private access shall align with NW Stewart Lane located on the south side of West Union Road.
- c) Provide adequate illumination at the intersection of the new access on West Union Road to County standards.
- d) Preliminary Sight Distance Certification for the shared access on West Union Road, including any mitigation measures (if required). Note: the access cannot be approved if sight distance cannot meet County requirements.
- e) Closure of any existing access on West Union Road for both tax lots 100 and 200 except for the shared access approved with this land use.

A Clean Water Services (CWS) Site Development Permit must be obtained. Application for CWS Site Development Permit must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order Nos. 19-5 as amended by R&O 19-22 (CWS Standards), or prior standards as meeting the implementation policy of R&O 18-28, and is to include:

- A) Detailed plans prepared in accordance with Chapter 2, Section 2.04.
- B) Detailed grading and erosion control plan. An Erosion Control Permit will be required. Area of Disturbance must be clearly identified on submitted construction plans. If site area and any offsite improvements required for this development exceed one-acre of disturbance, project will require a 1200-CN Erosion Control Permit.
- C) Detailed plans showing the development having direct access by gravity to public

storm and sanitary sewer.

- D) Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 19-5, Section 4.04. Access shall be provided for maintenance of facility per R&O 19-5, Section 4.07.6.
 - E) If use of an existing offsite or regional Water Quality Facility is proposed, it must be clearly identified on plans, showing its location, condition, capacity to treat this site and, any additional improvements and/or upgrades that may be needed to utilize that facility.
 - F) If private lot LIDA systems proposed, must comply with the current CWS Design and Construction Standards. A private maintenance agreement, for the proposed private lot LIDA systems, needs to be provided to the City for review and acceptance.
 - G) Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City.
 - H) Application may require additional permitting and plan review from CWS Source Control Program. For any questions or additional information, please contact Source Control at (503) 681-5175.
 - I) Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.
- 1) Obtain Clean Water Services approval of the stormwater system.
 - 2) Obtain Clean Water Services approval of the sanitary sewer system.
 - 3) Obtain Tualatin Valley Fire & Rescue (TVF&R) approval.
 - 4) Street trees shall be of a species and cultivar identified on the Washington County approved street trees list. The Applicant shall submit a revised landscape plan identifying street trees from the Washington County approved street list.

PRIOR TO APPROVAL OF A BUILDING PERMIT BY THE CITY OF NORTH PLAINS (AND RELEASE TO WASHINGTON COUNTY FOR BUILDING PERMIT REVIEW)

- 1) Complete construction of public improvements, or submit a legal and enforceable document, contract or assurance to ensure public improvement completion.
- 2) Obtain all access easements.
- 3) A revised landscape plan providing for a dense evergreen hedge maturing to at least six

(6) feet planted on the entire western edge of the proposed yard and a sight obscuring hedge planted on the eastern edge of the proposed yard from the boundary of the storm water detention facility to the southern edge of the neighboring North Plains Public Works facility yard shall be submitted to North Plains Planning Department.

- 4) A utility plan showing all required utility conduits shall be submitted to North Plains Planning Department.

PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY FOR THE BUILDING

- 1) All City public improvement must be completed and accepted by the City.
- 2) Clean Water Services improvements are complete and accepted by CWS.
- 3) Washington County improvements are complete and accepted by the County.
- 4) The following shall be recorded with Washington County Survey Division (John Kidd - 503.846.7932):
 - A) A sight distance easement if required per the approved Sight Distance Certification.
 - B) The road improvements required in condition I.A.3. above shall be completed and accepted by Washington County, including Final Sight Distance Certification for the intersection of the new private shared access and West Union Road.
- 5) Tualatin Valley Fire & Rescue (TVF&R) has provided final acceptance of improvements.
- 6) Dedicate 8-ft Public Utility Easement to the City of North Plains along NW West Union Road along the entire frontage of this property.
- 7) Parking spaces within the gravel yard shall be bounded by a bumper rail or curb at the edge of the proposed landscaped area ten feet from the property line.
- 8) Required parking spaces, a minimum of 28 automobile spaces, shall be improved and available for use.
- 9) The proposed three-wave bicycle rack shall be installed so that bicycle riders may easily navigate around all sides of the rack and affix a minimum of two (2) bicycles to the rack.
- 10) All utility installation shall be designed/constructed underground.

ON-GOING CONDITIONS

- 1) Approved plans do not guarantee the adequacy of the design or guarantee that there will not be any design conflicts during construction. The design engineer should be notified of any design conflicts that are noted during construction and he/she should

then immediately notify the City of North Plains. Modifications to the design must be approved by the City of North Plains and the appropriate Agency prior to continuing with any relevant construction activities.

- 2) All shrubs between the parking area and NW West Union Road shall be maintained as to not exceed three feet in height.
- 3) Parking and loading spaces shall be maintained for exclusive use as automobile parking spaces and general loading spaces for the duration of the proposed use of the property.
- 4) The applicant/owners agree to waive their right to remonstrate against the formation of a local improvement district or other mechanism to construct future improvements to the streets, storm water, water and sewer systems that may be assessed against the subject property.
- 5) The applicant shall be responsible for reimbursing the City for the reasonable costs associated with plan review and inspection of public works improvements. A nonrefundable review and construction observation fee is required. At time of permit submittal Developer shall provide a Review/Inspection fee of 5% of the engineer's estimate value of city public improvements. Additional fees may be required if the actual cost for review and inspection exceeds the initial permit fees.
- 6) Prior to obtaining approval to begin construction of any public improvements, the applicant/owner shall provide a performance bond to the City in the amount of 125% of the total cost of such construction. Upon completion of all public improvements, the applicant/owner shall provide a maintenance bond to the City, in the amount of 40% of the total cost of such construction, guaranteeing said improvements for a period of one (1) year following City acceptance of said improvements. Comply with the recommended conditions of the Public Works Director.
- 7) All landscaping shall be continuously maintained and kept alive and attractive.
- 8) Clear vision areas shall remain clear of any sight obstructions between three and ten feet in height as measured from street grade.

Expiration of this approval. Except as otherwise provided in this decision, approval of an application or permit is void after one (1) year unless substantial construction has taken place, or the proposed use has occurred.



Rowan Maiorano, Assistant Planner

STAFF REPORT TO PLANNING COMMISSION

City File Number TA 25-001

Floodplain Standards
Zoning and Development Code Update

Staff Report Date: April 2, 2025

Public Hearing Date: April 9th, 2025

From: Steve Miller, Planning Manager



Application: This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code.

Applicant: **City of North Plains – Planning Department**
29905 NW West Union Rd.
North Plains, OR 97133
(360) 258-7900

Site Location: All properties within the City Limits of North Plains with the Floodplain Overlay Zone

City Zoning: Floodplain Overlay Zone

PUBLIC COMMENT:

City Staff mailed public notices to all property owners located within the Floodplain Overlay boundary since these are the only properties impacted by the proposed text amendment, as required by North Plains Municipal Code (NPMC) Section 155.031(D)(1)(a)(2) on Wednesday, March 12, 2025. Based on the required public notice mailings, Staff did not receive any public comment letters and/or emails from the notified property owners.

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE REQUIREMENTS AND REVIEW PROCEDURES

I. APPLICABLE REVIEW CRITERIA FROM THE *NORTH PLAINS ZONING AND DEVELOPMENT ORDINANCE*:

The following sections of the North Plains Zoning and Development Code have been deemed by Staff to be applicable to the proposal.

- §§155.032 – Type IV Legislative and Other Decisions

- §§155.125 – §§129 Comprehensive Plan and Zoning Amendments
 - §§155.330 – §§155.347 – Floodplain Overlay Code
-

II. ZONING CODE REVIEW & FINDINGS

Below are applicable citations/review criteria from the *North Plains Zoning Ordinance* and findings in response to the criteria. Unless discussed below, the applicant has met the requirements of the applicable review criteria fully, and/or the Code’s criteria are not applicable to this proposal and therefore do not warrant discussion.

Proposed Development Code Updates:

The North Plains Planning Commission is considering a Zoning and Development Code Text Amendment that would amend the existing regulations regarding the Floodplain Overlay zone and add new regulations to ensure compliance with Federal Emergency Management Agency’s (FEMA) regulations. The proposed Text Amendment requires a legislative public hearing before the Planning Commission who will make a recommendation to the City Council.

New text is identified with blue double underline in yellow highlighter and text to be removed in ~~red strikethrough in yellow highlighter~~.

Proposed Zoning and Development Code text amendments:

- §§155.330 – §§155.347 – Floodplain Overlay Code
 - The purpose of this proposed text amendment is to update the city’s Floodplaining Overlay code to remain in compliance with Federal Emergency Management Agency’s (FEMA) requirements.

APPLICANT’S REQUEST:

This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to adopt and enforce specific floodplain development standards to reduce the risk from floods.

In July 2024, the Federal Emergency Management Agency (FEMA) sent a letter to Oregon cities and counties instructing them to change how they regulate development in flood hazard areas by Dec. 1, 2024. FEMA describes these short-term actions as “pre-implementation” because they are occurring before FEMA fully implements long-term changes to the National Flood Insurance Program (NFIP) to comply with the Endangered Species Act.

According to FEMA’s July 2024 letter, cities and counties must choose and implement one of three (3) options that will result in “no net loss” to floodplain storage, riparian habitat, and water quality. The options are:

- Prohibit all new development in the floodplain (i.e., a temporary moratorium).

- Adopt a model ordinance developed by FEMA that would amend the community’s existing floodplain development ordinance.
- Require floodplain permit applicants (permit-by-permit) to demonstrate that their proposed development will result in “no net loss” to floodplain storage, riparian habitat, and water quality.

In addition to addressing the FEMA requirements, the Oregon Department of Land Conservation and Development (DLCD) requires clear and objective review criteria for local development codes. The Department of Land Conservation and Development (DLCD) released a new Oregon Model Flood Hazard Ordinance in 2024, developed in cooperation with FEMA. The proposed text amendment will fold both the Oregon Model Flood Hazard Ordinance and the FEMA model ordinance language into the City’s existing development code, ensuring that all minimum standards are met.

Thus, the proposed text amendment is seeking to utilize the 2024 version of the Oregon Model Flood Hazard Ordinance with the implementation of the NFIP-ESA integration “no net loss” standards to address the Endangered Species Act (ESA) compliance measures. By adopting these code amendments, the City will allow property owners within the Flood Management Area to continue to participate in and maintain eligibility for flood insurance and disaster relief.

SUMMARY CONCLUSIONS

This report includes findings regarding each applicable Comprehensive Plan Development Code criterion. The Applicant’s proposal is consistent with the Comprehensive Plan and Development Code criteria for a Zoning Code Text Amendment.

BACKGROUND

2009 – 2010: FEMA is sued by the Portland Audubon Society for implementing the NFIP in a manner that jeopardized the existence of endangered species in Oregon and settles with an agreement to undergo consultation with NMFS. FEMA settles the above lawsuit on the condition that they will begin a consultation process with NMFS to protect habitat.

2016: NMFS issues a BiOp finding that FEMA did jeopardize the existence of 16 Endangered Species Act (ESA) listed anadromous fish and Southern Resident killer whales and provides and RPA for the implementation of NFIP in Oregon.

2023 – FEMA has been significantly delayed in implementing the RPA of the 2016 BiOp and environmental groups seek additional legal action to force implementation.

2024 – FEMA establishes the Pre-Implementation Measures (PICM) program as an interim measure.

The PICM are interim measure to implement the “No Net Loss” standards developed by FEMA to ensure Endangered Species Act (ESA) compliance. All PICM’s require a text amendment in order to implement the new rules. The goal of PICM is to stop further degradation of floodplain habirtat function and to track what modifications to floodplain strucute are occurring.

The need for this Zoning Code text amendment is the direct result of the Portland Audubon Society lawsuit and FEMA’s settlement agreement.

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE

COMPREHENSIVE PLAN & ZONING AMENDMENTS

§155.127 Review Criteria

(A) Text Amendment. An amendment to the text of the Comprehensive Plan or this Ordinance shall be based upon a need for such an amendment identified by the City Council or the Planning Commission. Such an amendment shall be consistent with the following review criteria:

(1) Impact of the proposed amendment on land use and development patterns within the city, as measured by:

(a) Traffic generation and circulation patterns in compliance with the Transportation System Plan (TSP);

(b) Demand for public facilities and services, in compliance with the City utility master plans;

(c) Level of park and recreation facilities;

(d) Economic activities;

(e) Protection and use of natural resources;

(f) Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.

FINDING: As noted above, the need for the proposed text amendment has arisen as a result of FEMA being sued by the Portland Audubon Society for implementing the National Flood Insurance Program (NFIP) in a manner that jeopardized the existence of endangered species in Oregon and settles with an agreement to undergo consultation with NMFS.

As a result of FEMA’s settlement, FEMA established the PICM program as an interim measure and is requiring local jurisdictions to take over responsibility of element two (2) of the RPA: Interim Measures under threat of removal from the NFIP. Thus, local jurisdictions, including North Plains, must inform FEMA Region 10 of the PICM the city will implement by December 1st, 2024, and local jurisdictions are required to complete implementation of a PICM by July 31st, 2025.

City Staff informed FEMA prior to December 1st, 2024, that the City of North Plains would be choosing the Model Code PICM. By amending the city's Floodplain Overlay code using the Oregon Floodplain Model Code and the FEMA Model Code language to completely modernize the city's Floodplain Overlay code, North Plains citizens with property located in a documented floodplain will be able to continue to get flood insurance through the National Flood Insurance Program (NFIP).

Should the Planning Commission determine there is a "need" for the proposed text amendment to the Floodplain Overlay Code, then Staff finds that the adoption of the proposed Zoning Code text amendment is necessary for the City to review proposed land use developments and will subsequently satisfy the above criteria.

(2) The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

FINDING: Oregon's 19 Statewide Planning Goals are addressed below. Though several of the goals are not applicable to the proposed zoning code text amendments, those that are applicable are responded to in detail.

Goal 1 Citizen Involvement

The proposed changes to the Zoning and Development Code do not specifically address citizen involvement.

This land use application is subject to a City of North Plains Type IV land use review, which includes a significant citizen involvement component. This process has been established by the city and determined to be consistent with this goal. The mandatory public notice of the action and decision, and the hearings on this case before the Planning Commission and City Council are all avenues of citizen participation.

Goal 2 Land Use Planning

This statewide goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan.

The process identified above was utilized by the Applicant in the drafting of the proposed Zoning Code Amendment. Alternatives have been considered throughout the drafting of the proposed code language updates, including a publicly-noticed work session with the Planning Commission. The proposed changes are consistent with and adequate to carry out the Comprehensive Plan.

Goal 3 Agricultural Lands

This goal does not apply because the City does not include areas designated for agricultural use.

Goal 4 Forest Lands

This goal does not apply because the City does not include areas designated for forest use.

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

There are no proposed changes to text regarding Goal 5 open spaces, scenic and historic areas and natural resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 6 Air, Water and Land Resources Quality

There are no proposed changes to text regarding air, water, or land resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 7 Areas Subject to Natural Hazards

There are no proposed changes to text regarding areas subject to natural hazards. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 8 Recreational Needs

There are no proposed changes to text regarding recreational needs. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 9 Economic Development

There are no proposed changes to text specifically regarding economic development. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 10 Housing

There are no proposed changes to the text regarding housing. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 11 Public Facilities and Services

There are no proposed changes to text regarding public facilities and services. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 12 Transportation

The Transportation Planning Rule (TPR), OAR 600-012.0060, requires that, where an amendment to a comprehensive plan or zoning regulation would significantly affect an existing or planned transportation facility, the local government shall put in place

measures that assure that allowed land uses are consistent with the function, capacity, and performance standards of the facility. The proposed zoning code text amendment does not propose any changes to an existing or planned transportation facility and, as such, the proposed zoning code text amendment does not affect the transportation system of the City.

Goal 13 Energy Conservation

There are no identifiable energy consequences of this land use action. The proposed text amendments will not result in any appreciable difference in waste production or recycling compared with development under the existing zoning.

Goal 14 Urbanization

There are no proposed changes to text regarding urbanization. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

The City is not within the plan boundary for the Willamette River Greenway, does not have any estuarine resources, and is not on the Oregon Coast, so goals 15 through 19 do not apply.

As discussed above, the proposed text amendments are generally consistent with the Statewide Planning Goals.

(3) The amendment is appropriate as measured by at least one of the following criteria:

(a) It corrects identified error(s) in the provisions of the plan.

(b) It represents a logical implementation of the plan.

(c) It is mandated by changes in federal, state, or local law.

(d) It is otherwise deemed by the City Council to be desirable, appropriate, and proper.

FINDING: The proposed text amendments generally represent a logical implementation of the Comprehensive Plan. The proposed amendment is appropriate, and this standard is met.

(4) Compliance with the statewide Transportation Planning Rule. When a development application includes a Comprehensive Plan, Zone Map or Text Amendment, the proposal

shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, the Transportation Planning Rule. "Significant" means the proposal would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a street classification, requiring traffic to exceed the levels associated with a "collector" street classification, requiring a change in the classification to an "arterial" street as identified by the City's Transportation System Plan (TSP); or

(b) Change the standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the North Plains TSP or Comprehensive Plan; or

(d) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance identified in the North Plains TSP or Comprehensive Plan; or

(e) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan.

(5) Amendments that affect Transportation Plans. Except as provided in subsection 6 Exceptions, amendments to the Comprehensive Plan or land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level or service of the facility identified in the North Plains TSP. This shall be accomplished by one of the following:

(a) Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or

(b) Amending the North Plains TSP or Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or

(d) Amending the planned function, capacity or performance standards of the transportation facility; or

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

(6) Exceptions. Amendments to the Comprehensive Plan or land use regulation with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan, may be approved when all of the following criteria are met:

(a) The amendment does not include property located in an interchange area, as defined under applicable law;

(b) The currently planned facilities, improvements or services are not adequate to achieve the standard;

(c) The currently planned facilities, improvements or services at a minimum mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

(d) The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid degradation to the facility.

FINDING: The proposed text amendments do not include changes to the Transportation System Plan or significantly affect a transportation facility. The proposed text amendments are in compliance with the Transportation Planning Rule.

§155.129 Findings

Findings justifying a decision on an application shall be made in writing, and shall be provided to the applicant.

FINDING: The City Council's final decision will include written findings. Upon a final ruling by the City Council, Staff will prepare the necessary written findings justifying a decision on an application and they will be provided to the Applicant.

§155.129 Conditions

The granting of an approval of any land use action under Chapter 16.200 may be subject to such conditions as are reasonably necessary to protect the public health, safety or general welfare from potentially damaging effects resulting from approval of the permit, or to fulfill the public need for service demands created by approval of the request.

FINDING: Staff does not find it necessary to subject this decision to any conditions of approval.

CONCLUSION

The Planning Commission is considering a recommendation to the City Council for the proposed Zoning and Development Code Text Amendment. The Planning Commission may

recommend that the City Council approve, approve with Conditions or deny the Text Amendment.

The proposed text amendment before the Planning Commission is one that regulates development and safety standards for activity in the City's floodplains. Community wide floodplain standards are critical to maintaining an environment that is safe for all citizens and visitors, while also allowing property owners with land in the floodplain to obtain flood insurance through the National Flood Insurance Program (NFIP).

In terms of a Staff recommendation to the Planning Commission on the city's proposed text amendment, Staff is recommending approval on the proposed text amendment. The Planning Commission's recommendation to the City Council on City File Number **TA 25-001**, Zoning and Development Code Text Amendment, will be presented to the City Council for a public hearing at their regularly scheduled meeting on May 5th, 2025.

155.330 FLOODPLAIN - STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

(A) STATUTORY AUTHORIZATION

The State of Oregon has in ORS 197.175 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 City of North Plains does ordain as follows:

(B) FINDINGS OF FACT

- (1) The flood hazard areas of City of North Plains 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.
- (2) 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.

(C) 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:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Preserve natural and beneficial floodplain functions;
- (4) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (5) Minimize prolonged business interruptions;
- (6) 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;
- (7) 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;

- (8) Notify potential buyers that the property is in a special flood hazard area;
- (9) Notify those who occupy special flood hazard areas that they assume responsibility for their actions;
- (10) Participate in and maintain eligibility for flood insurance and disaster relief.

(D) METHODS OF REDUCING FLOOD LOSSES

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

- (1) 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;
- (2) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- (6) Employing a standard of “no net loss” of natural and beneficial floodplain functions.

155.331 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. “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 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 City of North Plains 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 reading 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 North Plains 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.

155.332 GENERAL PROVISIONS

(A) LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of City of North Plains.

(B) 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 “The Flood Insurance Study (FIS) for Washington County and Incorporated Areas”, dated October 19, 2018, with accompanying Flood Insurance Rate Maps (FIRMs) are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the Butch Kindel Public Services Building and can also be obtained at Washington County.

(C) COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that the City of North Plains administers and enforces the State of Oregon Specialty Codes, the City of North Plains 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 AND PENALTIES FOR NONCOMPLIANCE

(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.

(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 violation under §155.999. Nothing contained herein shall prevent the City of North Plains from taking such other lawful action as is necessary to prevent or remedy any violation.

(E) ABROGATION AND SEVERABILITY

(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.

(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.

(F) 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.

(G) WARNING AND DISCLAIMER OF LIABILITY

(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.

(2) DISCLAIMER OF LIABILITY

This ordinance shall not create liability on the part of the City of North Plains, 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.

155.333 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Planning Manager 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.

155.334 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

(A) PERMIT REVIEW

Review all development permits to:

- (1) Determine that the permit requirements of this ordinance have been satisfied;
- (2) Determine that all other required local, state, and federal permits have been obtained and approved;
- (3) Determine if the proposed development is located in a floodway.
 - (a) If located in the floodway assure that the floodway provisions of this ordinance in 155.339 are met; and
 - (b) 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 155.337(G); and
 - (c) Provide to building officials the elevation one foot above Base Flood Elevation (BFE) applicable to any building requiring a development permit.
- (4) Determine if the proposed development qualifies as a substantial improvement as defined in 155.331.

- (5) Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in 155.337(A).
- (6) Determine if the proposed development activity includes the placement of fill or excavation.
- (7) Determine whether the proposed development activity complies with the no net loss standards in 155.341-344.

(B) 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 155.337(G).
- (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 155.334(A)(2) and 155.339 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 155.337(G).
- (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 155.339.
- (10) All Substantial Improvement and Substantial Damage calculations and determinations as required under 155.334(D).

- (11) Documentation of how no net loss standards have been met (see 155.341-344)
- (12) All records pertaining to the provisions of this ordinance.

(C) 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) 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:
 - 1. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
 - 2. 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 155.334(C)(3). Ensure compliance with all applicable requirements in 155.334(C)(3) and 155.337(A).

(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:
 - 1. Proposed floodway encroachments that increase the base flood elevation; and
 - 2. 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).

(D) SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with 155.334(B). Conduct Substantial Damage (SD) 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 155.332(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.

155.335 ESTABLISHMENT OF DEVELOPMENT PERMIT

(A) 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 155.332(B). The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in 155.331, including fill and other development activities.

(B) 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:

- (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 155.334(B).
- (2) Proposed elevation in relation to mean sea level to which any nonresidential 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 nonresidential structure meet the floodproofing criteria for non-residential structures in 155.338(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 155.334(A) and 155.337(F).
- (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.

155.336 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.

(A) 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 155.336(A)(3&5), and 155.336(B). 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:
 - (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 155.336(A)(2-4) 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 155.341-344 and associated options in Table 1).

(B) 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 155.334(B).

155.337 PROVISIONS FOR FLOOD HAZARD REDUCTION - GENERAL STANDARDS

In all special flood hazard areas, the no net loss standards (see 155.341-344) 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 155.334(C)(2) and 155.334(C)(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 155.338(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 be constructed using methods and practices that minimize flood damage.

(D) UTILITIES AND EQUIPMENT

(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.

(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 one foot above 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:

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

(E) TANKS

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

(F) 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:
 - (a) Be consistent with the need to minimize flood damage.
 - (b) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(c) Have adequate drainage provided to reduce exposure to flood hazards.

(d) Comply with no net loss standards in 155.341-344.

(G) USE OF OTHER BASE FLOOD ELEVATION DATA

- (1) When Base Flood Elevation data has not been provided in accordance with 155.332(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 155.337-340. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of 155.337(F).
- (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. (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.

(H) 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.

155.338 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 155.337 of this ordinance and the no net loss standards (see 155.441).

(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 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 155.339;
 - (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 155.338(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 155.337; 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 must be constructed in compliance with the standards for appurtenant structures in 155.338(C)(6) or non-residential structures in 155.338(C)(3) depending on the square footage of the garage.

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

In addition to the general standards listed in 155.337 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 155.341(A)(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 one foot above Base Flood Elevation (BFE)

(b) Enclosed areas below the lowest floor shall comply with the flood opening requirements in 155.338(A).

(3) NON-RESIDENTIAL CONSTRUCTION

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

1. Have the lowest floor, including basement elevated at or above one foot above Base Flood Elevation (BFE); or

2. 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 155.334(B).

(b) Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in 155.338(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 155.338(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) 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 155.338(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 (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 155.339;
- (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 155.338(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 155.337(E); 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.

155.339 FLOODWAYS

Located within the special flood hazard areas established in 155.332(B) 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:

- (1) 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
 - (2) 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 155.341.
- (B) If the requirements of 155.339(A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of this chapter.

155.340 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.

(A) STANDARDS FOR AH ZONES

Development within AH Zones must comply with the standards in 155.337, 155.338, and 155.340.

(B) STANDARDS FOR AO ZONES

In AO zones, the following provisions apply in addition to the requirements in 155.337 and 155.340:

- (1) 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 one foot above the depth number specified on the Flood Insurance Rate Maps (FIRM) (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.
- (2) New construction, conversion to, and substantial improvements of non- residential structures within AO zones shall either:
 - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above one foot above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

- (b) Together with attendant utility and sanitary facilities, be completely floodproofed to or above one foot 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 155.338.
- (3) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
 - (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 elevation requirements of 155.340(B)(1) and the anchoring and other requirements for manufactured dwellings of 155.338(C)(4).
- (4) In AO zones, new and substantially improved appurtenant structures must comply with the standards in 155.338(C)(6).
- (5) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in 155.338 (A)

155.341 NO NET LOSS STANDARDS

- (A) The standards described below apply to all special flood hazard areas as defined in 155.331
 - (1) No net loss of the three proxies for the floodplain functions mentioned in 155.300 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:
 - (a) Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);
 - (b) Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;
 - (c) Include a management plan that identifies the responsible site manager, stipulated what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.

- (2) 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.
- (3) 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.

(B) 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 egressable 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.

(C) 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 155.342(C) for stormwater retention specifications.

(D) TREES

- (1) 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.
 - (a) 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.
 - (b) Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.

155.342 STORMWATER MANAGEMENT

Any development proposal that cannot mitigate as specified in 155.341 (C)(1-2) must include the following:

- (A) Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and
- (B) Water quantity treatment (retention facilities) unless the outfall discharges into the ocean.
- (C) Retention facilities must:
 - (1) 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).
 - (2) 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.
 - (3) Be designed to not entrap fish and drain to the source of flooding.

- (4) Be certified by a qualified professional.
- (D) 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:
 - (1) Access to stormwater treatment facilities at the site by the City for the purpose of inspection and repair.
 - (2) 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.
 - (3) 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.
 - (4) 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 for five years.

155.343 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS

The following activities are not subject to the no net loss standards in 155.441; 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 tow with rock armor.
- (I) Habitat restoration activities.

155.344 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

<u>Basic Mitigate Ratios</u>	<u>Undeveloped Space (ft³)</u>	<u>Impervious Surface (ft²)</u>	<u>Trees (6" < dbh ≤ 20")</u>	<u>Trees (20" ≤ dbh ≤ 39")</u>	<u>Trees (39" < dbh)</u>
<u>RBZ and Floodway</u>	<u>2:1*</u>	<u>1:1</u>	<u>3:1*</u>	<u>5:1</u>	<u>6:1</u>
<u>RBZ-Fringe</u>	<u>1.5:1*</u>	<u>1:1</u>	<u>2:1*</u>	<u>4:1</u>	<u>5:1</u>
<u>Mitigation Multipliers</u>					
<u>Mitigation onsite to Mitigation offsite, same reach</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>
<u>Mitigation onsite to mitigation offsite, different reach, same watershed (5th field)</u>	<u>200%</u>	<u>200%</u>	<u>200%</u>	<u>200%</u>	<u>200%</u>

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 ft² of the total 1000 ft² of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft² 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 155.344 Riparian Buffer Zone)

FP FLOODPLAIN OVERLAY DISTRICT

§ 155.330 ~~PURPOSE.~~

~~—The purpose of the Floodplain Overlay District (FP) is to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:~~

~~—(A) To protect human life and health;~~

~~—(B) To minimize expenditure of public money and costly flood control projects;~~

~~—(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;~~

~~—(D) To minimize prolonged business interruptions;~~

~~—(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;~~

~~—(F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;~~

~~—(G) To ensure that potential buyers are notified that property is in an area of special flood hazard; and~~

~~—(H) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.~~

~~(Prior Code, § 16.065.000) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

§ 155.331 ~~DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—ACTIVE FLOODPLAIN. The identified area of special flood hazard, but excluding the watercourse or channel of any river, creek or tributary to the bank full stage.~~

~~—APPEAL. A request for a review of the Planning Commission's interpretation of any provision of this subchapter or a request for a variance.~~

~~—AREA OF SHALLOW FLOODING. Area designated AO or AH on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel~~

does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

~~—AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the FHB. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, A, VO or V1-30, VE or V. For purposes of these regulations, the term SPECIAL FLOOD HAZARD AREA is synonymous in meaning with the phrase AREA OF SPECIAL FLOOD HAZARD.~~

~~—BANK FULL STAGE. The point at which the flow in the creek channel reaches the maximum height of the watercourse channel, just before flooding into the active floodplain.~~

~~—BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.~~

~~—BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.~~

~~—CRITICAL FACILITY. A facility for which even a slight chance 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.~~

~~—DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, fencing, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located on a property with area within the area of special flood hazard.~~

~~—ELEVATED BUILDING. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.~~

~~—EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park subdivision for which the construction of facilities for servicing the lots on the site which existed before the effective date of the adopted floodplain management regulations.~~

~~—EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).~~

~~—FLOOD or FLOODING.~~

~~—(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~—(a) The overflow of inland or tidal waters;~~

~~—(b) The unusual and rapid accumulation or runoff of surface waters from any source; and~~

~~—(c) Mudslides (such as, mudflows) which are proximately caused by flooding as defined in division (1)(b) above 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.~~

~~—(2) 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 division (1)(a) above.~~

~~—FLOOD HAZARD BOUNDARY MAP (FHBM). Initial flood hazard identification generally used for emergency program communities.~~

~~—FLOOD INSURANCE RATE MAP (FIRM). The official map of a community on which the Flood 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. 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.~~

~~—FLOODPLAIN ADMINISTRATOR. The Public Works Director or his or her designee is the city's Floodplain Administrator.~~

~~—FLOODPLAIN REVIEW AUTHORITY. The Planning Commission of the city shall be the city's Floodplain Review Authority.~~

~~—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 one foot.~~

~~—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 § 155.346 of this chapter.~~

~~—MANUFACTURED HOME. 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 HOME does not include a "recreational vehicle".~~

~~—MANUFACTURED HOME PARK OR SUBDIVISION. A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.~~

~~—NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the city and includes any subsequent improvements to such structures.~~

~~—NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.~~

~~—RECREATIONAL VEHICLE. A vehicle which is:~~

~~—(1) Built on a single chassis;~~

~~—(2) Four hundred square feet or less when measured at the largest horizontal projection;~~

~~—(3) Designed to be self-propelled or permanently towable by a light duty truck; and~~

~~—(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~—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 of the permit date. 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 home 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. A walled and roofed building including a gas or liquid storage tank that is principally above ground, a modular or temporary building.~~

~~—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% of the market value of the structure before the damage occurred.~~

~~—SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvements of a structure, the cost of which equals or exceeds 50% 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:

— (1) 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

— (2) Any alteration of a “historic structure”; provided that, the alteration will not preclude the structure’s continued designation as a “historic structure”.

— VARIANCE. A grant of relief from the requirements of this subchapter which permits construction in a manner that would otherwise be prohibited by the section.

— WATERCOURSE. The channel and banks of an identifiable river, stream or tributary, and not the adjoining floodplain areas. The flood-carrying capacity of a watercourse refers to the flood-carrying capacity of the channel (except in the case of alluvial fans, where a channel is not typically defined).

(Prior Code, § 16.065.005) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)

§ 155.332 AREA OF APPLICATION.

— All property, regardless of the underlying zoning designation, which falls within the boundaries of the 100-year floodplain, also known as the area of special flood hazard, shall be subject to the provisions of this subchapter.

(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)

§ 155.333 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

— (A) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Washington County and Incorporated Areas”, dated 10-19-2018, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the City Hall and can also be obtained through the county. The city shall utilize all authoritative information available in determining the location of special flood hazard areas.

— (B) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community’s 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.~~

~~(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.334 COMPLIANCE.~~

~~—No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.~~

~~(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.335 ABROGATION AND SEVERABILITY.~~

~~—This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. If any section, clause, sentence or phrase of this subchapter 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 subchapter.~~

~~(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.336 INTERPRETATION.~~

~~—In the interpretation and application of this subchapter, all provisions shall be:~~

~~—(A) Considered as minimum requirements;~~

~~—(B) Literally construed in favor of the governing body; and~~

~~—(C) Deemed neither to limit, nor repeal, any other powers granted under state statutes.~~

~~(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.337 DISCLAIMER OF LIABILITY.~~

~~—The degree of flood protection required by this subchapter 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 human-made or natural causes. This subchapter 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 subchapter shall not create liability on the part of the city, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made thereunder.~~

~~(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.338 ACCESSORY STRUCTURES.~~

~~—Accessory structures shall not be located within a floodplain or floodway.~~

~~(Prior Code, § 16.065.010) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.339 DEVELOPMENT PERMITS; APPLICATION.~~

~~—(A) Development permit required. A development permit shall be obtained before construction or development begins on any part of a property within any area of special flood hazard established in § 155.333 of this chapter. The permit shall be required for all structures including manufactured homes, as set forth in § 155.331 of this chapter, and for all other development including fill and other activities, also as set forth in § 155.331 of this chapter. If the proposed development is fully outside of the area of special flood hazard, a Type I review is required. If the proposed development is within the area of special flood hazard in any way, a Type III review is required.~~

~~—(B) Application for development permit. Application for a development permit shall be made on forms furnished by the City Recorder, and accompanied by the appropriate fee, 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 and drainage facilities. Specifically, the following information is required:~~

~~—(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;~~

~~—(2) Elevation in relation to mean sea level to which the structure has been flood-proofed;~~

~~—(3) Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in this subchapter; and~~

~~—(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~

~~(Prior Code, § 16.065.015) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.340 REVIEW AUTHORITY.~~

~~—(A) (1) The Public Works Director or his or her designee is the Floodplain Administrator for the city.~~

~~—(2) The Planning Commission is hereby appointed as Floodplain Review Authority to administer and implement this subchapter by granting or denying development permit applications where a development proposal is located within the area of special flood hazard.~~

~~—(3) Floodplain development permits requiring a Type III review procedure shall be subject to the public notice requirements and public hearing requirements of this subchapter.~~

~~—(B) City staff shall review development permit applications where a development proposal is located fully outside of the area of special flood hazard.~~

~~—(C) The duties of the review authority shall include, but not be limited to:~~

~~—(1) Permit review – Type I review required.~~

~~—(a) Review all development permits to ensure that no part of the proposed development is within the area of special flood hazard; and~~

~~—(b) Maintain a copy of the development permit site plan clearly showing the proposed development fully outside of the area of special flood hazard.~~

~~—(2) Permit review – Type III review required.~~

~~—(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied, specifically § 155.345 of this chapter;~~

~~—(b) 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; and~~

~~—(c) 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 § 155.346(E) of this chapter are met.~~

~~—(3) Use of other base flood data. When base flood elevation data has not been provided (A and V Zones) in accordance with § 155.333 of this chapter, the Planning Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources, in order to administer § 155.346 of this chapter.~~

~~(Prior Code, § 16.065.015) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.341 INFORMATION TO BE OBTAINED AND MAINTAINED.~~

~~—(A) Where base flood elevation data is provided through the Flood Insurance Study or required as in § 155.340(B) of this chapter, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.~~

~~—(B) For all new or substantially improved flood-proofed structures:~~

~~—(1) Verify and record the actual elevation (in relation to the mean sea level);~~

~~—(2) Maintain the flood-proofing certifications required in this subchapter; and~~

~~—(3) Maintain for public inspection all records pertaining to the provisions of this subchapter.~~

~~(Prior Code, § 16.065.015) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.342 ALTERATION OF WATERCOURSES.~~

~~—When an applicant proposes to alter a watercourse, the review body shall:~~

~~—(A) Notify adjacent communities and the state's Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration; and~~

~~—(B) Require that maintenance is provided within the altered or relocation portion of said watercourse so that the flood-carrying capacity is not diminished.~~

~~(Prior Code, § 16.065.015) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.343 INTERPRETATION OF FIRM BOUNDARIES.~~

~~—Make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped~~

~~boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.~~

~~(Prior Code, § 16.065.015) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

§ 155.344 ~~CHANGES TO BASE FLOOD ELEVATION.~~

~~—Within six months of modifying a base flood elevation, an applicant shall notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance and floodplain management can be based on current data.~~

~~(Prior Code, § 16.065.015) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

§ 155.345 ~~FLOOD HAZARD PROTECTION PROVISIONS.~~

~~—In all areas of special flood hazards, the following standards are required.~~

~~—(A) 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 must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. 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.)~~

~~—(B) 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 be constructed using methods and practices that minimize flood damage.~~

~~—(3) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within components during conditions of flooding.~~

~~—(C) Utilities.~~

~~—(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~

~~—(2) 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.~~

~~—(3) On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the state's Department of Environmental Quality.~~

~~—(D) Subdivision proposals:~~

~~—(1) A floodplain development permit must be approved PRIOR to approval of a subdivision preliminary plat on the same property. In most cases, this will require two separate hearings before the Planning Commission.~~

~~—(2) All subdivision proposals shall be consistent with the need to minimize flood damage.~~

~~—(3) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.~~

~~—(4) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.~~

~~—(5) Base flood elevation (BFE) data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres, whichever is less.~~

~~—(E) Review of building permits. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding and the like, where available. The city has been notified that failure to elevate at least two feet above grade in these zones may result in higher insurance rates.~~

~~(Prior Code, § 16.065.020) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

§ 155.346 SPECIFIC DEVELOPMENT STANDARDS.

~~—In all areas of special flood hazards where base flood elevations data has been provided as set forth in this subchapter, the following provisions are required.~~

~~—(A) All development. All development within the boundaries of the 100-year floodplain shall conform to the following cut and fill standards.~~

~~—(1) No net fill in the floodplain is allowed. All fill placed in a floodplain shall be balanced within at least an equal amount of soil material removal.~~

- ~~—(2) Excavation areas shall not exceed fill areas by more than 50% of the area.~~
- ~~—(3) Any excavation below the bank full stage of Ghost Creek or McKay Creek shall not compensate for fill.~~
- ~~—(4) Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill in the Floodplain Overlay District and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to stream flow as practicable. Bridges shall be used instead of culverts wherever practicable.~~
- ~~—(B) Residential construction.~~
 - ~~—(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above base flood elevations.~~
 - ~~—(2) 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:~~
 - ~~—(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~
 - ~~—(b) The bottom of all openings shall be no higher than one foot above grade.~~
 - ~~—(c) Openings may be equipped with screens, louvers or other coverings or devices; provided that, they permit the automatic entry and exit of flood waters.~~
 - ~~—(d) The ground surface inside enclosed areas shall be graded in such a way that water will drain and pooling of water will not occur.~~
- ~~—(C) Non-residential construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to one foot above 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 water-tight with walls substantially impermeable to the passage of water;~~
 - ~~—(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~
 - ~~—(3) Be certified by a registered professional engineer or architect that the design and methods of construction in accordance with accepted standards of this division (C) based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in § 155.339(B) of this chapter.~~

~~—(4) Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in division (A) above.~~

~~—(5) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (for example, a building constructed to the base flood level will be rated as one foot below that level).~~

~~—(D) Manufactured home.~~

~~—(1) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with division (B) above.~~

~~—(2) The bottom of the longitudinal chassis frame beam in A Zones shall be at or above base flood elevation (BFE).~~

~~—(3) The manufactured dwelling 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.)~~

~~—(4) Electrical crossover connections shall be a minimum of 12 inches above BFE.~~

~~—(E) Floodways. Located within areas of special flood hazard established in § 155.332 of this chapter 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 apply, these provisions apply to all floodways:~~

~~—(1) Prohibit encroachments, including fill, new construction, substantial improvements and other development in the floodway (as defined by the Federal Emergency Management Agency) unless certification by registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;~~

~~—(2) If division (D)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of division (E)(1) above;~~

~~—(3) Prohibit the placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision; and~~

~~—(4) The placement of mobile homes in existing mobile home parks and subdivisions will comply with divisions (D)(1) through (D)(4) above.~~

~~—(F) Recreational vehicles. Recreational vehicles shall be prohibited from locating in flood hazard areas.~~

~~—(G) 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 feet above 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 flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.~~

~~(Prior Code, § 16.065.025) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

~~§ 155.347 VARIANCE AND APPEAL PROCEDURE.~~

~~—All variance requests are processed by the city according to the specifications set forth below.~~

~~—(A) The Planning Commission shall hear and decide requests for variances from the requirements of this subchapter.~~

~~—(B) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Planning Commission in the enforcement or administration of this subchapter.~~

~~—(C) Those aggrieved by the decision of the Planning Commission who have standing in the land use procedure may appeal such decision to the City Council.~~

~~—(D) (1) Generally, the only condition under which a variance from the elevation standard may be issued is 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, providing divisions (E)(1) through (E)(11) below have been fully considered.~~

~~—(2) As the lot size increases, the technical justification required for issuing the variance increases.~~

~~—(E) In reviewing and application for variance to the floodplain standards, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this subchapter, and:~~

~~—(1) The danger that materials may be swept onto other lands to the injury of others;~~

~~—(2) The danger to life and property due to flooding or erosion damage;~~

~~—(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~

- ~~—(4) The importance of the services provided by the proposed facility to the community;~~
- ~~—(5) The necessity to the facility of a waterfront location, where applicable;~~
- ~~—(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~—(7) The compatibility of the proposed use with existing and anticipated development;~~
- ~~—(8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;~~
- ~~—(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~—(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and~~
- ~~—(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.~~
- ~~—(F) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.~~
- ~~—(G) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.~~
- ~~—(H) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~—(I) Variances shall only be issued upon:~~
 - ~~—(1) A showing of good and sufficient cause;~~
 - ~~—(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and~~
 - ~~—(3) 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 local laws or ordinances.~~
- ~~—(J) (1) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances.~~
 - ~~—(2) They primarily address small lots in densely populated residential neighborhoods.~~
 - ~~—(3) As such, variances from the flood elevations should be quite rare.~~

~~—(K) Variances may be issued for non-residential buildings in very limited circumstances to allow a lesser degree of flood-proofing than water-tight or dry-flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, except division (D) above and otherwise complies with § 155.345 of this chapter.~~

~~—(L) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

~~—(M) Upon consideration of the factors of division (E) above and the purposes of this subchapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this subchapter.~~

~~—(N) The local Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.~~

~~(Prior Code, § 16.065.030) (Ord. 432, passed 10-17-2016; Ord. 445, passed 5-15-2017; Ord. 454, passed 10-1-2018)~~

Before the Planning Commission of the City of North Plains

In the matter of a City File No. TA 25-001)
a **TEXT AMENDMENT** to City of North)
Plains Zoning and Development)
Ordinance)

**FINAL ORDER AND
NOTICE OF DECISION**

Date of Decision: [REDACTED], 2025

Whereas, in 2018, the City of North Plains (“City”) updated the standards in the Zoning and Development Ordinance for development in the floodplains; and

Whereas, in 2020, the State of Oregon, Department of Land Conservation Development (“DLCD”), adopted a model ordinance for floodplain development; and

Whereas, in 2024, the Federal Emergency Management Agency (“FEMA”) notified cities in Oregon that it intends to update its regulations for floodplain development and that compliance with the updated regulations would be required to maintain federally subsidized insurance in floodplains; and

Whereas, FEMA provided a number of regulatory options for cities to achieve compliance, including development code amendments; and

Whereas, FEMA provided model development code amendments that were added to and made part of DLCD’s model floodplain ordinance; and

Whereas, to align the City’s Zoning and Development Ordinance with DLCD’s model ordinance and to ensure continuing federally subsidized insurance in the floodplains, the City initiated the text amendments attached as Exhibit A to this Order; and

Whereas, the Planning Commission conducted a duly noticed public hearing on April 9, 2025, at which it reviewed the proposed amendments, received additional evidence, and heard public testimony; and

Whereas, having considered the application and the evidence in the record, the Planning Commission approves a recommendation that the City Council adopt the proposed amendments attached as Exhibit A; and

Now therefore, it is hereby ordered by the North Plains Planning Commission:

Based on the Staff Report and Findings for City File No. TA 25-001 and dated April 2, 2025, attached hereto as Exhibit B to this Order, the City Planning Commission recommends the City Council approve the text amendments to the City Zoning and Development Ordinance attached as Exhibit A to this Order.

Stewart King, Chair

Date

Ex. A: Text Amendment

Ex. B: Staff Report dated April 2, 2025.

EXHIBIT A – TEXT AMENDMENT

EXHIBIT B – STAFF REPORT AND FINDINGS

**NOTICE OF PUBLIC HEARING-City of North
Plains
In-Person and Virtual (Hybrid) Meetings**

NOTICE IS HEREBY GIVEN that at **6:00 PM on Wednesday, April 9th, 2025, at Jessie Mays Community Center, 30975 NW Hillcrest Street and on Zoom**, the City of North Plains Planning Commission will hold an open Public Hearing on the following:

City File Number TA 25-001 – City of North Plains Floodplain Overlay Zone Code Amendment Per FEMA Requirements.

The City of North Plains is seeking Type IV Text Amendment approval for updates to the City's Floodplain Overlay Code pertaining to all lands located within a documented floodplain. The proposed changes are the result of a lawsuit brought about by the Portland Audubon Society against FEMA for implementing the National Flood Insurance Program (NFIP) in a manner that jeopardized the existence of endangered species in Oregon. As a result of settling the lawsuit, FEMA requires all affected local jurisdictions to amend their Floodplain code using one of their Pre-Implementation Compliance Measures (PICM) – Prohibition, Model Code, or Permit-by-permit. The City of North Plains has chosen to use the Oregon Floodplain Model Code and FEMA model code language to completely modernize the city's floodplain overlay code and adopt new code language proposed by FEMA into Floodplain Code by July 31st, 2025.

Applicable code sections: §155.330 – 155.347 (The proposed text amendments affect the entire Floodplain Overlay code).

The Zoom Meeting link, Meeting ID, and Passcode for the Planning Commission meeting is: **Join Zoom Meeting**
<https://us02web.zoom.us/j/89199254524?pwd=c2duRlMraFovRzZCNy9nVUlpTXc3UT09>

Zoom Meeting ID: 891 9925 4524, Passcode: 107702

The Zoom meeting link may also be accessed via the City's website: northplains.gov
Click on the "Calendar" link and find the "Planning Commission" link on April 9th, 2025.

Questions/comments can be directed to Planning Manager, Steve Miller steve.miller@northplains.gov or delivered to the Kindel Public Services Building, 29905 NW West Union Rd., North Plains, OR 97133.

Anyone is welcome to participate. There will be an opportunity during the public hearing(s) to ask questions or provide testimony.

The public hearing will be conducted according to the process identified in Development Code §155.032. The application and all evidence relied upon by the City to make the decisions is in the public record and is available for inspection by calling or emailing the Planning Manager, Steve Miller. Copies can be provided at a reasonable cost. The City's staff report and recommendation to the Planning Commission will be available for review no later than one week prior to the public hearing.

Failure to raise an issue in sufficient detail during the comment period or at the public hearing may preclude an appeal to the Land Use Board of Appeals or Appeals/Circuit Court on that issue. Only comments on the applicable criteria are considered relevant evidence. The hearing will be opened for presentation by the city and the applicant and then opened to the public. The hearing can be closed or continued at the discretion of the Planning Commission. If the hearing is closed, the Commission has the right to extend the time for additional information to be submitted by the public or the applicant. After the comment period closes on the final public hearing, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

Publish March 13 (online) and 20, 2025

NT354037

Building Permits

March 2025

PERMIT #	DATE RECEIVED	DESCRIPTION	APPLICANT	SITE ADDRESS
BP 25-060	3/7/2025	Type I BP for new furnance and heat pump	Earthwise Heating & Cooling	10303 NW Oakterrace
BP 25-061	3/12/2025	Type I BP for AC Install	Wolfers Heating & AC	11376 NW 314 th Ave.
BP 25-062	3/17/2025	Type I BP for Solar Install	Freedom Forever	30905 NW Timeric Dr.
BP 25-063	3/24/2025	Type I BP for AC Insall	Columbia NW Heating & Cooling	31013 NW Yorkshire St.
BP 25-064	3/25/2025	Type I BP for AC Install	Sunset Heating & Cooling	31687 NW Turel Dr.
BP 25-065	3/27/2025	Type I BP for Solar Install	Blue Raven Solar	10339 NW 291st Ave.

CITY OF NORTH PLAINS CITY COUNCIL UPDATE

Date: March 17, 2025

The following is a brief summary of the current tasks undertaken by the 3J staff for Engineering since the last update.

ENGINEERING

1. **ADA Analysis:**
 - The ADA report to be completed by end of March and submitted for City review.
2. **Commercial Street Sidewalk Improvements:**
 - Construction is substantially complete. The contractor is working on final punchlist corrections.
3. **Glencoe Sidewalk Improvements:**
 - Construction is substantially complete. The contractor is working on final punchlist corrections. Pending 60-degree weather to finalize striping.
4. **Main Street Improvements:**
 - Pending permit review comments from CWS. 3J working with CWS on questions they have. 3J is soliciting proposal from an arborist to review existing trees that may be impacted by construction, this consultant will walk Pacific St and Jessie Mays Park projects as well.
5. **Jessie Mays Park/309th/311th Improvements:**
 - The city is working with RR on the agreement. 3J working on permit comments received from RR and CWS. 3J and City met with PGE discussing the required power poles that require relocation. Permit resubmittal pending agreement with the RR.
6. **Pacific Street Improvements:**
 - TCE plan is complete and 3J is soliciting proposals from a Right-of-way consultant to assist in coordination. Anticipate permit submittal to CWS after resubmittal of Main Street.
7. **City Standards**
 - Continuing working on draft updates to both the City Engineering Design Manual and Standard Details. Anticipated schedule to have a draft to city by July 2025
8. **Sign/Street Light Inventory:**
 - 3J is collecting existing sign and street light inventory, approximately 3/4 of the City has been inventoried.
9. **Glencoe/West Union Intersection Improvements:**
 - The County had a kick-off meeting with City last week. 3J is coordinating with the RR to set up a meeting with the City, County, and RR to discuss the project. County boundary survey is near completion. Once boundary survey has been received the topographical survey work will begin.
10. **Small City Allotment Grant:**



- 3J is assisting the City in applying for a Small City Allotment Grant for pavement and pedestrian improvements. Anticipated projects for the grant, if awarded, will be pavement improvements along Hillcrest and sidewalk improvements along Commercial Street in front of the library.

DEVELOPMENT REVIEW:

- **Brynhill Phase 1:**
 - Project is at the end of the maintenance period. Lennar is working on correcting deficient items for final City acceptance.
- **Brynhill Phase 2:**
 - Project is at the end of the maintenance period. 3J submitted the maintenance punchlist to Lennar in early February. Lennar is working on correcting deficient items for final City acceptance.
- **Brynhill Phase 3:**
 - Project is at the end of the maintenance period. 3J submitted the maintenance punchlist to Lennar in early February. Lennar is working on correcting deficient items for final City acceptance.
- **Brynhill Phase 4**
 - Project is at the end of the maintenance period. 3J submitted the maintenance punchlist to Lennar in early February. Lennar is working on correcting deficient items for final City acceptance.
- **Brynhill Phase 5:**
 - Project is substantially complete. Lennar and their contractor are working to finalize the project and make corrections to the punch list.
- **Brynhill Traffic Calming:**
 - Project is currently in the 1-year maintenance period till October 2025.
- **Brynhill North Ave East Improvements:**
 - Project is in construction. Final pavement installation required dry pavement and 55-degree/rising temperatures.
- **Brynhill North Ave West Improvements:**
 - The permit plan has been approved. Construction to begin upon receipt of the performance bond and pre-construction meeting has been held.
- **Holmstead Subdivision:**
 - Project is currently in the 1-year maintenance period till January 2026.
- **Commercial Street Homes:**
 - Completed 1st round engineering review in Oct 2023. Pending resubmittal.
- **Spec Warehouse (Far West Recycling):**
 - Project in Construction. Paving along 289th completed.
- **NW West Union (Frank's Excavation):**
 - Land use approved in April 2024. Pending permit formal permit submittal.
- **Kaybern 2-lot Development:**
 - City is requiring a performance bond or a letter of credit prior to start of construction.



- **St. Edwards Church:**
 - Initial Public Works Permit submittal received in August 2024, revised plans received January 2025. Permit review is pending review/inspection deposit payment.
- **Brynhill Apartment:**
 - Received Land Use approval on December 11, 2024
- **Commercial Street Partition:**
 - Received Land Use approval on November 25, 2024.
- **31590 NW Lenox Street:** Permit review of $\frac{3}{4}$ street improvements along Wascoe pending receipt of revised drawings and review fee deposit.
- **31085 NW Commercial:** Site construction has begun. 3J/City has reached out to the developer for ROW permit requirements. 3J Currently reviewing what permit for work in the ROW.

--- END OF DOCUMENT ---

