

ORDINANCE NO. 851

AN ORDINANCE TO ADOPT TEXT AMENDMENTS TO CHAPTERS 1, 2, 4 AND TO ESTABLISH CHAPTER 14 OF THE TROUTDALE DEVELOPMENT CODE.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City of Troutdale recognizes the importance of flood management regulations in helping to ensure the protection of property and life.
2. The existing flood management regulations are required to be updated to secure compliance with federal, state, and regional standards.
3. New Flood Insurance Rate Maps and Flood Insurance Studies for the Sandy River basin are to be in effect on February 1, 2019, necessitating a text amendment action to update regulations prior to the effective date in order to maintain good standing in the National Flood Insurance Program.
4. The Planning Commission has reviewed proposed amendments at a public hearing during the November 14, 2018 meeting and voted 6-0 to forward a recommendation of approval.
5. The draft amendments have been reviewed and no additional testimony has been provided by the Federal Emergency Management Agency, Oregon Department of Land Conservation and Development, or Metro; as presented.
6. The City Council has adopted findings consistent with the provisions set forth in Troutdale Development Code Section 6.1100 as set forth in Attachment A.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

- Section 1. Chapter 1 shall be amended as set forth in Attachment B.
- Section 2. Chapter 2 shall be amended as set forth in Attachment C.
- Section 3. Chapter 4 shall be amended as set forth in Attachment D
- Section 4. Chapter 14 shall be newly established as set forth in Attachment E.
- Section 5. This Ordinance shall be effective on February 1, 2019.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**



**Casey Ryan, Mayor
Date: December 13, 2018**



**Sarah Skroch, City Recorder
Adopted: December 11, 2018**

STAFF REPORT

TO: Troutdale Planning Commission

STAFF REPORT DATE: Wednesday, October 24, 2018

STAFF / APPLICANT: Ryan Krueger, CFM; Senior Planner & Floodplain Manager
Chris Damgen, Community Development Director

CASE FILE: **75-03 Text Amendments: Flood Management**

SUBJECT: **Proposed Text Amendments to the Troutdale Development Code**

APPLICABLE CRITERIA: TDC Sections 2.065 and 6.1100

HEARING DATE: Wednesday, November 14, 2018

RECOMMENDATION: Planning Commission to review proposal, open the public hearing, consider proposed testimony and amendments from all parties, and recommend approval of the proposed text amendments with any additional amendments proposed to the City Council.

1. BACKGROUND

The City of Troutdale is required to undergo a comprehensive update to its flood management standards. These standards are in need of update due to the following circumstances:

- The release of new Flood Insurance Rate Maps (FIRM) and Flood Insurance Studies (FIS) for Troutdale by the Federal Emergency Management Agency (FEMA), to go into effect on February 1, 2019. Communities that have updated FIRM and FIS must have flood management regulations that are in compliance with standards in the National Flood Insurance Program (NFIP) at the time of map and study adoption. A FEMA audit of the City's current regulations found areas where code amendments were necessary.
- The State of Oregon's Department of Land Conservation & Development (DLCD) performs "Community Assistance Visits" (CAV) which involve a review of a city's flood management regulations in coordination with both federal and state standards. In 2014, the results of a CAV compelled the City of Troutdale to update its regulations. The City and DLCD agreed to defer the update within six (6) months of an effective date for the adoption of new FIRM and FIS. This direction from DLCD was reaffirmed during the CAV in 2018.
- The City's voluntary participation in the NFIP Community Rating System (CRS).

2. REVIEW TIMELINE

The City was notified of the need to update flood management regulations in 2014 during the CAV performed by DLCD as described above. On August 1, 2018, FEMA and its contractor informed communities in the Sandy River basin that revised FIRM and FIS would be going into effect on February 1, 2019. This effectively started the clock for communities to update their regulations based on federal and state requirements in order to maintain compliance. Consistent with State law, properties directly affected received “Measure 56” notices (**Attachment I**).

3. IMPORTANT TERMINOLOGY

Floodplain management often uses terms or abbreviations that appear interchangeable, but carry distinct differences. Listed below are important terms that are used throughout the Code. Please consult with the definitions in Section 1.040 for the precise definition. **Attachment H** also provides a reference for typical abbreviated terms in floodplain management.

Special Flood Hazard Area (SFHA)

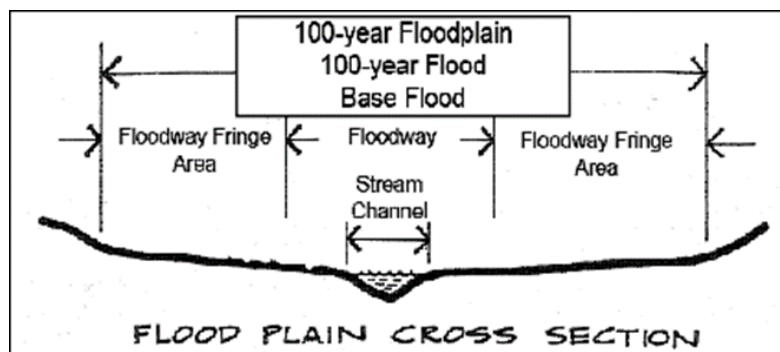
Also known as the “**100-year floodplain**”, these are areas that have an annual one percent (1%) chance of flooded conditions. In Troutdale, these areas are included in what is historically called the “**Flood Management Area**”. Properties and structures that are fully or partially affected by the SFHA are subject to the floodplain standards that are being reviewed.

Flood Zone

This is a term that is often misunderstood and misused. FEMA considers all properties to have flood zones. When most people think of flood zones, they are actually thinking of special flood hazard areas. Staff discourages the use of this term in a broad sense and utilizes it in conjunction with the actual flood zone assigned to a particular location (Flood Zone AE, Flood Zone X, etc.).

Floodway

This is a specific area within the Special Flood Hazard Area that has the greatest risk of regular flooding (see exhibit below). Floodways have more restrictive standards for development due to higher risk. See specifically Section 1.040.42 for the actual regulatory definition. See Sections 14.030, 14.045, and 14.050 for floodway-specific standards.



4. PROPOSED TEXT AMENDMENTS

The proposed text amendments would cover four (4) chapters in the Troutdale Development Code (TDC). This includes the transfer of flood management regulations from Section 4.500 to a new Chapter 14. Chapters 1, 2, and 4 are also amended.

Any required changes to the table of contents or sectional references in other chapters within the TDC would be made upon adoption and are deemed non-substantive. The following is a summary of the proposed amendments:

CHAPTER 1 – INTRODUCTORY PROVISIONS

There is one (1) section amendment proposed for this chapter:

1.040 Vegetation Corridor, Slope District, Water Quality and Flood Management Definitions

The definition section is updated with several new definitions and re-wordings, consistent with requirements and guidance from FEMA and DLCDC. Please see **Attachment B** for the “clean” draft version and **Attachment F** for the “red-line” version.

CHAPTER 2 – PROCEDURES FOR DECISION-MAKING

There is one (1) section amendment proposed for this chapter.

2.220 Expiration of a Decision

The primary amendment is the inclusion of “flood development” permit land use decisions, which are to have a 180 day expiration period if no construction is occurring.

The additional amendments are the alphabetizing of the decisions currently listed so they are not listed without a specific sub-section reference. These amendments are non-substantive. Please see **Attachment C** for the “clean” draft version.

CHAPTER 4 – ZONING DISTRICT OVERLAYS

There is one (1) section amendment proposed for this chapter.

4.500 Flood Management Area

This section is proposed to be stricken in its entirety, with all flood management area regulations to be relocated to a new chapter in the TDC (Chapter 14). Section 4.500 would be reserved for a future zoning overlay district if needed. Please see **Attachment D** for the “clean” draft version.

CHAPTER 14 – FLOOD MANAGEMENT

This is a **proposed new chapter** that currently contains standards within Section 4.500. Because of the size of the section, coupled with the issue that the regulations contain not only overlay standards but also permitting and procedural standards, it was determined that a stand-alone chapter would be a more proper location within the Code.

Listed below is a **summary** of each section within the Chapter, along with a description of any major changes. Please also see **Attachment E** for the “clean” draft version (showing changes in a new Chapter 14) and **Attachment G** for the “red-line” version (showing changes in Section 4.500, the current location of standards).

14.005 Purpose (currently 4.510)

This section expands upon the provisions from the current TDC that flood management standards seek to govern. The purpose statement is generally the same.

14.010 Applicability (currently 4.512)

This section relocates the enumerated items needed for a flood development permit (shown in sub-section B) to another portion of the chapter where it is more logically located.

14.015 Severability (new)

This section is new and refers to the general severability standards in Chapter 17. This was requested by FEMA and DLCDC.

14.020 Administration and Interpretation of FIRM Boundaries and Flood Management Area Standards (currently 4.513, [...] and Edge of Bankfull Stage or Two-Year Storm Level)

This section’s title was amended. Sub-section A has minor changes but now specifically calls out powers of determination and permit issuance. Sub-section B is new and effectively outlines the roles of the floodplain manager with enumerated responsibilities. The proposed Sub-section C is currently Sub-section B. The proposed Sub-section D is currently Sub-section C. Sub-section E is new and refers to inspections that can be made.

14.025 Uses within the Floodplain but Outside the Floodway and Outside Wetlands (currently 4.514)

Sub-section A (Prohibited Uses) remains largely the same, with more specificity given to the prohibition of uncontained, outside storage areas of hazardous materials.

Sub-section B (Permitted Uses) is generally the same with a couple of notes.

- In Item 4, it refers to the City of Portland Plant List as a reference material. The City of Troutdale has no independent reference document for native plantings. In the current standards, a reference to a Metro Native Plant list is shown, but that document is not in existence. The Portland Plant List is the reference most often used in the area in lieu of other reference material and is the preferred standard for the draft.

- Item 13 is new, in that wildfire mitigation projects are now listed. This was a specific recommendation of the City’s Hazard Mitigation Plan.

14.030 Uses within the Floodway or within Wetlands (currently 4.515)

Sub-section A (Prohibited Uses) remains largely the same, except greater clarity was given on vegetation removal, fill, or excavation with regards to wildfire mitigation projects and the addition of prohibiting uncontained outside storage areas of hazardous materials.

Sub-section B (Permitted Uses) remains largely the same, except it removes stream habitat restoration and vegetative removal/restoration projects that were currently permitted. Dead/dying trees may be removed.

14.035 Floodplain Development Permit (currently 4.516)

This section has been heavily modified, due mostly to FEMA, DLCD, and Metro requirements but also to eliminate ambiguity. The most basic change is the new title, which now refers to permits as Flood Development Permits (currently Flood Hazard Permits). In addition, the section better outlines submittal requirements and permit type differentiations based on the desired activity.

Sub-sections A and B are new and contain background and applicability information, respectively.

Sub-section C (currently A) list exemptions from permitting requirements. Several currently exempted activities were removed due to FEMA requirements. However, exemptions were maintained for the following activities:

- removal of refuse;
- vegetative removal/restoration work;
- emergency tree removal; placement of fill in residential zones (for certain circumstances);
- installation of certain fencing;
- certain landscape activities;
- preservation of wetlands; and
- certain activities performed by the Sandy Drainage Improvement Company (SDIC).

Sub-section D lists submission requirements for a Floodplain Development Permit. The list of items appears long, however much of the information in most circumstances can be readily obtained with assistance from the City. Ensuring these items are submitted also helps to keep record-keeping in order—an important task in Community Rating System scoring. Flood development permit applications would require the following:

- site plan
- topographic survey
- elevations of lowest floor (for structures)
- hydrology and soils report (for ground disturbance/vegetation removal that exposes soil)
- grading plan (if grading is occurring)

- vegetation report (if vegetation removal or similar impacts occur)
- “no-rise” certification and letter of map change (certain activities in floodway)
- building and structure elevations (if applicable)
- infrastructure exhibit
- floodplain or watercourse alterations (if applicable)
- any other permits issued (or applied for) related to project

Sub-section E is expanded from the current version and better outlines the need for Flood Development Permits, based on the typical decision-making system used elsewhere in the TDC.

A **Type I permit** (Staff decision) is required for construction, repair, and alteration of single-family residential dwellings and manufactured dwellings; emergency bank stabilizations; and wildfire mitigation projects. A **Type II permit** (Staff decision with notification) is required for any Type II site development reviews; new/expanded streets, bridges, railroads, or trestles; permanent bank stabilization or fill; balanced cut-and-fill; fill of wetlands; and similar activities. A **Type III permit** (Planning Commission decision with notification) is required for any uses requiring a Type III review, variances requested within Chapter 14, and proposed alterations of a watercourse.

Sub-section F attaches review criteria for decision-making to Flood Development Permits, similar to that of other procedures in the TDC.

Sub-section G includes mandatory conditions of approval that would be included in every approved Floodplain Development Permit. Item 3 is a mandatory addition from Metro Title 3 of the Functional Plan.

14.040 Development Standards (currently 4.517)

This section remains generally the same, with a few notable provisions that have been altered or added in this proposal. Some of the proposed changes are for Community Rating System bonus credits, which could allow the City to achieve a better score to further reduce flood insurance rates for those who carry flood insurance.

Sub-section G is more specific in maintaining flood storage capacity through the “balanced cut and fill” approach that is typical for developing in special flood hazard areas. Specifically, the following provisions are new:

- Development may not result in any increase in flood levels throughout the special flood hazard area (currently undefined on the extent that no increase situation could occur)
- **Item 5:** New buildings built on fill must have fill that is certified by a professional engineer, and offers protection from erosion and scour.
- Part of **Item 6:** Provides relief for some applications from requirements to submit Letters of Map Change
- **Item 7:** Allows for the City to outsource engineering analysis of flood storage capacity to consultants who have technical aptitude to review plans and advise on action.

Sub-section H (Residential Development) has proposed changes as described below..

- **Item 1:** Elevation Certificates to be required for all residential development (CRS bonus)
- **Item 2.d:** When possible, have two opposing side openings for enclosed areas for flood waters to pass through.
- **Item 3.f:** Flood vent opening placement standards now in place (avoids standing water).
- **Item 4:** Require elevation of non-elevated structures to two (2) feet above base flood elevation (currently one (1) foot above base flood elevation; CRS bonus)

Sub-section I (Manufactured Dwellings) and Sub-section J (Recreational Vehicles) have updated standards as required by FEMA.

Sub-section K (Nonresidential Construction) remains largely the same, though new standards are in place for those structures who utilize floodproofing techniques. Those standards include submitting a maintenance plan (Item 6) and an emergency action plan (Item 7) if required.

Sub-section R (Utilities and Roads) would require roads built in the floodplain to be built at or above base flood elevation for emergency access purposes. (CRS bonus)

Sub-section S requires additional state agency notification for applications with alterations or relocations of watercourses.

Sub-section U (Critical Facilities) contains the following changes of interest:

- The “definition” of critical facilities can be found in Section 1.040. The current version re-articulates the definition, so it is proposed to be removed.
- Critical facilities constructed in special flood hazard areas should have their lowest floor elevated to one foot above the 500-year flood level. (CRS bonus)

Sub-section V (Small Accessory Structures) is a new sub-section designed to provide relief for certain types of accessory structures under certain circumstances.

14.045 Floodways (new)

This section is new and provides clear guidance on approving development activity in the floodway, which is generally discouraged due to the hazards associated with these areas.

14.050 Before Regulatory Floodway (new)

This section is new and prohibits most development activities to occur in areas where a regulatory floodway has not been designated. This situation is likely not to occur in Troutdale but is required to be in the floodplain regulations for the City.

14.055 Flood Management Area Variance Procedures (currently 4.518)

This section has been expanded, primarily at the direction of FEMA and DLCD.

Sub-section A is new and provides guidance on requests to vary from elevation standards based on 11 considerations outlined therein.

Sub-section B allows for relief to be sought for historic structures, with three (3) approval criteria items to be considered.

Sub-section C prohibits variances from being issued within a designated floodway if increased flood levels during the base flood discharge would result.

Sub-section D is the “minimum necessary” clause for most variance applications.

Sub-section E (currently sub-section A) remains the same, with a process for determination now established elsewhere in the Chapter.

Sub-section F (currently sub-section B) remains the same.

Sub-section G (currently sub-section C) allows for conditions to be attached by the decision-making entity.

Sub-section H (currently sub-section D) remains the same but is also expanded to allow for nonresidential buildings in very limited circumstances to seek variances from floodproofing standards.

Sub-section I (currently sub-section E) is mostly the same, with a reference changes.

Sub-section J (currently sub-section F) is mostly the same with an additional code reference in decision criteria 3 and two new decision criteria:

- Item 5: Determination that project cannot be located outside SFHA and that any impacts have been minimized to the extent practicable.
- Item 6: Consistency with other laws and ordinances.

14.060 Prescribed Conditions for the Rehabilitation or Replacement of Pre-Existing Structures
(currently 4.519)

This section remains mostly the same, with certain updates to references within the Code.

4. FACTS AND FINDINGS

TDC Section 2.065 specifies that the City Council is the decision-making body for text amendment applications after the Planning Commission forwards a recommendation for their consideration. Planning Commission is charged with making a finding for each applicable criterion point as listed in TDC Section 6.1120. Listed below are draft findings prepared by Staff for Planning Commission to review and amend as needed, upon the conclusion of the public hearing portion of the meeting and prior to a vote for a recommendation.

A. The proposed change to the Development Code does not conflict with applicable Comprehensive Land Use Plan goals or policies.

The Comprehensive Plan policies are in line with the proposed amendment. Goal 5, Policy 9 states that the City should “Notify and coordinate development proposals within natural resource areas with other local, state, and federal agencies”. Goal 7, Policy 1 speaks to “ensure that development in highly hazardous areas will be restricted or prohibited. Development may be allowed in areas of potential hazard if appropriate safeguards are taken in the design and construction to protect affected persons and property. Goal 7, Policy 3 seeks to restrict development within flood hazard areas to those uses which can be adequately floodproofed. The Code amendments are in line with these policies. **The criterion is met.**

B. The proposed change is consistent with the applicable Statewide Planning Goals.

The text amendments proposed are due in part to a State review of the existing regulations and required amendments to be made to come into compliance with Statewide Planning Goals in addition to federal standards. The state has performed a cursory review of the amendments as presented and have no additional comments. **The criterion is met.**

C. The proposed change is consistent with the applicable provisions of Metro Code.

The proposed text amendments are consistent with several Metro Code provisions and would be in conformance with Title 3 (Water Quality and Flood Management) of the Metro Growth Management Functional Plan. Of particular interest, the City was required to more specifically spell out required conditions of approval for flood development permits to ensure conformance with Title 3. **The criterion is met.**

D. Public need is best satisfied by this particular change.

Flood management is an exercise in protecting property and life from hazardous conditions. A primary responsibility of a local government is ensuring the safety of the community at large. The standards provide guidelines for responsible development in areas that are deemed to have flood risk, in order to minimize loss in case of a flood event. Furthermore, some of the regulations financially benefit the city residents, as they count toward a higher score on the Community Rating System, thus reducing insurance costs for all property owners. **The criterion is met.**

E. The change will not adversely affect the health, safety, and welfare of the community.

The existing flood management standards, along with the text amendments proposed are precisely in the spirit of protecting the health, safety, and general welfare of the community. do not weaken already existing standards that would suggest development activities would be more suitable in the flood management areas. The proposed amendments offer certain activities relief mechanisms in the forms of variances or in required submittal items, but in those situations, the applicants must demonstrate no negative impacts that would adversely affect public health, safety, or welfare. **The criterion is met.**

5. STAFF RECOMMENDATIONS

Staff offers the following recommendations for the conduct of the November 14, 2018 public hearing for the proposed amendments to the Troutdale Development Code.

- A. Conduct a public hearing and receive all public testimony relating to the proposal. Consider the public testimony and the facts and findings presented in the staff report and deliberate on policy issues, proposed amendments, and other issues identified by the Commission, Staff, other public entities, or the public.
- B. Recommend **approval** of the proposed text amendment application to the City Council for its consideration for its meeting and subsequent public hearings.

ATTACHMENTS

- A. This Staff Report
- B. TDC Section 1.040 (Definitions) – “Clean” Draft
- C. TDC Section 2.220 (Expiration of Decision) – “Clean” Draft
- D. TDC Section 4.500 (Flood Management Area) – “Clean” Draft
- E. TDC Chapter 14 – “Clean” Draft (formerly Section 4.500)
- F. TDC Section 1.040 (Definitions) – “Red-Line” Draft
- G. TDC Section 4.500 (Flood Management Area) – “Red-Line” Draft (to become Chapter 14)
- H. Common Floodplain Management Terms
- I. Measure 56 Notice & Map

- 1.040 Vegetation Corridor and Slope District, Water Quality, and Flood Management Definitions.
- .01 100-Year Flood. The flood that is equaled or exceeded once in one hundred (100) years on the average; equivalent to the one percent annual chance flood. Also called the Special Flood Hazard Area, Base Flood, and 100-year floodplain.
- .02 Area of Shallow Flooding. Means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one to three (1 - 3) 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.
- .03 Area of Special Flood Hazard. Means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). 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, AR/A1-30, AR/AE, AR/AO, AR/AH, 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".
- .04 Bankfull Stage. As defined in the Oregon Administrative Rules pertaining to removal/fill permits, the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation (storm level) may be used to approximate the bankfull stage. The bankfull stage is the starting point for measuring the width of a vegetation corridor from a protected water feature. In the absence of any data to establish the bankfull stage or two-year storm event, the starting point for measuring the vegetation corridor is determined by the following indicators:
- a. Water marks on fixed objects (vegetation, rocks, buildings, etc.);
 - b. Drift lines (deposited waterborne twigs, litter, etc.); or
 - c. Waterborne sediment deposits on the soil surface or fixed objects (vegetation, rocks, buildings, etc.)
- .05 Base Flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- .06 Base Flood Elevation. The water surface elevation during the Base Flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the Flood Insurance Rate Map to the nearest foot and in the Flood Insurance Study to the nearest one-tenth (0.1) foot. Not every potential Special Flood Hazard Area within the Urban Growth Boundary has been mapped by the Federal Emergency Management Agency through the

- Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps. The Floodplain Manager or designee is authorized through Section 14.020 to obtain the information necessary to determine the presence and extent of unmapped Special Flood Hazard Areas and the associated Base Flood Elevation as part of reviewing development proposals that affect the 100-year Floodplain. Such information shall be used by the City of Troutdale to supplement the Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps.
- .07 Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
- .08 Below-Grade Crawl Space. Means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four (4) feet at any point.
- .09 Breakaway Wall. Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- .10 Conservation Easement. An easement applied to environmentally sensitive lands including, but not limited to, lands identified as hillsides, wetlands, floodplains, and floodways. The field verification shall be done by a licensed surveyor, engineer, hydrologist, or any other licensed specialist in the fields of engineering, hydrology, or botany. A conservation easement prohibits most forms of development and assures that native vegetation will be maintained or enhanced. Conservation easements usually affect privately owned land and are enforceable by the City. Trails and limited public facilities may be permitted under carefully controlled conditions within conservation easements.
- .11 Construction, Start of. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), 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 one hundred eighty (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.

- .12 Critical Facility. A facility that is critical for the health and welfare of the population and is especially important to be located above the Base Flood Elevation following hazard events. The following is the list of Critical Facilities for the purposes of Chapter 14:
- a. Hospitals and other medical facilities having surgery and emergency treatment areas;
 - b. Fire and police stations;
 - c. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures. These tanks or other structures do not include City water distribution facilities;
 - d. Emergency vehicle shelters and garages;
 - e. Structures and equipment in emergency-preparedness centers;
 - f. Standby power generating equipment for essential facilities;
 - g. Structures and equipment in government communication centers and other facilities required for emergency response; and
 - h. Other facilities as determined by the Floodplain Manager or designee.

Some types of facilities may be critical to a community, but require location within or partially within Special Flood Hazard Areas because of the nature of the facilities.

- .13 Debris. Debris includes discarded manmade objects and may include tires, vehicles, litter, scrap metal, construction waste, lumber, plastic, or styrofoam. Debris does not include objects necessary to a use allowed by this Code, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees, or trees which have fallen into protected water features.
- .14 Department of Environmental Quality (DEQ) Water Quality Standards. State of Oregon DEQ water quality standards are the numerical criteria or narrative condition needed in order to protect an identified beneficial use.
- .15 Design Flood Elevation. The elevation of the 100-year storm as defined in the Federal Emergency Management Agency Flood Insurance Studies or, in areas without Federal Emergency Management Agency floodplains, the elevation of the 25-year storm or the edge of mapped flood-prone soils or similar methodologies.

- .16 Developer. The owners of property, their agents or contractors, or their successors and assigns, who have undertaken or are proposing development which is regulated by Sections 4.300, 5.600, 5.700, and Chapter 14 of this Code.
- .17 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.
- .18 Digital Flood Insurance Rate Map. Depicts flood risk and federal flood zones and flood risk information. The Digital Flood Insurance Rate Map (DFIRM) presents the flood risk information in a format suitable for electronic mapping applications.
- .19 Disturb. Any manmade changes to the existing physical status of the land which are made in connection with development.
- .20 Elevated Building. Means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- .21 Elevation Certificate. A form supplied by the Federal Emergency Management Agency (FEMA) and used to document the lowest floor elevation of a building.
- .22 Emergency. Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- .23 Engineer. A registered professional engineer licensed by the State of Oregon.
- .24 Enhancement. The process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.
- .25 Erosion. Erosion is the detachment and movement of soil particles, rock fragments, or other material, organic or inorganic, resulting from actions of water, wind, human, or animal activity.
- .26 Erosion Hazard Zone. The area adjacent to a stream or river that is at risk of bank erosion from stream flow or mass wasting, as designated on the communities FIRM.
- .27 Erosion Prevention and Sediment Control Plans. Plan requirements are specified in the City of Troutdale’s Construction Standards for Public Works Facilities.
- .28 Erosion, Visible or Measurable. Visible or measurable erosion includes, but is not limited to:

- a. Deposits of mud, dirt sediment, or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
 - b. Evidence of concentrated flows of water over bare soils, turbid or sediment laden flows, or evidence of onsite erosion such as rivulets on bare soil slopes where the flow of water is not filtered or captured on the site.
 - c. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.
- .29 Excavation. Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated.
- .30 Existing Building or Structure. A structure for which the Start of Construction commenced before February 1, 2019.
- .31 Federal Emergency Management Agency (FEMA). The agency with the overall responsibility for administering the National Flood Insurance Program.
- .32 Fill. Any material such as, but not limited to, sand, soil, rock, gravel, clay, or mud that is placed on a site for the purposes of development or redevelopment.
- .33 FIRM. See Flood Insurance Rate Map.
- .34 Flood or Flooding. Means:
- 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.

- .35 Flood Insurance Rate Map (FIRM). An 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.
- .36 Flood Insurance Study (FIS). Also known as the flood elevation study, means 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.
- .37 Flood Management Area (FLMA). All lands contained within the 100-year floodplain and floodway as shown on the Flood Insurance Rate Map, and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.
- .38 Floodplain. As shown below in Figure 1 - Floodplain Cross Section, the area adjacent to a stream or river channel that is covered by water when the river or stream overflows its banks.
- .39 Floodplain Development Permit. Federally required permit required prior to construction and other development in any Special Flood Hazard Area (100-yr. Floodplain). See Section 14.035 of this Code.
- .40 Floodplain Functions. Hydrological and ecological functions including conveyance and temporary storage of floodwater, depositions of sediments outside of the channel, ground water recharge, filtering of pollutants, and reduction of floodwater velocity and erosive forces. Also included, but to a lesser extent in previously urbanized areas, are such functions as nutrient exchange, refuges, and feeding areas for fish.
- .41 Floodplain, 100-Year. As shown below in Figure 1 - Floodplain Cross Section, land area adjacent to a river, stream, or other water body that is subject to a one percent or greater chance of flooding in any given year. It consists of land ranging from that which is subject to annual flooding to that which has a one percent (1%) or greater chance of flooding in any given year. The 100-year Floodplain consists of the Floodway and the Floodway Fringe. The 100-year Floodplain is mapped by the Federal Emergency Management Agency (FEMA) on Flood Insurance Rate Maps (FIRMs) and is the area subject to Base Flood regulations. Not every potential Special Flood Hazard Area within the Urban Growth Boundary has been mapped by the Federal Emergency Management Agency through the Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps. The Floodplain Manager or designee is authorized through Section 14.020 to obtain the information necessary to determine the presence and extent of unmapped Special Flood Hazard Areas as part of reviewing development proposals

that affect the 100-year Floodplain. Such information shall be used by the City of Troutdale to supplement the Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps and these areas are also subject to Base Flood regulations. See Base Flood.

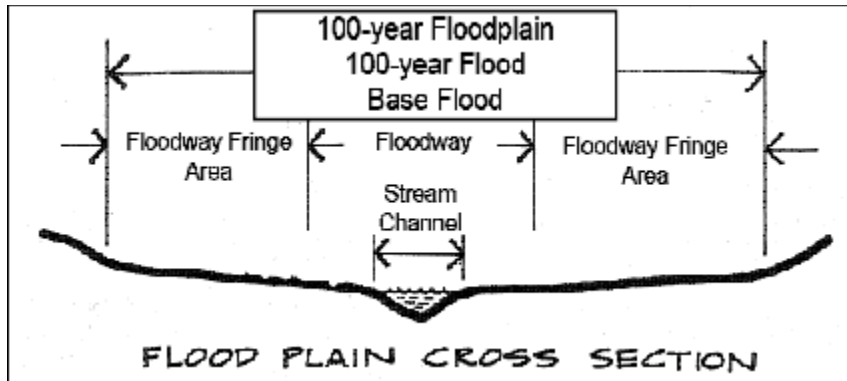


Figure 1 – Floodplain Cross Section

- .42 Floodway (Regulatory Floodway). Means 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.
- .43 Flow-through Design. Typically a structure that does not displace surface floodwater or hinder or obstruct the movement of surface floodwater.
- .44 High Hazard Zone. Lands within the furthest landward extent of the floodway and erosion hazard zone, as designated on the communities FIRM.
- .45 Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for more information.
- .46 Hydrodynamic Load. Force of water in motion.
- .47 Hydrostatic Load. Force of water at rest.
- .48 Invasive Non-native or Noxious Vegetation. Plant species that are listed as nuisance plants or prohibited plants on the most recent Portland Plant List as adopted by the City of Portland by ordinance because they are plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities.
- .49 Joint Fill Permit/404 Removal/Fill Permit. A permit issued jointly by the Oregon Department of State Lands and U.S. Army Corps of Engineers to allow, with conditions and mitigation, the removal or fill of wetlands determined to be of either local or state significance by the Oregon Department of State Lands.

- .50 Letter of Map Change (LOMC). An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:
- a. Letter of Map Amendment (LOMA) - A revision based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a Special Flood Hazard Area.
 - b. Letter of Map Revision (LOMR) - A revision based on technical data showing, usually due to manmade changes, alterations to Federal Flood Zones, flood elevations floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure has been elevated through the placement of fill above the Base Flood Elevation and is excluded from the Special Flood Hazard Area.
 - c. Conditional Letter of Map Revision (CLOMR) - A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- .51 Lowest Floor. Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of CFR Sec. 60.3.
- .52 Manufactured Dwelling. Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle.”
- .53 Manufactured Dwelling Park or Subdivision. Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- .54 Mean Sea Level. For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other Datum, to which Base Flood Elevations shown on a community's FIRM are referenced.
- .55 Mitigation. The reduction of adverse effects of a proposed project by considering, in this order:
- a. Avoiding the impact altogether by not taking a certain action or parts of an action;

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the effected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
 - e. Compensating for the impact by replacing or providing comparable substitute water quality resource areas.
- .56 Mulch. Application of plant residue, netting, or other suitable materials to the land surface to conserve moisture, hold soil in place, and aid in establishing plant cover.
- .57 NAVD 88. The North American Vertical Datum of 1988 (NAVD 88) is the vertical control datum established in 1991 by the minimum-constraint adjustment of the Canadian-Mexican-U.S. leveling observations. This is the data used on FIRMs and in flood insurance studies adopted in 2009.
- .58 NGVD 29. “The National Geodetic Vertical Datum of 1929: The name, after May 10, 1973, of (the) Sea Level Datum of 1929.” (Vertical control datum established for vertical control in the United States by the general adjustment of 1929.) This is the datum used on FIRMs and in flood insurance studies prior to 2009.
- .59 National Flood Insurance Program (NFIP). A federal program enabling property owners in participating communities to purchase insurance as a protection against flood losses in exchange for state and community floodplain management regulations that reduce future flood damages.
- .60 Native Vegetation or Native Plant. Vegetation listed as a native plant on the most recent Portland Plant List as adopted by the City of Portland by ordinance and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Portland Plant List.
- .61 National Wetland Inventory (NWI) Map. The City is mapped on the Camas and Washougal, Washington-Oregon wetland maps prepared by the U.S. Department of the Interior, Fish and Wildlife Service.
- .62 New Construction. A structure for which the Start of Construction commenced after February 1, 2019, and includes subsequent Substantial Improvements to the structure.
- .63 NPDES Permit. The National Pollutant Discharge Elimination System 1200-C Permit is a State of Oregon Department of Environmental Quality permit that covers federal stormwater regulations as they pertain to construction activities in Oregon. The permit is

- administered by the City.
- .64 ODFW Construction Standards. The Oregon Department of Fish and Wildlife construction guidelines for building roads, bridges, and culverts, or any transportation structure within a waterway.
- .65 One Percent Annual Chance Flood. The flood that has a one percent (1%) chance of being equaled or exceeded on the average in any given year; equivalent to the 100-year flood.
- .66 Open Space. Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves, and parks.
- .67 Perennial Streams. All primary and secondary perennial waterways mapped by the U.S. Geological Survey, having year-round flow.
- .68 Practicable. Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- .69 Pre-FIRM Structures. Buildings that were built before the flood risk was known and identified on the community's FIRM.
- .70 Protected Water Features, Primary. Includes:
- a. Title 3 wetlands.
 - b. Rivers, streams (creeks or brooks) and drainages downstream from the point at which one hundred (100) acres or more are drained to that water feature (regardless of whether it carries year-round flow).
 - c. Streams carrying year-round flow.
 - d. Springs which feed streams and wetlands and have perennial (year-round) flow.
 - e. Natural lakes.
- .71 Protected Water Features, Secondary. Includes intermittent streams and seeps downstream of the point at which fifty (50) acres are drained and upstream of the point at which one hundred (100) acres are drained to that water feature.
- .72 Restoration. The process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.
- .73 Recreational Vehicle (RV). A vehicle which is:

- a. Built on a single chassis;
 - b. Four hundred (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.
- .74 Resource. A functioning natural system such as a wetland or stream.
- .75 Riparian. Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- .76 Routine Repair and Maintenance. Activities directed at preserving an existing allowed use or facility, or nonconforming use, without expanding the development footprint or site use.
- .77 Sediment. Any material that is in suspension, is being transported, or has been moved from its site of origin by water, wind, or gravity as a result of erosion.
- .78 Site. The lot, or contiguous lots, under the same ownership that are subject to a development permit or erosion control plan.
- .79 Slope District. Slopes of twenty-five percent (25%) or greater throughout the City that have a minimum horizontal distance of fifty (50) feet. Engineered slopes associated with public streets or roads are not included.
- .80 Special Flood Hazard Area (SFHA). The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHB (Flood Hazard Boundary Map). 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, AR/A1-30, AR/AE, AR/AO, AR/AH, 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”.
- .81 Statewide Planning Goal 5. Oregon’s statewide planning goal that addresses open space, scenic and historic areas, and natural resources. The purpose of the goal is to conserve open space and protect natural and scenic resources.
- .82 Statewide Planning Goal 6. Oregon’s statewide planning goal that addresses air, water, and land resources quality to “maintain and improve the quality of the air, water, and land resources of the state” as implemented by the Land Conservation and Development

Commission (LCDC).

- .83 Statewide Planning Goal 7. Oregon’s statewide planning goal that addresses areas subject to natural disasters and hazards to “protect life and property from natural disasters and hazards” as implemented by the Land Conservation and Development Commission.
- .84 Stockpile. Onsite storage of any soil, sand, gravel, clay, mud, debris, vegetation, refuse, or any other material, organic or inorganic, in a concentrated state.
- .85 Stream. A body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet, or river, that flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- .86 Stream Bank, Top of. See Bankfull Stage.
- .87 Structure. Means, 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 home. Structure, for insurance purposes, means:
- a. A building with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site;
 - b. A manufactured dwelling; or
 - c. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.
- For the latter purpose, structure does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in Section 1.040.87(c), or a gas or liquid storage tank.
- .88 Substantial Damage. Damage of any origin sustained by a structure located within the 100-year Floodplain, whereby the cost of restoring the structure to its prior condition would equal or exceed fifty percent (50%) of the structure's market value before the damage occurred.
- .89 Substantial Improvement. Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds forty-nine percent (49%) 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.
- .90 Surface Water Management System. All natural and constructed facilities used to regulate the quantity and quality of surface water, including drainage easements, culverts, storm drains, catch basins, drainage ditches, natural drainageways, stream corridors, rivers, ponds, wetlands, and impoundments.
- .91 Title 3. Title 3 is part of the Metro Urban Growth Management Functional Plan pertaining to water quality, flood management, and fish and wildlife conservation, and directly pertains to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas, and Natural Resources; 6, Air, Water, and Land Resources Quality; and 7, Areas Subject to Natural Disasters and Hazards.
- .92 Variance. Means a grant of relief by a community from the terms of a floodplain management regulation.
- .93 Vegetation, Approved. Vegetation which typically does not require irrigation or fertilization because it is adapted to natural soil, water, and climatic conditions. The list of approved vegetation species is based on the most recent Portland Plant List as adopted by the City of Portland by ordinance, and is on file in the Community Development Department.
- .94 Vegetation Corridor. The undisturbed area between a development and a protected water feature as designated in Sections 4.316, Width of Vegetation Corridor, and 4.317, Method for Determining Vegetation Corridors Next to Primary Protected Water Features, of this Code, or slopes of twenty-five percent (25%) or greater throughout the City, except engineered slopes associated with public streets or roads.
- .95 Vegetation, Invasive, Non-Native, or Noxious. Plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities, or which are not listed on the most recent Portland Plant List as adopted by the City of Portland by ordinance.
- .96 Vegetation, Native. Any vegetation native to the Portland Metropolitan Area or listed on the Portland Plant List as adopted by the City of Portland by ordinance.
- .97 Water-dependent. A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.
- .98 Water Features. See Protected Water Features, primary and secondary.
- .99 Water Quality Facility. A created or constructed structure or drainageway that is

designed, constructed, and maintained to collect, filter, retain, or detain surface water runoff during and after a storm event for the purpose of stormwater management and water quality improvement. The facility may take on characteristics of a wetland, but it does not become a resource.

- .100 Watershed. A geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.
- .101 Water Surface Elevation. The height, in relation to a specific datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- .102 Wetlands. Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by qualified wetland specialists as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.
 - a. Wetland determinations. The identification of an area as either wetland or non-wetland.
 - b. Wetlands, constructed. Wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.
 - c. Wetlands, created. Those wetlands developed in an area previously identified as a non-wetland to replace or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.
 - d. Wetlands, Title 3. Wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Overlay District Map and other wetlands not mapped but determined significant by the Oregon Department of State Lands, consistent with the criteria in Title 3, Section 7.C. of the Metro Urban Growth Management Functional Plan. Title 3 wetlands include created wetlands approved and monitored by the Oregon Department of State Lands and U.S. Army Corps of Engineers. Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

Chapter 2 – Procedures for Decision-Making

- 2.005 Types of Procedures for Taking Public Action. Three separate procedures are established for processing development applications and one procedure is established for public actions (legislative) which do not involve land use permits or require consideration of a plan amendment, land use regulation, or City policies. These are Types I-III and Type IV respectively (see Table below):

DECISION-MAKING PROCEDURE

Type I Procedure

- Ministerial permits and actions
- Clear and objective criteria
- No public notice or hearing required

Type II Procedure

- Some discretion based on Code criteria
- Public notice

Type III Procedure

- Complex or subjective decisions of predominantly discretionary approval criteria
- Public hearing

Type IV Procedure

- Legislative decisions
- Creation, revision, or large-scale implementation of public policy
- Public hearing

2.010 Procedures for Processing Permits.

- A. An application shall be processed under a Type I, II, III, or IV procedure as they are described in Sections 2.050 to 2.065 of this Chapter. The differences between the procedures are generally associated with the different nature of the decisions as described in the table in Section 2.005 of this Chapter.
- B. When an application and proposed development is submitted, the Director shall determine the type of procedure the Code specifies for its processing and the potentially affected agencies. When there is a question as to the appropriate type of procedure, or if the Director contemplates that persons being notified of the application can be expected to question the application's compliance with the Code, the application proposal shall be processed under the higher type procedure. An application shall be processed under the highest numbered procedure required for any part of the development proposal.
- C. When an application will potentially have a significant effect on a County or State roadway/transportation facility, Multnomah County or ODOT shall be invited to participate in the pre-application conference, if one is held, and shall be notified when the application is complete so as to allow for coordinated review of the application.

- 2.015 Computation of Time. In computing any period of time prescribed or allowed by these rules, by the local rules of any court or by order of court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or a legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday or a legal holiday. If the period so computed relates to serving a public officer or filing a document at a public office, and if the last day falls on a day when that particular office is closed before the end of or for all of the normal work day, the last day shall be excluded in computing the period of time within which service is to be made or the document is to be filed, in which event the period runs until the close of office hours on the next day the office is open for business. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays and legal holidays, including Sundays, shall be excluded in the computation. As used in this rule, "legal holiday" means legal holiday as defined in ORS 187.010 and 187.020. This Section does not apply to any time limitation governed by ORS 174.120. (Source: Oregon Rules of Civil Procedure 2015)
- 2.020 Coordination of Permit Procedure. The Director shall be responsible for the coordination of the permit application and decision-making procedure, and shall issue any necessary permits to an applicant whose application and proposed development is in compliance with the provisions of this Code. Combined applications reviewing a single project are permitted but shall be reviewed as the highest Type level.
- 2.025 Pre-Application Conference. A pre-application conference shall be required for all Type III applications. For other applications, the applicant or authorized representative may request, or the Director may suggest, a pre-application conference. The conference shall be held within thirty (30) days of the request. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Code, provide for an exchange of information regarding applicable elements of the Comprehensive Land Use Plan and development requirements, arrange such technical and design assistance which will aid the applicant, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Director, if requested by the applicant, shall provide the applicant with a written summary of the conference within ten (10) days of the conference. The summary should include confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. The summary shall be a best effort to identify all criteria.
- 2.030 Application Materials. A land use application shall consist of the materials specified in this Section, plus any other materials required on the application form.
- A. A completed application form.
 - B. An explanation of intent, stating the nature of the proposed development, reasons for the request, and any other evidence showing compliance with applicable criteria of the Troutdale Development Code.

- C. Proof that the property affected by the application is in the exclusive fee ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property.
- D. County Tax lot numbers and legal description of the affected properties; a copy of the recorded deed with description and County Tax Lot numbers of the affected property.
- E. Additional information required by other Sections of this Code because of the type of development proposal or the area involved.
- F. Payment of all applicable application fees.

2.035 Submission of Application.

- A. Application materials shall be submitted to the Director who shall have the date of submission indicated on the land use application form. Within thirty (30) days from the date of submission, the Director shall determine and shall notify the applicant in writing whether an application is complete. If the Director determines that the application is incomplete or otherwise does not conform to the provisions of this Code, the Director shall notify the applicant in writing of what information is missing, and shall allow the applicant to submit the missing information.
- B. The application shall be deemed complete for the purpose of rendering a final action as required under ORS 227.178 upon receipt of:
 - 1. All of the missing information;
 - 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
 - 3. Written notice from the applicant that none of the missing information will be provided.
- C. On the one hundred eighty-first (181st) day after first being submitted, the application shall be void if the applicant has been notified of the missing information as required under Subsection (A) of this Section and has not submitted:
 - 1. All of the missing information;
 - 2. Some of the missing information and written notice that no other information will be provided; or
 - 3. Written notice that none of the missing information will be provided.
- D. The application fee that was submitted with an application that has been determined to be void, shall be forfeited.

- 2.040 Referral and Review of Applications. Within five (5) days of deeming an application complete, the Director shall do the following:
- A. Transmit one copy of the application, or appropriate parts of the application, to applicable City departments and referral agencies for review and comment, including those responsible for determination of compliance with state and federal requirements. If a notified department or referral agency does not comment within fourteen (14) days, it is presumed to have no comment.
 - B. Provide written notice to surrounding property owners as set forth in this Chapter.
- 2.045 Responsibility of Director for Hearings.
- A. Schedule and assign the matter for review and hearing.
 - B. Conduct the correspondence of the hearing body.
 - C. Give notice as required by this Code.
 - D. Maintain a record, and enter into the record, relevant dates such as those of giving notice, hearings, postponement, and continuances, and a summary of action taken by the hearing body.
 - E. Prepare minutes to include the decision on the matter heard and reasons for the decision.
 - F. Reduce the decisions of the hearing body to writing within a reasonable time.
 - G. Mail a copy of the decision to the party requesting the same upon payment of a reasonable fee, if a fee has been established.
- 2.050 Type I Procedure.
- A. Under the Type I procedure, an application shall be processed without a need for a public hearing or notification of other property owners.
 - B. Within thirty (30) days of the date of acknowledging an application complete as set forth in Section 2.035 of this Chapter, the Director shall approve, conditionally approve, or deny the request. The decision of the Director shall be based upon the application, evidence, comments from City departments and referral agencies, and approvals required by others. The Director shall notify the applicant, and if required, others entitled to notice of the decision. The notice shall indicate the date that the decision will take effect and describe the right of appeal.
 - C. The Director shall approve a development if he or she finds that applicable approvals by others have been granted and the proposed development, with or without conditions, otherwise conforms to the requirements of this Code.

- D. The Director shall deny the development if required approvals are not obtained or the application otherwise fails to comply with Code requirements. The notice shall describe the reason for denial.
- E. Appeal of a decision of the Director under the Type I procedure shall be de novo to the Planning Commission.

2.055 Type II Procedure.

- A. Under the Type II procedure, an application shall be processed without a need for a public hearing; however, the Director shall provide written notice. The form of notice and persons to receive notice are as required by the relevant Sections of this Code. The notice shall invite persons to submit information relevant to the criteria and standards that are pertinent to the proposal within fifteen (15) days, giving reasons why the application should or should not be approved, or proposing modifications the person believes are necessary for approval according to the standards.
- B. Within forty-five (45) days of the date of acknowledging an application complete as set forth in Section 2.035 of this Chapter, the Director shall review any information received under Subsection (A) of this Section. The Director may attach conditions of approval to assure compliance with applicable criteria and standards, to mitigate potential adverse impacts where such mitigation is consistent with established policy of the City, and to conform to confirm with applicable legal requirements. If the application is approved, the Director will issue any necessary permits when the applicant has complied with the conditions set forth in the final order and other requirements of this Code. Appeals of the Director's decision shall be de novo to the Planning Commission.

2.060 Type III Procedure.

- A. Under the Type III procedure, an application is scheduled for public hearing before the Planning Commission which may approve, approve with conditions, or deny an application. The form of notice and persons to receive notice are as required by the relevant Sections of this Code. At the public hearing, the staff, applicant, and interested persons may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or proposing modifications and the reasons the person believes the modifications are necessary for approval. The Planning Commission may attach conditions of approval to assure compliance with applicable criteria and standards, to mitigate potential adverse impacts where such mitigation is consistent with an established policy of the City, and to conform to applicable legal requirements. If the application is approved, the Director will issue any necessary permits when the applicant has complied with the conditions set forth in the final order and other requirements of this Code.
- B. Appeals of a decision of the Planning Commission shall be to the City Council.

- 2.065 Type IV Procedure. The City Council is the decision-making body under this procedure after the Planning Commission has forwarded its recommendation to the Council. This procedure is for legislative actions.
- A. Under the Type IV procedure, the Director shall first schedule a public hearing before the Planning Commission. Following action by the Planning Commission, the Director shall schedule a public hearing before the City Council. The form of notice and persons to receive notice are as required by the relevant Sections of this Code. At the public hearings the staff and interested persons may present testimony relevant to the proposal, give information on whether the proposal does or does not meet appropriate criteria and standards for approval, or they may give proposals for modifications they consider necessary for approval. If criteria are involved, the Planning Commission shall make a finding for each of the applicable criteria, including whether the proposal conforms to applicable Comprehensive Land Use Plan goals and policies. A written report and recommendation shall be submitted to the City Council. The decision of the City Council shall also address each of the applicable criteria.
 - B. The City Council shall conduct a public hearing. The Director shall set a date for the hearing. The form of notice and persons to receive notice are as required by the relevant Sections of this Code. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission, make final arguments why the matter should or should not be approved and, if approved, the nature of the provisions to be contained in the approving action.
- 2.070 Legislative Enactments Not Restricted. Nothing in this Chapter shall limit the authority of the City Council to make changes in zoning districts' boundaries or development regulations as part of some more extensive revision of the Comprehensive Land Use Plan or the implementing ordinances. Nothing in this Chapter shall relieve a use or development from compliance with other applicable laws.
- 2.075 Notice of Hearing. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before the hearing body on application for a land use decision, and shall be incorporated into the Comprehensive Land Use Plan and land use regulations. Notice of hearings governed by this Section shall be provided to the applicant and owners of record of property on the most recent property tax assessment roll where such property is located.
- A. For property which is the subject of a Type II application process, notice shall be provided to all owners of property within two hundred fifty (250) feet of the project property.
 - B. For property which is the subject of a Type III or Type IV application process, notice shall be provided to all owners of property within five hundred (500) feet of the project property.

- C. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries are within the notice area of the project.
- D. Interested parties such as counties, state agencies, public utilities, etc., which may be affected by the specific development proposal, shall receive notice of the scheduled public hearing.

2.080 Contents of Notice. Quasi-judicial notice provided by the City shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized.
- B. List the applicable criteria from this Code and the Plan that apply to the application at issue.
- C. Set forth the street address or other easily understood geographical reference to the subject property.
- D. State the date, time, and location of the hearing.
- E. State that failure of an issue to be raised in a hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the board based on that issue.
- F. Be mailed at least:
 - 1. Twenty (20) days before the evidentiary hearing; or
 - 2. If two (2) or more evidentiary hearings are allowed, ten (10) days before the first evidentiary hearing.
- G. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.
- H. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.
- I. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at a reasonable cost.
- J. Include a general explanation of the requirements for submission of testimony and the procedures for conduct of hearings.

2.085 Procedure for Mailed Notice. Unless otherwise provided, addresses for a mailed notice shall be obtained from the County's real property tax records. Unless the address is on file with the

Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice. In addition to receiving notice as required by the matter under consideration, the Director shall provide notice to others he or she has reason to believe are affected or otherwise represent an interest that may be affected by the proposed development.

2.090 Procedure for Posted or Published Notice.

- A. Posted Notice – Posted notice shall be required of all applications requiring a hearing before the Planning Commission or City Council. This requirement shall not apply to appeals heard by these bodies. By submitting an application which requires the posting of notice, an applicant shall hereby allow the posting on the subject private property. Specific requirements shall be as follows:
1. The notice shall be posted in at least one (1) conspicuous place within the boundary of the parcel under consideration. If the property frontage exceeds five hundred (500) feet, one additional notice shall be posted on the property. Posting shall occur a minimum of ten (10) days prior to the hearing date.
 2. The size, construction and features of the posted notice shall be determined by the Planning Director and installed by the City. At a minimum, the posting shall include information on the hearing location, date, and time; identify the applicable planning file; and include contact information.
- B. Publication - If a published notice is required, it shall be published at least once in a newspaper of general circulation at least ten (10) days prior to the hearing date or as otherwise required by law.

2.095 Applicant's Documents and Evidence. All documents or evidence relied upon by the applicant shall be submitted to the local government and made available to the public.

2.100 Staff Report. Any staff report used at a quasi-judicial hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 227.178.

2.105 Explanation at Commencement of a Quasi-Judicial Hearing. At the commencement of a Quasi-Judicial Hearing, a statement shall be made to those in attendance that:

- A. Lists the applicable criteria;
- B. States that testimony and evidence must be directed toward the criteria described in Subsection (A) of this Section or other criteria in the Comprehensive Land Use Plan or

land use regulations which the persons believes to apply to the decision; and

- C. States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes an appeal on that issue.

- 2.110 Request to Present Additional Evidence. Prior to the conclusion of the initial quasi-judicial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearing body shall grant such request by either continuing the public hearing or leaving the record open for additional written evidence or testimony.
- 2.115 Continuance of the Hearing. If the quasi-judicial hearing body grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven (7) days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven (7) days to submit additional written evidence or testimony for the purpose of responding to the new written evidence.
- 2.120 Leaving the Record Open. If the quasi-judicial hearing body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) days. Any participant may file a written request with the City for an opportunity to respond to new evidence submitted during the period the record is left open. If such a request is filed, the hearing body shall reopen the record.
- 2.125 Applicant's Right to Submit Final Arguments. Unless waived by the applicant, the City shall allow the applicant at least seven (7) days after the quasi-judicial record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.
- 2.130 Reopening a Hearing. When the quasi-judicial hearing body reopens the record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision-making which apply to the matter at issue.
- 2.135 Failure to Receive Notice. The failure of the property owner to receive notice as provided in this Chapter shall not invalidate such proceedings if the local government can demonstrate, by affidavit, that such notice was given. The notice provisions of this Chapter shall not restrict the giving of notice by other means, including posting, newspaper publication, radio, and television.
- 2.140 Ex Parte Contacts. The general public has a right to have hearing body members free from ex parte contacts in quasi-judicial hearings. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, hearing body members shall reveal all ex parte contacts with regard to a matter that comes before the hearing body member at a quasi-judicial proceeding at the earliest possible time. If ex parte contacts have not impaired

the member's ability to make a fair and impartial decision based on the information presented during the quasi-judicial proceeding, the member shall so state and may participate in the hearing and decision. Ex parte contacts with a member of the decision-making body shall not invalidate a final decision or action of the decision-making body, provided that the member receiving the ex parte contact places on the record the substance of any written or oral ex parte communications concerning the decision or action and makes a public announcement of the content of the communication and of the right of the parties to rebut the substance of the communication at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

- 2.145 Challenges to Impartiality. A party to a quasi-judicial hearing, or a member of the hearing body, may challenge the qualifications of a member of the hearing body to participate in a quasi-judicial hearing or decision. A challenge shall identify the facts and basis for concluding that the member being challenged cannot make a fair and impartial decision due to bias, prejudice, a direct and substantial personal interest in the outcome, or other similar circumstances.
- 2.150 Conflicts of Interest. No officer or employee of the City shall participate in a hearing or decision if the officer or employee has an actual conflict of interest as defined by state law, unless otherwise authorized by state law. An officer or employee of the City may participate in a land use hearing or decision if the officer or employee has a potential conflict of interest as defined by state law. Officers and employees shall disclose actual and potential conflicts of interest.
- 2.155 Disqualification. A member of a hearing body shall not participate in the discussion or decision on a matter in which any of the following have a direct or substantial financial interest: The member or member's spouse, brother, sister, child, parent, father-in-law or mother-in-law; any business in which the member is then -serving or has served within the previous two (2) years; or any business with which the member is negotiating for, or has an arrangement or understanding concerning prospective partnership or employment.
- 2.160 Abstention or Disqualification. Except for Type IV hearings conducted by the governing body, disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.
- 2.165 Rights of Disqualified Member of the Hearing Body.
- A. An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents his or her personal interest at a hearing may do so only by physically joining the audience and vacating the seat on the hearing body. The member shall make full disclosure of the member's status and position at the time of addressing the hearing body and shall not vote.
 - B. Except for Type IV legislative hearings conducted by the governing body, a member absent during the presentation of evidence in a hearing may not participate in the

deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

2.170 Burden and Nature of Proof. Except for legislative determinations, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable elements of the Comprehensive Land Use Plan and to provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration. Additionally, the following factors are deemed relevant and material, and shall be considered by the hearing body in reaching its decision on a proposal:

- A. Mistakes in the original designation or provision.
- B. Change of conditions within the vicinity in which the development is proposed.

2.175 Order of Proceedings. An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate:

- A. Before receiving information on the issue, the following shall be determined:
 - 1. Any objections on jurisdictional grounds shall be noted in the record and if there is an objection, the person presiding has the discretion to proceed or terminate.
 - 2. Any abstentions or disqualifications shall be determined.
- B. The person presiding at the hearing may take official notice of known information related to the issue, such as the following:
 - 1. Provisions of the charter or state law, or of an ordinance, resolution, rule, or officially promulgated policy of the City.
 - 2. Other public records and facts judicially noticeable by law.
- C. Matters officially noticed need not be established by evidence and may be considered by the hearing body in the determination of the matters. Parties requesting notice shall do so on the record; provided, however, that the hearing body may take notice of matters listed in Subsection (B) of this Section if stated for the record. Any matter given official notice may be rebutted.
- D. The hearing body may view the property subject to the application. At the quasi-judicial public hearing, the members shall place the time, manner, and circumstances of such viewing in the record.
- E. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a

question is approved, the presiding officer will direct the question to the person submitting testimony.

- F. When the hearing has ended, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff, if opportunity for rebuttal is provided.

2.180 Decision. Following the hearing procedure, the hearing body shall approve or deny the application; or, if the hearing is in the nature of an appeal, affirm, reverse, or remand the decision that is on appeal. A decision on a permit or zone change shall be made within one hundred twenty (120) days of the date the application is deemed complete. If the hearing body and an applicant agree to an extension, processing of a matter under consideration may be extended. An applicant may request an extension beyond the one hundred twenty (120) day legal limit. An applicant whose application has not been acted upon within one hundred twenty (120) days after the application was initiated may seek a writ of mandamus.

2.185 Findings and Order. The quasi-judicial hearing body shall prepare findings of fact and an order which shall include:

- A. A statement of the applicable criteria and standards against which the proposal was tested, and of the hearing body's interpretation of what would be required to achieve compliance with the criteria and standards.
- B. A statement of the facts which the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.
- C. The reasons for a conclusion to approve or deny.
- D. The decision to deny or approve the proposed change with or without conditions.

2.190 Record of Proceedings. The secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.

- A. Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.
- B. The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented, and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed.
- C. The findings and order shall be included in the record.

- D. A person shall have access to the record of the proceeding at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

2.195 Request for Review - Appeal of Decision.

- A. Type I or II Procedure. A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal and paying the applicable fee with the Director within ten (10) days of notice of the decision as provided in this Chapter.
- B. Type III Procedure. A decision of the Planning Commission may be appealed to the City Council by an affected party by filing an appeal and paying the applicable fee within ten (10) days of notice of the decision as provided in this Chapter.
- C. Type IV Procedure. A decision of the City Council may be appealed to the Land Use Board of Appeals, or to the legal authority governing land use regulations and issues, by an affected party by filing an appeal within twenty one (21) days of notice of the decision.

2.200 Raising Issues for Appeal. An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised before the close of the record at the final evidentiary hearing on the proposal. Such issues shall be raised with sufficient specificity to afford the final reviewing body and the parties an adequate opportunity to respond to each issue.

2.205 Appeal Requirements.

- A. A notice of appeal shall contain:
 - 1. An identification of the decision sought to be reviewed, including the date of the decision.
 - 2. A statement of the interest of the person seeking review and that the person was a party to the initial proceedings.
 - 3. The specific grounds relied upon for review, including an explanation of the errors the person seeking review believes exist in the decision that is being appealed.
- B. An appeal of a decision rendered under a Type I procedure without a public hearing shall be a de novo hearing before Planning Commission.
- C. An appeal of a decision rendered under a Type II procedure shall be limited to a review of the record supplemented by oral arguments relevant to the record presented by parties to the prior deliberations.

- D. An appeal of a decision rendered under a Type III or IV procedure shall automatically be conducted as a de novo review and subject to a de novo hearing.

2.210 De Novo Hearing.

- A. The reviewing body may consider new evidence that is applicable to the criteria and standards and may consider all the testimony, evidence, and other material that is in the record.
- B. For purposes of a de novo hearing, the record shall include:
1. A report prepared by the Director.
 2. All prior staff reports, decisions, the application, and any exhibits, materials, reports, letters, memoranda, and stipulations submitted by any party that were received and considered by the decision-maker in reaching the decision under review.
 3. The transcript of prior hearings, if previously prepared, or the tapes and minutes from the prior hearings.
- C. At a de novo hearing, the applicant for the land use proposal or permit which is the subject of the appeal shall have the right of final rebuttal to any arguments, evidence, or testimony raised by an opposing party.

2.215 Reviewing Body Decision. Upon review, the reviewing body may by order affirm, reverse, or modify in whole or in part, a determination or requirement of the decision that is under review. When the reviewing body modifies or renders a decision that reverses a decision of the hearing body, the reviewing body, in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the reviewing body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

2.220 Expiration of a Decision.

- A. Except as otherwise specifically provided in a specific decision or in this Code, a final decision on a Type I, II or III application made pursuant to this Code shall expire automatically on the following schedule unless the approval is enacted either through construction, establishment of use, or recordation of plat or survey within the specified time period.
1. No expiration date:
 - a. Comprehensive Plan Text Amendment (6.100)
 - b. Comprehensive Plan Map Amendment (6.200)
 - c. Director's Interpretation (Section 6.400)
 - d. Text Amendment (Section 6.1100)
 - e. Vacation (Section 6.1200)
 - f. Zoning Map Amendment (Section 6.1400)
 2. Five (5) years from the effective date of decision where phasing of the development is proposed.
 - a. Planned Unit Development (Section 6.700)
 - b. Preliminary Subdivision (Section 7.030.B)
 3. Two (2) years from the effective date of decision:
 - a. Alteration to a Historic Landmark (Section 6.515.C.)
 - b. Conditional Use (Section 6.300)
 - c. Demolition or Relocation of a Historic Landmark (Section 6.515.D.)
 - d. Expansion of a Non-Conforming Structure or Development (Section 6.615.C.)
 - e. Expansion of a Non-Conforming Use - Major (Section 6.615.B.)
 - f. Expansion of a Non-Conforming Use - Minor (Section 6.615.A.)
 - g. Historic Landmark Designation (Section 6.515.A.)
 - h. Planned Unit Development (Section 6.700), when there is no phasing to the development.
 - i. Preliminary Partition (Section 7.030.A)
 - j. Property Line Adjustment (Section 7.180)
 - k. Removal of a Historic Landmark Designation (Section 6.515.B.)
 - l. Site Development Review (Section 6.900)
 - m. Variance (Section 6.1300)
 4. One (1) year from the effective date of the decision:
 - a. Temporary Structure (Section 6.1000)

5. One hundred eighty (180) days from the effective date of the decision:
 - a. Floodplain Development (Section 14.035), if construction has not started.
 6. Any final decision that is not listed herein shall expire within two (2) years from the effective date of the decision.
- B. The effective date of the decision for Type I, Type II, or Type III applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type I, Type II, or Type III application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type IV application is thirty (30) days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
- C. A decision shall expire according to Section 2.220.A. unless one of the following occurs prior to the date of expiration:
1. An application for an extension is filed pursuant to Section 2.225; or
 2. The development authorized by the decision has commenced as defined herein.
 - a. The use of the subject property has changed as allowed by the approval; or
 - b. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place.
 - c. The approval time begins from the effective date of a decision. Appeal of a decision to LUBA does not extend the time.

2.225 Extension of a Decision.

- A. An application to extend the expiration date of a decision made pursuant to this Code may be filed only before the decision expires as provided in Section 2.220.
- B. A land use decision may be extended no more than two (2) times.
- C. Requests for extension of a decision shall be as follows:
 1. The first request for extension shall follow the Type II process.
 2. The second request for extension shall follow the Type III process.
- D. Extension requests shall provide mailed public notice to those parties identified in Section 2.085. In addition, the notice shall be mailed to the parties of record contained in the initial land use decision and any prior extension of time decision.

- E. In order to approve an extension of time application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. It is not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.
 2. There has been no change in circumstances or the applicable regulations or statutes likely to necessitate modification of the decision or conditions of approval since the effective date of the decision for which the extension is sought.
 3. The previously approved land use decision is not being modified in design, use, or conditions of approval.

2.230 Modification of a Decision.

- A. An applicant or successor in interest may file with the Director an application to modify a prior decision that was the subject of a Type I, Type II or Type III procedure. In addition to other requirements, such an application to modify a prior decision shall describe the nature of the proposed change to the original decision and the basis for that change, including the applicable facts and law, together with the fee prescribed for that application type necessary to modify the prior decision. Such an application to modify a prior decision shall be subject to the approval criteria and development regulations in effect when the Director receives a complete application for the modification.
- B. An application for modification is subject to pre-application conference and completeness review; provided, the Director shall only require an application for modification to contain information that is relevant or necessary to address the requested change or the facts and regulations on which it is based. An application for modification is not subject to the neighborhood review meeting requirement.
- C. An application for modification does not extend the deadline for filing an appeal and does not stay appeal proceedings. An application for modification is subject to the one hundred twenty (120) day requirement pursuant to ORS 227.178.
- D. Only a decision that approves or conditionally approves an application can be modified. A decision denying an application cannot be modified.
- E. An application for modification shall be subject to a Type I, Type II, or Type III procedure as determined by the Director.
- F. The process type for an application to modify a decision shall be based upon the scope of the proposed modification. In all cases, when a proposed modification involves a condition of approval, that condition of approval can be modified or removed only by the same decision making authority that issued the original decision and through the same procedure that was followed to establish the condition to be modified. Modification or

removal of a condition of approval shall only be granted if the decision making authority determines any one of the following:

1. The applicant or owner has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of the condition to correct the mistake.
2. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant modification of the original decision.
3. The circumstances have changed to the extent that the condition is no longer needed or warranted.
4. A new or modified condition would better accomplish the purpose of the original condition.

4.500 FLOOD MANAGEMENT AREA

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4.500 Repeal. Ordinance 851 repealed this Section in its entirety and relocated the Flood Management Area standards previously contained in this Section to Chapter 14 of this Code.

Chapter 14 – Flood Management

- 14.005 Purpose. Without establishing any priority, the purpose of this Chapter is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions or degradation of water quality in specific areas by provisions designed to:
- A. Protect human life, health, and property in areas subject to periodic flooding;
 - B. Implement the Floodplain requirements of Statewide Planning Goal 7 - which relates to areas subject to natural disasters and hazards;
 - C. Through floodplain regulation, contribute to the properly functioning condition of streams and rivers and address, in part, the water quality aspects of Statewide Planning Goal 6;
 - D. Implement requirements for the City's participation in the National Flood Insurance Program, and voluntary participation in the Community Rating System;
 - E. Implement the actions derived from the Multnomah County Natural Hazard Mitigation Plan to minimize the risk of natural hazards, such as flooding, to people and property;
 - F. Ensure continuity of City services, access to City facilities, and minimal prolonged business interruptions during times of flood;
 - G. Manage stormwater drainage in a manner that:
 - 1. Maintains the properly functioning conditions of waterways;
 - 2. Provides for the conveyance and temporary storage of floodwater;
 - 3. Reduces floodwater velocity;
 - 4. Facilitates sediment deposition in the floodplain;
 - 5. Provides an opportunity for groundwater recharge; and
 - 6. Promotes other stormwater and floodplain functions.
- These provisions are also intended to minimize maintenance costs, eliminate potential hazards before they occur, and protect properties and persons adjacent to drainageways and to other natural hazard areas;
- H. Minimize damage to public facilities and utilities, such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;

- I. Help maintain a stable tax base by providing for sound use and development;
- J. Ensure that potential buyers are notified that property is in an area of special flood hazard;
- K. Compel those who occupy the areas of special flood hazard assume responsibility for their actions;
- L. Maintain and improve water quality;
- M. Minimize erosion and loss of native vegetation;
- N. Maintain wetlands, including swamps, marshes, bogs, and similar areas within the City, because wetlands help to maintain water quality and flood storage capacities;
- O. Avoid any increase in base flood elevations as a result of development;
- P. Minimize expenditure of public money for costly flood control projects;
- Q. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- R. Reduce flood losses and maintain water quality. In order to accomplish its purpose, this Chapter includes methods and provisions to:
 - 1. Require that development that is vulnerable to floods, including buildings, structures, and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;
 - 2. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
 - 3. Control filling, grading, dredging and other development which may increase flood damage or erosion;
 - 4. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards on other lands;
 - 5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;
 - 6. Coordinate with and supplement provisions of Oregon Building Codes.
- S. To advance these purposes, where not required, creation of open space tracts is encouraged within areas designated as natural hazards on the Comprehensive Plan and official zoning maps.

14.010 Applicability.

- A. These provisions shall apply to public and private properties in the one percent (1%) annual chance of flood floodplain (100-year floodplain or Special Flood Hazard Area) as mapped by the Federal Insurance Administrator of rivers and local streams within the planning jurisdiction of the City of Troutdale, which includes land in unincorporated Multnomah County within the City’s Urban Planning Area.
- B. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study for Multnomah County, Oregon and Incorporated Areas of Multnomah County”, with accompanying Flood Insurance Rate Maps, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Community Development Department located at 2200 SW 18th Way, Troutdale, OR 97060 (storage location subject to change, consult the Floodplain Manager for current file storage location). Metro, a regional metropolitan planning agency representing portions of Clackamas, Multnomah, and Washington Counties, mapped the flood hazard areas from areas inundated by flooding in 1996 on the Title 3 map. The Title 3 maps are adopted for reference only. Not every Special Flood Hazard Area has been mapped by the Federal Insurance Agency through the Flood Insurance Study and Flood Insurance Rate Maps cited above. The Floodplain Manager or designee is authorized through Sections 14.020 to obtain from applicants the information necessary to determine the presence and extent of unmapped Special Flood Hazard Areas as part of reviewing development proposals that affect the floodplain. Once approved by the Floodplain Administrator or designee, such information shall be incorporated into the Natural Hazards Map and used by the City of Troutdale to supplement the Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps cited above to ensure consistency with the floodplain regulations contained in this Chapter. Contested base flood elevations are to be reviewed under the provisions of Subsection 14.020.D of this Chapter. The City will keep a record of all surveys, delineations, and any Letter of Map Change (LOMC) approved by the Federal Emergency Management Agency, as revisions to the local copy of the Title 3 map. The City will submit this information to Metro for future updates of the Title 3 map.
- C. Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter 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 manmade or natural causes. This Code does not imply that land or uses will be free from flooding or flood damage. This Code shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administrator, for any damages that result from reliance on this Code or any administrative decision lawfully made hereunder.

14.015 Severability. The standards of this Chapter are subject to the severability standards as described in Section 17.100 of this Code.

14.020 Administration and Interpretation of Flood Insurance Rate Map Boundaries and Flood Management Area Standards.

- A. The Community Development Director shall designate a Floodplain Manager to be the Local Administrator of this Chapter. The Floodplain Manager shall implement the provisions and standards of the National Flood Insurance Program, the standards of this Chapter, and make interpretations, where needed, including determinations regarding the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) by granting or denying Floodplain Development Permit applications in accordance with its provisions. In the interpretation and application of this Chapter, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of the governing body;
 3. Judged by established historical facts of flooding as known by, or made known to, the governing body;
 4. Deemed neither to limit nor repeal any other powers granted under State statutes; and
 5. Defined in Section 1.040 of this Code.
- B. Duties and Responsibilities of the Floodplain Manager. Duties of the Floodplain Manager shall include, but not be limited to:
1. Review all Floodplain Development Permits to determine that the permit requirements of this ordinance have been satisfied.
 2. Review all Floodplain Development Permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 3. Review all Floodplain Development Permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of this Chapter are met.
 4. When base flood elevation data has not been provided (A Zones) in accordance with Section 14.010 of this Chapter, the Floodplain Manager shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 14.040 of this Chapter.
 5. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 14.020.C, obtain and record the actual elevation

(in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

6. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 14.020.C, the Floodplain Manager shall:
 - a. Verify and record the actual elevation (in relation to mean sea level), and
 - b. Maintain the floodproofing certifications required in Section 14.040 of this Chapter.
7. Maintain for public inspection all records pertaining to the provisions of this ordinance.
8. Notify adjacent communities, the Oregon 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 Administrator.
9. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
10. Notify FEMA within six (6) months of project completion when an applicant had obtained a Conditional Letter of Map Change from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Change. The property owner shall be responsible for preparing technical data to support the Letter of Map Change application and paying any processing or application fees to FEMA. The Floodplain Manager shall be under no obligation to sign the Community Acknowledgement Form, which is part of the Conditional Letter of Map Change and Letter of Map Change application, until the applicant demonstrates that the project will or has met the requirements of this Code and all applicable State and Federal laws.
11. Report to FEMA on each development permit issued in the SFHA, including:
 - a. Amount of fill or structural displacement of flood storage, and the amount (in volume and area) of compensatory storage provided;
 - b. Amount of new impervious surface and types and amounts of compensatory mitigation provided;
 - c. The number of trees equal to or greater than six (6) inches in diameter at

breast height removed, and the types and amounts of compensatory mitigation provided;

- d. The area in which clearing and/or grading occurred;
- e. For any project that disconnects or reconnects land to the floodplain, the type of project and amount of land disconnected or reconnected; and
- f. Location of the project and of the corresponding mitigation.

14. 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 as provided in Section 14.055 of this Chapter.

- C. **Use of Other Base Flood Data for Permit Review.** When base flood elevation data is not available through the Flood Insurance Study, FIRM, or has not been provided in accordance with Section 14.010 of this Chapter, the City may obtain, review, and utilize any reasonable base flood elevation and floodway data available from a federal, state, or other source, in order to assure that proposed development 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, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.
- D. **Contested Boundaries.** A person contesting the location of the boundary has the opportunity to submit a Letter of Map Change (LOMC) directly to the Federal Emergency Management Agency to change the Flood Insurance Rate Map mapping of their property. If a land use application is submitted before a LOMC is approved by the Federal Emergency Management Agency, the application will be processed under the standards of this Chapter.
- E. **Inspections.** The Floodplain Manager shall inspect development that is subject to the permit requirements of this Chapter, including buildings and structures exempt from the Building Code. The Floodplain Manager shall inspect Special Flood Hazard Areas to determine if development is being undertaken without the issuance of a permit. Annual inspection logs shall be maintained by the Floodplain Manager.

14.025 Uses within the Floodplain but Outside the Floodway and Outside Wetlands.

- A. **Prohibited Uses.**
 - 1. Any prohibited use in the underlying zoning district.
 - 2. Excavation, fill, or vegetation removal without an approved land use permit.

3. Expansion of legal nonconforming uses.
 4. Uncontained, outside storage areas of hazardous materials for hazardous materials as defined by the State of Oregon Department of Environmental Quality.
 5. No new land divisions will be approved for properties exclusively within the floodplain or that propose to create a buildable lot that is exclusively within the floodplain.
- B. Permitted Uses.
1. Any use permitted in the underlying zoning district, subject to the standards for development outlined in Section 14.040 of this Chapter, including stormwater management facilities developed in accordance with the standards of Section 5.700 of this Code.
 2. Open space, trails, walkways, and bike paths as designated by the Troutdale Parks Plan, or as approved with a land use application and constructed in compliance with Section 4.315.D.
 3. Removal of unauthorized fill.
 4. Removal of nuisance or invasive plant species, and/or the restoration of approved plant species on the City of Portland Plant List as defined in Section 1.040 of this Code.
 5. Removal of dead or dying trees that are an imminent danger to public safety as determined by a certified arborist or the equivalent.
 6. Construction of new roadways and utilities necessary to support permitted development within and outside the Flood Management Area, subject to the standards of Section 14.040 of this Chapter and the Construction Standards on file in the Public Works Department or the applicable jurisdiction of the roadway.
 7. New culverts, stream crossings, and transportation projects may be permitted if designed as balanced cut and fill projects, and in compliance with the standards of Section 14.040 of this Chapter. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.
 8. Excavation and fill required for the construction of detention facilities or structures, and other facilities such as levees specifically designed to reduce or mitigate flood impacts. Levees shall not be used to create vacant buildable land.

9. Emergency temporary bank stabilization necessitating immediate action during a flood event to prevent the loss of an existing structure, or to repair a bank damaged during a natural flooding event.
10. Routine repair and maintenance of existing structures (conforming and nonconforming uses), streets, driveways, utilities, culverts, drainageways and levees constructed for flood control, accessory uses, and other existing development on the site (including landscaped yards, decks, patios, boat ramps, etc.).
11. Rehabilitation or replacement of a structure that is damaged or destroyed to any extent, whether it is partially or fully within the Flood Management Area, and in compliance with Section 4.521 of this Chapter. Any structure or use deliberately removed or demolished may not be restored, replaced, or rebuilt, except in compliance with all applicable provisions of this Code, federal, state, and county regulations.
12. Any development that must implement a Federal Aviation Administration (FAA) compliant wildlife hazard management plan on property owned by the Port of Portland or within ten thousand (10,000) feet of an Aircraft Operating Area, as defined by the FAA, and removal of trees that interfere with the landing or takeoff flight path of aircraft at the Troutdale Airport or otherwise interferes with the safe operation of the airport as determined by the Port of Portland. The removal of trees that interfere with the operation of the Troutdale Airport are permitted outright.
13. Wildfire mitigation projects, such as fuels reduction or the creation of defensible space.
14. Removal of waste as defined in the Troutdale Municipal Code Section 8.40.015.

14.030 Uses within the Floodway or within Wetlands.

- A. Prohibited Uses within the Floodway or within Wetlands. Unless specifically permitted under this Section, the following uses are prohibited within floodways and wetlands:
 1. Manmade structures.
 2. Vegetation removal, fill, or excavation. Vegetation removal in the floodway in concert with an approved wildfire mitigation project may be permitted subject to review under the standards for development of Section 14.040 of this Chapter.
 3. Private road construction.
 4. Alterations and relocations of the watercourses of Arata, Salmon, or Beaver Creeks, the Sandy and Columbia Rivers, or the watercourse of any unnamed

perennial or intermittent stream except as provided for in Subsection B(11) of this Section and Section 14.040.O of this Chapter.

5. Fill of wetlands without both an approved land use application and an approved Joint Fill Permit issued by the Oregon Department of State Lands and the U.S. Army Corps of Engineers.
 6. Uncontained, outside storage areas of hazardous materials for hazardous materials as defined by the State of Oregon Department of Environmental Quality.
 7. Expansion of nonconforming uses.
 8. New installation of manufactured dwellings.
- B. Permitted Uses within the Floodway or within Wetlands. The following uses are permitted subject to review under the standards for development of Section 14.040 of this Chapter:
1. Open space, trails, walkways, and bike paths, as designated by the Troutdale Parks Plan, or as approved with a land use application.
 2. Removal of unauthorized fill.
 3. Removal of dead or dying trees that are an imminent danger to public safety as determined by a certified arborist or the equivalent.
 4. Routine repair and maintenance of existing structures (conforming and nonconforming uses), streets, driveways, utilities, culverts, drainageways and levees constructed for flood control by the Sandy Drainage Improvement Company or its successor, accessory uses, and other existing development on the site (including landscaped yards, decks, patios, boat ramps, and the operation, maintenance, and repair of manmade water control facilities such as irrigation and drainage ditches, constructed ponds or lakes, wastewater facilities, and stormwater quality facilities, and similar development.
 5. Construction, expansion, and/or maintenance of public roadways and public utility facilities necessary to support permitted development. A “No-Rise” Certification for construction or expansion of public roadways and public utilities shall be required consistent with Section 14.040.G(4) for all approved projects.
 6. Balanced excavation and fill required for the construction of detention facilities or structures and other facilities such as levees specifically designed to reduce or mitigate flood impacts. Levees shall not be used to create vacant buildable lands.
 7. New culverts, stream crossings, and transportation projects necessary to implement the City, County, or State Transportation System Plans or other

development permitted under this Chapter, and as applicable, meets the specifications of the Oregon Department of State Lands, Oregon Department of Fish and Wildlife, and federal regulations.

8. Permanent bank stabilization necessary to preserve an existing structure provided the balanced cut and fill standard is met if the work is in the floodplain or a “No-Rise” certification if the work is within the floodway. Exception: Bank stabilization is not permitted for development on a vacant lot of record.
9. Emergency temporary bank stabilization necessitating immediate action during a flood event to prevent the loss of an existing structure, or to repair a bank damaged during a natural flooding event.
10. Fill of wetlands when there is no other practicable way to build on the site as established through Section 14.040 of this Chapter, and provided fill of wetlands within the floodplain is balanced with cut elsewhere within the floodplain, and a Fill/Removal Permit is issued from the Oregon Department of State Lands (DSL) and U.S. Army Corps of Engineers (Corps), as applicable. The application to DSL and the Corps may be processed concurrently with a land use application for site and design review, land division, a planned development application, or a conditional use. A joint fill permit may be applied for prior to application for a land use permit. However, if a joint fill permit is approved by the Oregon Department of State Lands and the U.S. Army Corps of Engineers prior to applying for the land use application, fill may not proceed until the final decision for the land use application has been made by the City. Mitigation for fill of wetlands and the location of the mitigation shall be as prescribed by the DSL/Corps permit.
11. New drainageways, levees, or alteration of watercourses to accommodate public projects administered by the Sandy Drainage Improvement Company or its successor, the City, Multnomah County, the state, or a federal agency, provided it is in compliance with Sections 14.035(C), and 14.040(R) and (S) of this Chapter.
12. Any development that must implement a Federal Aviation Administration (FAA) compliant wildlife hazard management plan on property owned by the Port of Portland or within ten thousand (10,000) feet of an Aircraft Operating Area, as defined by the FAA, and removal of trees that interfere with the landing or takeoff flight path of aircraft at the Troutdale Airport or otherwise interferes with the safe operation of the airport as determined by the Port of Portland. The removal of trees that interfere with the operation of the Troutdale Airport are permitted outright.
13. Removal of waste as defined in the Troutdale Municipal Code Section 8.40.015.

14.035 Floodplain Development Permit

- A. **Background.** To participate in the National Flood Insurance Program (NFIP), a community must adopt and enforce a floodplain management ordinance that regulates development in the floodplain. This floodplain management ordinance is housed primarily in Chapter 14 of this Code, but is in part addressed in other Chapters of this Code. One of the basic Federal requirements for regulating Development in the Floodplain is a requirement for a Floodplain Development Permit (locally, a Floodplain Development Permit) before construction or other development begins within any Special Flood Hazard Area. In this context, the term "development" is defined in Section 1.040. This chapter contains provisions for the federally required Floodplain Development Permit and is consistent with the National Flood Insurance Program (NFIP) regulations. A Floodplain Development Permit is required for development within the Flood Management Area except as noted in Section 14.035.C of this Chapter.
- B. **Applicability.** Unless exempt per Section 14.035.C, below, approval of a Floodplain Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 14.010.B of this Chapter. The permit shall be for all structures including manufactured dwellings, as set forth in the Section 1.040 and for all development including fill and other activities, also as set forth in the Section 1.040.
- C. **Exemptions.** The following activities do not require a Floodplain Development Permit:
1. Removal of invasive, nuisance, or prohibited plant species that exposes the ground, provided a revegetation plan approved or prepared by the City, state, a federal agency, Metro, SOLV, the East Multnomah Soil & Water Conservation District, or other similar organizations as determined by the Floodplain Manager, is carried out to provide shade and habitat, prevent erosion of steep slopes and/or sedimentation into the protected water feature. A copy of the plan shall be provided to the Community Development Department prior to beginning the work.
 2. Placement of fill in residential zones, provided it is consistent with other applicable provisions of this Code, and provided the fill is used solely for the purpose of constructing a sandbox, a raised gardening bed, or other similar landscape feature.
 3. Installation of three strand, on bendable pole, wire farm type fencing that is constructed consistent with the provisions in Section 14.040 of this Chapter.
 4. Landscape maintenance activities consistent with the standards identified in this Section.
 5. Wetlands not subject to flooding as described Section 14.010.B of this Chapter, nor identified as designated habitat covered under the Endangered Species Act, and are not exempt from review under Section 4.300 of this Code.

- D. **Submission Requirements.** An application for a Floodplain Development Permit within the Flood Management Area shall include the following, and these requirements apply to all applicants for development approval unless otherwise noted below:
1. A site plan showing the proposed development on the site, drawn to a standard scale, and including an illustrated scale for use in reductions. A site plan shall also consist of the following:
 - a. SFHA boundaries, and the base flood elevations based upon the North American Vertical Datum of 1988 (NAVD 88);
 - b. The 1996 flood boundaries established by Metro;
 - c. Floodway boundaries as determined by datum available from the FIRM and Flood Insurance Study;
 - d. The name, location, and dimensions of affected streams or rivers, and the bankfull stage or the two-year storm level.
 - e. The area comprising the vegetation corridor as established by Sections 4.316 and 4.317 of this Code;
 - f. Wetlands that are determined significant by the Oregon Department of State Lands or have the following characteristics. All wetland determinations made prior to development must be reviewed and acknowledged by the Oregon Department of State Lands prior to issuance of City permits. The characteristics shall be determined by a qualified scientist.
 - i. The wetland is fed by surface flows, sheet flows, or precipitation; has evidence of flooding during the growing season; at least sixty percent (60%) of the area is vegetation; and is over one-half acre in size; or, the wetland qualifies as having “intact water quality function” under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
 - ii. The wetland is in the Flood Management Area; has evidence of flooding during the growing season; is five (5) acres or more in size; and has a restricted outlet or no outlet; or, the wetland qualifies as having “intact hydrologic control function” under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
 - iii. The wetland, or a portion of the wetland, is within a horizontal distance of less than one-fourth (1/4) mile from a water body which meets the State of Oregon Department of Environmental Quality definition of “water quality limited water body” in OAR Chapter 340, Division 41 (1996).

2. Topographic survey. The survey shall show the floodway and floodplain. The survey shall also show the location of existing and proposed improvements on the site, trees or tree clusters (including those to be removed), existing roads, utilities, and structures, buildings, structures, fencing, walls, landscaping, storage of materials or equipment, drainage facilities, parking areas, and other impervious surface areas. The survey shall be drawn to scale, with two (2) foot contours, and shall note the distance from Top-of-bank to the improvements on the site;
3. Where base flood elevation data is provided through the City’s Flood Insurance Study, or by other means as permitted in this Chapter, the developer shall obtain and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, including the placement of a manufactured dwelling, and whether or not the structure contains a basement. This information shall be based upon NAVD 88 and provided on a City Floodplain Development Permit form, and should include the following, as applicable:
 - a. For all new or substantially improved, elevated, or floodproofed structures, verify and record the actual elevation.
 - b. Where development occurs within Zone A of the Flood Management Area and the Base Flood Elevation (BFE) data is not available either through the Flood Insurance Study or from another authoritative source as authorized in Subsection 14.020(C) of this Chapter, the Floodplain Development Permit shall be reviewed for compliance with FEMA Publication 265 issued July 1995 “Managing Floodplain Development in Approximate Zone A Areas”, adopted herein for reference, and applicable State of Oregon Building Codes.
4. Hydrology and soils report. Where ground disturbance or vegetation removal is proposed that exposes the soil, this report shall be required. This report shall include information on the hydrological activities of the site, the effect of hydrologic conditions on the proposed development, and any hydrological or erosion hazards. This report shall also include characteristics of the soils on the site, suitability for development, its carrying capacity, and erosion or slumping characteristics that might present a hazard to life and property, or adversely affect the function or stability of a public use or facility. This report shall also include information on the nature, distribution, and strength of existing soils; the adequacy of the site for development purposes; and an assessment of grading procedures required to impose the minimum disturbance to the natural state. The report shall be prepared by a professional engineer registered in Oregon. In Oregon Department of Geology and Mineral Industries (DOGAMI) inventory of landslide hazard areas, on hillsides where grading will lessen stability, or in areas where historic or prehistoric mudflows have occurred, a soils engineer and/or engineering geologist registered in Oregon shall certify the development will not negatively impact public safety, adjacent properties, or water quality.

5. Grading plan. If grading is to occur, a grading plan shall be required that shows existing and finished contours (two-foot contour intervals), drainage, all cut and fill slopes and proposed drainage channels, direction of drainage flow, location of proposed structures and existing structures which may be affected by the proposed grading operations, and water quality facilities.
6. Vegetation report. Where vegetation is to be removed or other impacts to the onsite vegetation is to be expected as a result of development, this report shall be required. This report shall consist of a survey of existing vegetation, whether it is native or introduced, and how it will be altered by the proposed development. Measures for enhancement of the site, including revegetation with approved plant species, will be clearly stated, as well as methods for immediate and long-term stabilization of slopes and control of soil erosion. The vegetation report shall be prepared by a landscape architect, landscape designer, botanist, arborist, wetland specialist, or other similar credentialed authority as determined by the Floodplain Manager with specific knowledge of approved plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation. The contractor for installation and maintenance will be responsible for replacing any approved plant species that do not survive the first two (2) years after planting.
7. A “No-Rise” certification and a Letter of Map Change (LOMC) shall be submitted with the land use application for the following activities within the floodway as mapped by FEMA:
 - a. Permanent bank stabilization that occurs in the floodway.
 - b. Development, alterations, or relocations of the floodway, including any permanent fill within the floodway.
8. Building and structure elevations. For all existing and proposed, relocated, or expanded buildings and structures, elevation in relation to the Highest Adjacent Grade, the North American Vertical Datum 1988 (NAVD88), and the base flood elevation as applicable, of the:
 - a. Lowest enclosed area of all existing and proposed, relocated, or expanded buildings and structures. This includes crawlspaces, basement floors, and attached garages, electrical equipment (except utility meters), heating and ventilation equipment, plumbing, air conditioning equipment, and/or other service facilities (including ductwork); top of proposed garage slabs; and next highest floor situated above the items herein.
 - b. Elevation to which any existing building or structure has been or is proposed to be flood-proofed; and certification by a registered

professional engineer that the flood-proofing methods for any nonresidential structure meet the floodproofing criteria in this Chapter.

- c. The locations and sizes of all flood openings in any proposed buildings and structures.
 9. Infrastructure. Location of all proposed infrastructure necessary to serve the proposed development shall be required when such new development is proposed by the applicant. Such infrastructure includes, but is not limited to, streets, driveways, water, sanitary sewer, and storm drainage.
 10. Floodplain or watercourse alterations. Where floodplain or watercourse alterations are proposed, a description of the extent to which any floodplain or watercourse is proposed to be altered or affected as a result of proposed development shall be required.
 11. All federally-mandated or state-mandated permits issued by other governmental agencies shall be obtained, or obtaining such permits shall be a Condition of Approval to be satisfied prior to issuance of any construction permit. Such permits include but are not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, 16 U.S.C. 1531-1544, and State of Oregon Removal-Fill permits, as amended.
- E. Application for Floodplain Development Permit. A Floodplain Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 14.010 of this Chapter. The permit shall be for all structures including manufactured dwellings, as set forth in Section 1.040 and for all development including fill and other activities, also as set forth in Section 1.040. Applications for a Floodplain Development Permit shall be made on forms furnished by the Community Development Department and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
1. A Type I Floodplain Development Permit is required for the following:
 - a. Construction of a single-family dwelling, including the placement of a manufactured dwelling or repair or alteration of existing single-family dwellings and manufactured dwellings. Single-family dwellings and manufactured dwellings shall be built in compliance with the applicable development standards in Section 14.040 of this Chapter.
 - b. Emergency bank stabilization necessary to preserve an existing structure during a flood emergency. During the flood event the permit is not required; however, within 90 days of the water receding a Floodplain Development Permit shall be obtained that documents the bank

stabilization measures taken during the emergency and the schedule and procedure that will be used to remove any temporary fill, including sand bags. If the stabilization measures will not be removed, a Type II Floodplain Development Permit will be required as well as a “No-Rise” certification and LOMC as applicable.

- c. Wildfire mitigation projects as identified in this Chapter.
2. A Type II Floodplain Development Permit is required for:
 - a. Any use in the underlying zoning district requiring a Type II Site Development review.
 - b. New or expanded streets or bridges.
 - c. New or expanded railroads or trestles.
 - d. Permanent bank stabilization or fill within the floodplain or floodway.
 - e. Balanced cut and fill activity within the floodplain, with a Letter of Map Change, as required in this Code.
 - f. Fill of wetlands. If the wetland is outside of the floodplain and not hydrologically connected, a Floodplain Development Permit is not required, only the Site Development Review.
 - g. Other uses similar in nature to those listed above.
 3. A Type III procedure and Floodplain Development Permit shall be processed for uses requiring a Type III review in the underlying zoning district, for all special variances requested from the standards of this Chapter, and for any proposed alteration of a watercourse of any perennial or intermittent streams.
- F. Review Criteria - Requests for approval of a Floodplain Development Permit shall be reviewed by the Floodplain Manager or designee to ensure:
1. Consistency with the standards from Sections 1.040, Chapter 2, and Section 14.040 of this Code, as applicable;
 2. Consistency with other applicable standards of this Code and all other applicable policies and standards adopted by the City.
- G. Mandatory Conditions of Approval - The following Conditions of Approval are mandatory and shall be imposed on every approved Floodplain Development Permit:
1. Required During Construction Elevation Certificate. For all new construction,

development, and substantial improvements, the permit holder shall provide to the Floodplain Manager or designee an as-built certification of the floor elevation or flood-proofing elevation immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction. Any deficiencies identified by the Floodplain Administrator or designee shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator or designee or the Building Official to issue a stop-work order for the project.

2. Required Documentation Prior to Issuance of Certificate of Occupancy
 - a. In addition to the requirements of the Building Codes pertaining to Certificate of Occupancy, prior to the final inspection the owner or authorized agent shall submit the following documentation to the Floodplain Manager or designee and the documentation shall be prepared and sealed by a registered surveyor or engineer:
 - i. For elevated buildings and structures in Special Flood Hazard Areas, the as-built elevation of the lowest floor, including basement, or where no base flood elevation is available the height above highest adjacent grade of the lowest floor;
 - ii. For buildings and structures that have been floodproofed, the elevation to which the building or structure was floodproofed.
 - b. Failure to submit certification or failure to correct violations shall be cause for the Floodplain Manager or designee or the Building Official to withhold a Certificate of Occupancy until such deficiencies are corrected.
3. For applications for partitions and subdivisions, one of the following shall be required:
 - a. Protection of Flood Management Areas with a conservation easement;
 - b. Platting Flood Management Areas as common open space; or
 - c. Offer of sale or donation of Flood Management Area property to public agencies or private non-profits for preservation where feasible.

14.040 Development Standards. The land use application shall establish through the use of narrative, site plans, and professional reports, the following:

- A. Type II or III approval for new development, including additions or alterations to existing structures, except for single family dwellings, in the Flood Management Area may be allowed, provided that:

1. The applicant shall demonstrate that there is no reasonable nor practical alternative design or method of development that would have a lesser impact on the Flood Management Area than the one proposed.
 2. If there is no reasonable nor practical alternative design or method of development the project shall be designed in compliance with applicable parts of Subsections (B) through (X) of this Section, so that the impacts on the Flood Management Area are limited and the plans shall include restoration, replacement, or rehabilitation of the vegetation within the Flood Management Area.
 3. The applicant shall provide mitigation to ensure that impacts to the functions and values of the vegetation corridor and integrity of the slope will be mitigated or restored to the extent practicable.
- B. A professional engineer registered in Oregon must certify that the development will not result in any increase in flood levels throughout the SFHA during the occurrence of the base flood discharge, and that water quality will not be adversely affected.
- C. As applicable, the development must be authorized by the Oregon Department of State Lands, U.S. Army Corps of Engineers, the Oregon Department of Fish and Wildlife, and the Sandy Drainage Improvement Company. The applicant shall obtain and submit a copy of all required state and federal permits for any proposed development in the Flood Management Area, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- D. Unless otherwise authorized under the provisions of this Chapter, the development shall comply with the underlying zoning district dimensional standards and the minimum vegetation corridor as established in Sections 4.316 and 4.317 of this Code. The applicant shall submit an exhibit that shows the location and provides a description of all actions to be provided to mitigate the impacts of permitted development as established in Section 4.314 of this Code.
- E. Protect the water quality resource, and Flood Management Area functions and values from uncontained areas of hazardous materials as defined by the State of Oregon Department of Environmental Quality water quality standards.
- F. Limit impervious surface areas in the Flood Management Area.
1. The impervious surface of the development may not exceed thirty percent (30%) of the flood plain area, provided the standards of this Code are met. Exception: Public roads necessary to serve the transportation needs of the City may exceed thirty percent (30%) of the Flood Management Area provided all other applicable standards of this Chapter have been met.
 2. Clustering of houses and multiple-family units, zero lot line developments, and/or modifications to setbacks may be approved under the Type II procedure in order

- to accommodate the density permitted within the underlying zoning district and not exceed the impervious surface limitation of thirty percent (30%) of the Flood Management Area on the site.
3. The Director, or their designee, may grant an administrative variance of up to fifty percent (50%) of any dimensional standard in the underlying zoning district where necessary to avoid development within the Flood Management Area.
- G. Maintain flood storage capacity. The developer is required to offset new fill placed in the floodplain by excavating an additional flood-able area to replace the lost flood storage area, preferably at hydrologically equivalent sites. All development proposals in the SFHA shall provide compensatory mitigation for impacts to flood storage, water infiltration, and riparian vegetation to ensure that new development does not increase flood hazards on other properties. A mitigation plan shall be submitted with the land use application. All required actions derived from that plan shall be completed prior to issuance of a Certificate of Occupancy, a Certificate of Completion for a subdivision, or the final building inspection, as applicable. Balanced cut and fill is required for permitted development in the Flood Management Area. Excavation and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations. A professional engineer registered in Oregon must certify that the development will not result in any increase in flood levels throughout the SFHA during the occurrence of the base flood discharge.
1. All fill placed at or below the design flood elevation in the Flood Management Area shall be balanced with at least an equal volume or amount of soil material removal. The development shall be designed to minimize development within the Flood Management Area and amount of fill necessary. Balanced cut and fill may be used to elevate structures but shall not be used for density transfer. Residential density must be calculated prior to changes to the floodplain as a result of balanced cut and fill.
 2. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.
 3. The cumulative effect of any proposed development shall not increase the water surface elevation of the base flood. Onsite flood storage capacity shall not decrease as a result of development, vegetation removal, or excavation.
 4. A “No-Rise” certification is required for any fill or permitted development within the floodway pursuant to Section 60.3(d)(3) of the National Flood Insurance Program.
 - a. The “No-Rise” supporting data and a copy of the engineering certification must be submitted to, and reviewed by, the City prior to approval of development, and the data shall be submitted with the Floodplain Development Permit.

- b. The “No-Rise” certification and supporting technical data must stipulate no impact on the 100-year flood elevations, floodway elevations, or floodway widths at the new cross-sections and at all existing cross-sections anywhere in the model.
 - c. A sample “No-Rise” certification is available in the Community Development Department.
 5. All new buildings built on fill in the regulatory floodplain shall be constructed on fill:
 - a. Certified by a professional engineer registered in Oregon as suitably designed and compacted for the development (e.g. fill that meets the criteria of 1803.5.8 and Section 1804.4 of the International Building Code, Section 2.4 of ASCE 24, or their equivalent); and
 - b. Providing protection from erosion and scour.
 6. When a project proposes development that will alter a watercourse, modify floodplain boundaries, or modify Base Flood Elevations, the application shall obtain a Conditional Letter of Map Change from FEMA prior to grading and filling the site and then obtain and submit the final Letter of Map Change prior to final inspections, or issuance of a certificate of completion, or issuance of the certificate of occupancy as required under this Section. When a project applicant has demonstrated through the Floodplain Development Permit that, in addition to the standards listed for Section 14.040.G, the following standards have been achieved, a Conditional Letter of Map Change/Letter of Map Change may not be required:
 - a. Fill is not proposed in the floodway for the site to be impacted through development;
 - b. The project site is not being elevated to or above the base flood elevation (BFE);
 - c. The project is proposing to remove unsuitable existing material (topsoil) and backfilling with select structural material, not altering the existing (natural grade) elevation of the site;
 - d. The site to be impacted does not have US Fish and Wildlife Service (USFWS) designations for critical habitat for Threatened or Endangered; and
 - e. In areas where a regulatory floodway has not been designated, the new construction, substantial improvements, or other development (including

fill) within A or AE Zones on the community's FIRM, has 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 at any point within the community.

7. All proposals that include engineering analysis for maintenance of flood storage capacity are subject to review by a qualified engineer licensed in the State of Oregon. The applicant shall be responsible for the cost of this independent review and will be advised at the time of application of this expectation.
- H. Residential Development, including accessory structures as referenced in Section 5.010 of this Code and not constructed in accordance with Section 14.040.V. Note: if more than fifty percent (50%) of the lot being developed is affected by the floodplain, then the minimum density standard of this Code does not apply.
1. Elevate structures. The minimum finished floor elevation, including basement floor, for all new or substantially improved residential structures in the Flood Management Area shall be at least two (2) feet above the base flood elevation, as established by Section 14.010.B in this Chapter, and as demonstrated through the Elevation Certificate submittals as established in this Section. Elevation Certificates shall be required for all residential development as required by the Community Rating System.
 - a. An Elevation Certificate shall be submitted with the construction plans. The Elevation Certificate shall include the elevation of the lowest floor (including basement). The Elevation Certificate shall be certified by a land surveyor, engineer, or architect who is authorized by state or local law to certify elevation information for construction within specific flood hazard areas.
 - b. A second certified Elevation Certificate shall be submitted to the City of Troutdale prior to pouring the foundation.
 - c. A third certified Elevation Certificate shall be submitted after the structure is completed based upon finished construction.
 - d. The City shall maintain the Elevation Certificates for public inspection.
 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 (2) openings having a total net area of not less than

- one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, or other devices provided that they permit the automatic entry and exit of floodwaters.
 - d. Where possible, openings will be installed on at least two opposing sides of the enclosed area.
3. Below-grade crawlspaces are allowed only when in compliance with the design requirements of FEMA Technical Bulletin 11-01, “Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.” Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction with an interior elevation at or above the lowest adjacent exterior grade.
- a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings:
 - i. Openings that equalize hydrostatic pressures by allowing for the automatic entry and existence of floodwaters is required. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade. See FEMA Technical Bulletin 1-93, Opening in Foundation Walls, for guidance.
 - ii. All portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE. Ductwork or other utility systems located below the insulation may pull away from their supports. See page 8 of Technical Bulletin 1-93 and FEMA Technical Bulletin 2-93 Flood Resistant Materials Requirements.
 - iii. Any building utility systems within the crawlspace must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system

components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters. For further guidance, see FEMA 348, Protecting Building Utilities from Flood Damage.

- b. The interior grade of a crawlspace below the base flood elevation must not be more than two (2) feet below the lowest adjacent exterior grade.
 - c. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building Code requirements for flood hazard areas. Crawlspaces may not be converted to basements.
 - d. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel, or crushed stone drainage by gravity or mechanical means.
 - e. Crawlspace construction is not permitted in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. For velocities in excess of five (5) feet per second, other foundation types should be used.
 - f. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest immediate interior or exterior grade.
4. Substantial improvements will require elevation of any non-elevated structure to two (2) feet above the base flood elevation in compliance with this Section and in accordance with Section 1.040. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvements include:
- a. Any repair, reconstruction, or improvement of a structure, the cost of which exceeds forty-nine percent (49%) of the market value of the structure as established by the County appraiser or a licensed professional

appraiser.

- b. Reconstruction or repair of a structure that exceeds forty-nine percent (49%) of the market value of the building before it was damaged.
 - c. Additions to an existing structure when the addition increases the market value of the structure by more than forty-nine percent (49%) or the floor area by more than twenty percent (20%).
5. Comply with other standards of this Section, as applicable.

I. Manufactured dwellings within the Special Flood Hazard Area.

1. All manufactured dwellings to be placed or substantially improved on sites outside of or within a new, existing, or expansion to an existing manufactured dwelling park or subdivision shall be elevated so that the bottom of the longitudinal chassis frame beam is at or above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.
2. Anchoring 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).
3. Manufactured dwellings shall have all electrical crossover connections installed at a minimum of twelve (12) inches above BFE.
4. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 14.040.H(2).
5. Comply with the other standards of this Section as applicable.

J. Recreational Vehicles (RV) within the Special Flood Hazard Area, whether in a park or on private property outside of a park, are required to:

1. Be on the site for fewer than one hundred eighty (180) consecutive days, and
2. Be fully licensed and ready for highway use. Highway use means 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
3. Meet the permit requirements of Section 14.040.I and the requirements for manufactured dwellings.
4. The RV “pads” shall be paved with asphaltic concrete or comparable, and have a

special water quality facility for the collection of the stormwater from the site.

5. The RV “pads” shall be wide enough to accommodate a trailer parked next to the towing vehicle or be long enough to accommodate both towing vehicle and trailer.
- K. Nonresidential Construction. New construction, development, and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to no less than two (2) feet above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
1. Be dry floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water. A dry floodproofing certificate shall be filed with the City following the form and procedure established by the Federal Emergency Management Agency.
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, in accordance with standards established by the Federal Emergency Management Agency and the National Flood Insurance Program.
 3. Be certified by a registered professional engineer or architect that the design and methods of development are in accordance with accepted standards of practice for meeting provisions of National Flood Insurance Program regulations (CFR 60.3(c)(4) and (5)) based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the City.
 4. Nonresidential structures that are elevated, not dry floodproofed, must meet the same standards for space below the lowest floor as described in Section 14.040.H. If elevated, an Elevation Certificate shall be submitted with the construction plans, prior to pouring the foundation, and after construction.
 5. Applicants dry floodproofing nonresidential 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 elevation will be rated as one (1) foot below the base flood elevation).
 6. Applicants that elect to utilize floodproofing instead of elevation shall supply a comprehensive Maintenance Plan at the time of building plan review for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

7. Applicants may be required by the Floodplain Manager to supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.
 8. Comply with other standards of this Section as applicable.
- L. Remove temporary fills. Temporary fills permitted during construction or emergency bank stabilization shall be removed if not in compliance with the balanced cut and fill standard of this Code or prior to issuance of a Certificate of Occupancy or release of any bond issued for the development.
 - M. Preserve and/or restore the vegetation corridor within the disturbed areas, and retain the existing tree canopy as established in Sections 4.316, Width of Vegetation Corridor, and 4.317, Methods for Determining Vegetation Corridors Next to Primary Protected Water Features, of this Chapter. An enhancement plan for disturbed areas shall be prepared and implemented to stabilize slopes to prevent landslides on slopes and sedimentation of water features. This plan shall provide for the replanting and maintenance of approved plant species designed to achieve pre-disturbance conditions.
 - N. Maintain or reduce stream temperatures.
 - O. Minimize erosive velocities, nutrient, and pollutant loading into water. Use filtering, infiltration, and natural water purification for stormwater runoff in compliance with the Erosion Control and Water Quality Standards of Section 5.600 of this Code. The applicant’s engineering plans shall certify that runoff and sedimentation from the site will comply with the standards of Section 5.600 of this Code.
 - P. Anchoring. All new construction, development, and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - Q. Construction Materials and Methods. All new construction, development, and substantial improvements shall use flood-resistant materials in accordance with the requirements of FEMA Technical Bulletin 2-93 “Flood Resistant Materials Requirements” and utilities shall be designed and installed in accordance with FEMA Publication 348 “Protecting Building Utilities from Flood Damage.” The following standards are only a summary of those requirements:
 1. All new construction, development, and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 2. All new construction, development, and substantial improvements shall be constructed using methods and practices that minimize flood damage and minimize impacts to natural floodplain functions, including flood storage, water infiltration, and riparian vegetation.

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 the components during conditions of flooding.
 4. No construction materials or methods may be used within the floodplain that would impair or damage water quality or native vegetation.
 5. All development shall have adequate drainage provided to reduce exposure to flood damage and maintain water quality.
- R. Utilities and Roads.
1. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable, and comply with the Oregon Department of Fish and Wildlife construction standards.
 2. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
 4. Onsite waste disposal systems shall be located to avoid impairment to them, or contamination from them, during flooding consistent with the State of Oregon Department of Environmental Quality.
 5. Utility and road placement shall occur outside the floodway unless the utility or road is necessary to serve permitted development, and there is no reasonable alternative. Roads built in the floodplain shall be built at or above the base flood elevation to provide access to emergency vehicles during a flood.
 6. Stormwater management and water quality facilities shall comply with the siting and construction standards of Section 5.700 of this Code.
- S. For any alterations or relocations of a watercourse the developer shall be required to notify the Oregon Department of State Lands, the Oregon Department of Land Conservation and Development, and adjacent communities that will be impacted by the alteration or relocation. The developer shall be responsible for obtaining and submitting copies of any required project permits required by the Oregon Department of State Lands, U.S. Army Corps of Engineers, Oregon Department of Fish and Wildlife Service, Federal Emergency Management Agency, and other affected agencies, as applicable. The flood carrying capacity of the altered or relocated watercourse shall not be diminished and shall be maintained. Alterations will require a “No-Rise” certification for changes to the floodway, and changes that relocate the floodplain will require a Letter of Map Change

- (LOMC) from FEMA or may require a revised Flood Insurance Study and Flood Insurance Rate Map for the City. The burden for all engineering studies required to process these forms is the applicant's, not the City's.
- T. Subdivision Proposals. In addition to compliance with the underlying zoning district standards of this Code and this Chapter, the development of the subdivision shall be subject to the following additional criteria:
1. All subdivision proposals shall be consistent with the need to minimize flood damage.
 2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 4. Where the base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is less.
 5. If more than fifty percent (50%) of the lot being partitioned or subdivided is affected by the floodplain, then the minimum density standard of this Code does not apply.
- U. Critical Facilities.
1. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area.
 2. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available.
 3. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot above the height of the 500-year flood level. Submit Elevation Certificates with the construction plans, prior to pouring the foundation, and upon completion of the structure in accordance with Subsections H(1)(a - c) of this Section.
 4. Access to and from the critical facility shall also be protected to the height utilized above.
 5. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

6. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
 7. Comply with the other standards of this Section as applicable.
- V. Small Accessory Structure. Relief from elevation or floodproofing as required in this Section may be granted for small accessory structures that meet the following standards. The applicant shall be advised that this type of allowance will result in higher insurance rates for these structures, as applicable.
1. Less than two hundred (200) square feet, less than \$5,000 in valuation, and do not exceed one story;
 2. Not temperature controlled;
 3. Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;
 4. Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the State of Oregon Department of Environmental Quality unless confined in a tank installed in compliance with this ordinance or stored at least two feet above base flood elevation;
 5. Located and constructed to have low damage potential;
 6. Constructed with materials resistant to flood damage as described in this Section;
 7. Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
 8. Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or designed in compliance with Section 14.040.H(2):
 9. 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.
- 14.045 Floodways. Located within areas of special flood hazard established in Section 14.010.B of this Chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Except as provided in Section 14.045.C, encroachments, including fill, new construction, development, substantial improvements, and other development are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - B. If Section 14.040.A is satisfied, all new construction, development, and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 14.040 of this Code.
 - C. Floodways and other high hazard zones are extremely hazardous areas due to exceptionally high flood and erosion potential. In these areas, the development actions permitted in high hazard zones shall be limited to water-dependent uses; bridges and other location-dependent uses; habitat restoration activities consistent with Sections 14.035.C(2); low-intensity recreation; and bioengineered banks.
- 14.050 Before Regulatory Floodway. 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.
- 14.055 Flood Management Area Variance Procedures. Variances from dimensional standards of the underlying zoning district or other provisions of this Code not part of this Chapter shall be processed in accordance with Section 6.800 of this Code.
- A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction, development, and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the considerations of Section 14.055.A(1 - 11) have been fully reviewed. As the lot size increases the technical justification required for issuing the variance increases.
 - 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.
- B. 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.
1. Is the minimum necessary to preserve the historic character and design of the site, building or structure;
 2. Will not result in the site, building or structure losing its historic designation; and
 3. Demonstrates consistency with all other local, state, or federal laws or ordinances, including documentation of any necessary consultations with state or federal agencies.
- C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. The Director, or their designee, may grant a Type II variance of up to fifty percent (50%) of any dimensional standard in the underlying zoning district where necessary to avoid construction or development within the Flood Management Area. The Director or designee shall make a determination in accordance with the criteria established in Section 14.055.J of this Chapter.
- F. Applications for variances to dimensional standards in excess of that provided in Section

14.055.E shall be a Type III application.

- G. The Planning Commission or Director, or their designee, may attach conditions to the granting of variances as it deems necessary to further the purpose of this Chapter.
- H. As a participant in the National Flood Insurance Program, the City is not authorized to grant a variance from the requirement to elevate or floodproof structures in accordance with state and federal regulations, whichever is most restrictive. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 14.055.A and otherwise complies with Sections 14.040.P - R of this Chapter.
- I. The City cannot grant a variance from the special flood hazard designation assigned by the Federal Insurance Administrator to a site. However, a property owner may request a Letter of Map Change (LOMC) from the Federal Emergency Management Agency.
- J. In reviewing a Type III Variance, the Planning Commission shall consider all technical evaluations, relevant factors, and standards specified in other Sections of this Chapter and other Chapters of this Code, and make affirmative findings, with or without conditions, for each of the following criteria:
 - 1. A showing of good and sufficient cause that the need for the variance is not of the applicant's making and will not result in a use of the site that is not otherwise permitted in the underlying zoning district.
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant and is the minimum necessary to grant relief.
 - 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 as identified in Section 14.055.A(1) – (11) or conflict with existing local, state, or federal laws or ordinances.
 - 4. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - 5. A determination that the development project cannot be located outside the Special Flood Hazard Area and/or high hazard area and that impacts to flood storage, water infiltration, and riparian vegetation have been minimized to the extent practicable.
 - 6. A demonstration of consistency with all other local, state, or federal laws or ordinances, including documentation of any necessary consultations with state or federal agencies.

- 14.060 Prescribed Conditions for the Rehabilitation or Replacement of Pre-Existing Structures. The replacement of pre-existing structures or development damaged or destroyed accidentally is subject to following standards:
- A. The structure or development was in existence within the Flood Management Area prior to February 1, 2019.
 - B. The use is allowed in the underlying zoning district at the time the application is made to rehabilitate or replace the structure.
 - C. A Type I Floodplain Development Permit is approved prior to applying for building permits.
 - D. The rehabilitation or replacement is rebuilt on the same footprint of the original structure and does not increase the impervious area within the Special Flood Hazard Area.
 - E. The rehabilitated or replaced structure is elevated, if residential, or floodproofed or elevated, if non-residential, in accordance with the applicable standards of this Chapter, the definition found Section 1.040, and all additional relevant standards in this Code.