ORDINANCE NO. 1968

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON AMENDING PORTIONS OF DAYTON MUNICIPAL CODE CHAPTER 17-01, REPEALING ORDINANCE 1841, AND ADOPTING NEW REGULATIONS PERTAINING TO FREQUENTLY FLOODED AREAS AND FLOOD DAMAGE PREVENTION

WHEREAS, as part as the Growth Management Act (GMA), the City of Dayton (City) is required to adopt and implement development regulations protecting critical areas, including frequently flooded areas; and,

WHEREAS, Washington State updated statewide minimum requirements for flood damage prevention and a new model ordinance for local municipalities to utilize in updating local codes; and,

WHEREAS, the Director of Planning and Community Development drafted a new ordinance that incorporated the new model ordinance wholly, with the Dayton Planning Commission reviewing and offering additional revisions during regularly scheduled public meetings; and,

WHEREAS, on August 31, 2020, the Director of Planning and Community Development transmitted to the Washington State Department of Commerce (Commerce) the proposed amendments and request for expedited review pursuant to RCW 36.70A.16(3)(B), which was granted on September 14, 2020; and,

WHEREAS, on August 31, 2020, the Director of Planning and Community Development issued a threshold determination of nonsignificance (DNS) pursuant to the State Environmental Policy Act (SEPA); and,

WHEREAS, the SEPA DNS was advertised in the manner required by law and no public comments were received; and,

WHEREAS, the Dayton Planning Commission held a duly advertised public hearing on September 22, 2020 to take testimony for or against the proposed amendments; and,

WHEREAS, on September 22, 2020, the Dayton Planning Commission unanimously voted to recommend the Dayton City Council adopt the proposed amendments to Title 17 as presented.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1: Amendments. Section 17-01.050 of the Dayton Municipal Code is hereby amended to read as follows:

17-01.050. - Definitions.

"*Alteration*" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

"*Area of shallow flooding*" means a designated AO, or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

"*Area of special flood hazard*" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.

"*Aquifer recharge areas*" means areas designated as high susceptibility for aquifer contamination, are those areas that have soils and geological features that are conducive to allowing significant amounts of surface water to percolate into underground water supplies. All development and all uses which lie within these areas shall be connected to the city's sewer system. No new uses on a septic system are permitted in high susceptibility areas of critical aquifer recharge.

"*Aquifer, sole source*" means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50 percent or more of the drinking water for an area without a sufficient replacement available.

"*Base flood*" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letter A.

"Base Flood Elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

"*Basement*" means any area of the building having its floor subgrade below ground level on all sides.

"*Best available science*" means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Examples of best available science are included in Citations of Recommended Sources of Best Available Science for

Designating and Protecting Critical Areas published by the Washington State Department of Commerce.

"*Best management practices (BMPs)*" means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;
2. Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
3. Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and
4. Provide standards for proper use of chemical herbicides within critical areas.

"*Bog*" means low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

"*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.

"Building Code" means the current effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

"*Buffer or buffer zone*" means the area contiguous with a critical area that maintains the functions and/or structural stability of the critical area.

"*Class V injection well*" means a shallow disposal systems that are used to place a variety of fluids below the land surface.

"*Critical areas*" include any of the following areas or ecosystems: frequently flooded areas, critical aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and wetlands, as defined in RCW 36.70A and this title.

"*Critical aquifer recharge area*" means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

"*Critical facility*" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes,

hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

"*Cumulative impacts or effects*" means the combined, incremental effects of human activity on ecological or critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

"*Developable area*" means a site or portion of a site that may be used as the location of development, in accordance with the rules of this title.

"*Development*" means 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 located within the area of special flood hazard. For the purpose of flood control in chapter 17-02 DMC, "development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment of materials located within the area of special flood hazard.

"*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, post, piers, pilings, or columns.

"*Elevation certificate*" means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by community officials.

"*Emergency*" means a serious situation or occurrence that happens unexpectedly and demands immediate action such as those causing hazardous situations including flooding, snow, or ice storms high winds or other natural events.

"*Enhancement*" means the manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

"*Existing manufactured home park or subdivision*" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

"*Expansion to an existing manufactured home park or subdivision*" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"*Flood*" or "*flooding*" means:

1. General and temporary condition of partial or complete inundation of normally dry land areas from:
    a. The overflow of inland or tidal waters.
    b. The unusual and rapid accumulation of runoff of surface waters from any source.
    c. Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph 1(b) 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.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, 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 1(a) of this definition.

"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. Also known as a Flood Insurance Study (FIS).

"*Flood insurance rate map (FIRM)*" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"*Flood insurance study*" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."

"*Flood loss/flood damage*" means property damage due to flood events.

"Floodplain administrator" means the community official designated by title to administer and enforce the floodplain management regulations.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

"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 one foot. Also referred to as the "regulatory floodway".

"*Frequently flooded areas*" means lands in the floodplain subject to a one percent or greater chance of flooding in any given year. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property as designated by WAC 365-190-080(3). Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

"*Functions and values*" means the services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

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

"*Geologically hazardous areas*" means areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the

hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

1. Erosion hazard;
2. Landslide hazard;
3. Seismic hazard;
4. Mine hazard;
5. Volcanic hazard; and
6. Other geological events including tsunamis, mass wasting, debris flows, rock falls, and differential settlement.

"*Ground water*" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

"*Growth Management Act*" *(GMA)* means RCW 36.70A and 36.70B, as amended.

"*Hazardous substances*" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"*Historic structure*" means for the purpose of implementation of DMC Chapter 17-02, Frequently Flooded Areas and NFIP [Code of Federal Regulations (CFR) 44 Part 59], as "any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (This includes structures that are determined to be eligible for listing by the Secretary of the Interior as a historic structure. A determination of "eligibility" is a decision by the Department of the Interior that a district, site, building, structure or object meets the National Register criteria for evaluation although the property is not formally listed in the National Register.)
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in States without approved programs.

"*Impervious surface*" means any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

"*In-kind compensation*" means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

"*In-lieu-fee program*" means an agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees' required mitigation.

"*Increased cost of compliance*" means a flood insurance claim payment up to $30,000.00 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of "substantial damage" or as a result of a "cumulative substantial damage." (More information can be found in FEMA ICC Manual 301).

"*Infiltration*" means the downward entry of water into the immediate surface of soil.

"*Isolated wetlands*" means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

"*Lowest floor*" means the lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title found at section 17-02.033(B).

"*Mature forested wetland*" means a wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least eight trees/acre are 80 to 200 years old or have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

"*Manufactured home*" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"*Manufactured home park or subdivision*" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"*Mitigation*" means avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation, in the following sequential order of preference, is:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
3. Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
4. Minimizing or eliminating a hazard by restoring or stabilizing the hazard area through engineered or other methods;
5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
6. Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
7. Monitoring the hazard or other required mitigation and taking remedial action when necessary. Mitigation for individual actions may include a combination of the above measures.

"*Mean Sea Level*" means, for the purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"*Monitoring*" means evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features. Monitoring includes gathering baseline data.

"*Native vegetation*" means plant species that occur naturally in a particular region or environment and were not introduced by human activities.

"*New construction*" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"*New manufactured home park or subdivision*" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

"*Off-site compensation*" means to replace critical areas away from the site on which a critical area has been impacted.

"*On-site compensation*" means to replace critical areas at or adjacent to the site on which a critical area has been impacted.

"*Ordinary high water mark*" means that mark which is found by examining the bed and banks of water bodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.

"*Permeability*" means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

"*Practical alternative*" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

"*Preservation*" means the removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

"*Prior converted croplands*" means prior converted croplands (PCCs) are defined in federal law as wetlands that were drained, dredged, filled, leveled or otherwise manipulated, including the removal of woody vegetation, before December 23, 1985, to enable production of an agricultural commodity, and that: 1) have had an agricultural commodity planted or produced at least once prior to December 23, 1985; 2) do not have standing water for more than 14 consecutive days during the growing season, and 3) have not since been abandoned.

"*Project area*" means all areas, including those within 50 feet of the area, proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

"*Qualified professional*" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least five years of related work experience.

1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manuals and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species.
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the State of Washington.
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

"Reasonably Safe from Flooding" means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical

data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

"*Recreational vehicle*" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"*Re-establishment*" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

"*Rehabilitation*" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

"*Repair*" or "*maintenance*" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

"*Restoration*" means measures taken to restore an altered or damaged natural feature, including:

1. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
2. Actions performed to re-establish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

"*SEPA*" means Washington State Environmental Policy Act, RCW Subchapter 43.21C.

"*Soil survey*" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

"*Special protection areas*" means aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to:

1. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;
2. Ground water recharge areas and wellhead protection areas, that are vulnerable to pollution because of hydrogeologic characteristics; and
3. Sole source aquifer status.

"*Species*" means any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

"*Species, endangered*" means any wildlife species native to the State of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

"*Species of local importance*" means those species of local concern designated by the city in chapter 17-06 due to their population status or their sensitivity to habitat manipulation.

"*Species, priority*" means any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

"*Species, threatened*" means any wildlife species native to the State of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

"*Species, sensitive*" means any wildlife species native to the State of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

"*Stream*" means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain

water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

"Start of construction" for the purpose of regulation and implementation chapter 17-02, start of construction means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"*Structure*" means anything which is built or constructed (above or below grade), an edifice of building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner; and a gas or liquid storage tank that is principally above ground; but excluding vehicles, lawn/yard furniture, statuary, utility boxes/lights, minor utility apertures, planter boxes, fences 72 inches (six-foot) or under in height, and residential tent structures.

For the purpose of flood control in chapter 17-02, "structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

"*Substantial damage*" means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"*Substantial improvement*" means any reconstruction, rehabilitation, addition or other improvement to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the construction of the improvement or repair is started. The term substantial improvement excludes: 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.

Note: If a building is substantially improved or substantially damaged, it must be brought into compliance with applicable floodplain ordinances, i.e., protected from the base flood (elevated to or above the BFE).

"*Unavoidable impacts*" means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

"*Use permit*" means as defined by FEMA, is a permit issued after a development project is complete and the property has passed all the necessary inspections. Depending on the local ordinance provisions, a building cannot be occupied nor can a site be used unless a use permit or a certificate of use and occupancy is issued by the building official.

"*Variance*" means a grant of relief from the requirements of this title which permits construction in a manner that would otherwise be prohibited by this title.

"*Washington Administration Code*" *(WAC)* means administrative guidelines implementing the Growth Management Act, WAC 365-190 and WAC 365-195, as amended.

"*Water dependent*" means for the purpose of flood control in chapter 17.02 DMC, water dependent means 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.

"*Water table*" means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

"*Well*" means a bored, drilled or driven shaft, or a dug hole whose depth is greater that the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

"*Wetland*" or "*wetlands*" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that 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 do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

"*Wetland mitigation bank*" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

"*Wetland mosaic*" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water.

Section 2: Repeal. City of Dayton Ordinance No. 1841 is hereby repealed.

Section 3: Amend. A new Municipal Code, Chapter 17-02 – Frequently Flood Areas, is hereby adopted and reads as follows:

Chapter 17-02 – Frequently Flooded Areas

17-02.001 – Lands to which this ordinance applies (44 CFR 59.22(a))

This ordinance shall apply to all special flood hazard areas within the boundaries of the City of Dayton, Washington.

17-02.005 – Basis for establishing the areas of special flood hazard

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Columbia County, Washington dated May 4, 1988 and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated May 4, 1988 and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file at Dayton City Hall, 111 S. 1st St., Dayton, WA 99328

17-02.010 – Compliance

All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

17-02.015 – Penalties for noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be subject to the enforcement provisions of Chapter 21 of the Dayton Municipal Code.

17-02.020 – Abrogation and greater restrictions

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

17-02.025 – Severability

This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

17-02.030 – Development permit required (44 CFR 60.3(b)(1))

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 17-02.005. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions," and for all development including fill and other activities, also as set forth in the "Definitions."

17-02.035 – Application for development permit

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

A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
B. Elevation in relation to mean sea level to which any structure has been floodproofed;
C. Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in 17-02.075 (B);
D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
E. Where a structure is proposed in a V, V1-30, or VE zone, a V-zone design certificate;
F. Where development is proposed in a floodway, an engineering analysis indication no rise of the Base Flood Elevation, and
G. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

17-02.040 – Designation of the floodplain administrator (44 CFR 59.22(b)(1))

The Director of Planning & Community Development is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

17-02.045 – Duties and responsibilities of the floodplain administrator

Duties of the floodplain administrator shall include, but are not limited to:

A. Permit review: review all development permits to determine that:
    1. The permit requirements of this ordinance have bee satisfied;
    2. All other required state and federal permits have been obtained;
    3. The site is reasonably safe from flooding;
    4. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of 17-02.090 (A) are met;
    5. Notify FEMA when annexations occur in the Special Flood Hazard Area.

B. Use of other base flood date (in A zones) (44 CFR 60.3(b)(4))
When base flood elevation data has not been provided (A zones) in accordance with 17-02.005, the floodplain administrator 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 sections 17-02.075 and 17-02.090.

C. Information to be obtained and maintained
    1. Where base flood elevation data is provided through the FIS, FIRM, or required as in section 17-02.045 (B), obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. (44 CFR 60.3(b)(5)(i) and (iii))
    2. Obtain and maintain documentation of the elevation of the bottom of the lowest horizontal structural member in V or VE zones. (44 CFR 60.3(e)(2)(i) and (ii))
    3. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in section 17-02.045 (B):
        i. Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed. (44 CFR 60.3(b)(5)(ii))
    4. Certification required by section 17-02.09 (A) (floodway encroachments). (44 CFR 60.3(d)(3))
    5. Records of all variance actions, including justification for their

issuance. (44 CFR 60.6(a)(6))

6. Improvement and damage calculations.
7. Maintain for public inspection all records pertaining to the provisions of this ordinance. (44 CFR 60.3(b)(5)(iii))

17-02.050 – Alteration of watercourse

Whenever a watercourse is to be altered or relocated:

A. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means. (44 CFR 60.3(b)(6)).
B. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained. (44 CFR 60.3(b)(7)).

17-02.055 – Interpretation of FIRM boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. 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. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP (44 CFR 59-76).

17-02.060 – Review of building permits (44 CFR 60.3(a)(3))

Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (section 17-02.045 (B)), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

17-02.065 - Changes to special flood hazard areas

A. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
B. If a CLOMR application is made, then the project proponent shall also

supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

17-02.070 – Provisions for flood hazard reduction

In all areas of special flood hazards, the following standards are required:

A. Anchoring (44 CFR 60.3(a) and (b))
   1. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or later movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy. (44 CFR 60.3(a)(3)(i))
   2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (44 CFR 60.3(b)(8)). For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

B. Construction materials and methods (44 CFR 60.3(a)(3)(ii – iv))
   1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
   2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
   3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Storage of materials and equipment
   1. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.
   2. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

D. Utilities (44 CFR 60.3(a)(5 – 6))

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
2. Water wells shall be located on high ground that is not in the floodway (WAC 179-160-171);
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
4. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision proposals and development (44 CFR 60.3(a)(4) and (b)(3))
All subdivisions, as well as new development shall:

1. Be consistent with the need to minimize flood damages;
2. Have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
3. Have adequate drainage provided to reduce exposure to flood damages;
4. Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 areas (whichever is less) base flood elevation data shall be included as part of the application.

17-02.075 – Specific Standards (44 CFR 60.3(c)(1))

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 17-02.005 or 17-02.045 (B). The following provisions are required:

A. Residential construction (44 CFR 60.3(c)(2)(5)

1. In AE and A1-30 zones or other A zones where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated at least one-foot above BFE.
2. New construction and substantial improvement of a residential structure in the AO zone shall meet the requirements in Section 17-02.080.
3. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
4. Fully enclosed areas below the lowest floor that are subject to

flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must meet or exceed the following minimum criteria:

i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
ii. The bottom of all openings shall be no higher than one-foot above grade.
iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
iv. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

B. Nonresidential construction (44 CFR 60.3(c)(3) and (4))

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet the requirements of subsection 1 or 2 below:

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
    i. In AE and AL-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained:
        a. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.
    ii. If located in an AO zone, the structure shall meet the requirements in Section 17-02.080.
    iii. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest

Adjacent Grade.

iv. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
b. The bottom of all openings shall be no higher than one-foot above grade.
c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
d. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

2. If the requirements of subsection 1 are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

i. Be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as

set forth in section 17-02.045 (C).

iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 17-02.075 (A)(4).

C. Manufactured Homes (44 CFR 60.3(c)(6)(12))

1. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This applies to manufactured homes:
    i. Outside of a manufactured home park or subdivision;
    ii. In a new manufactured home park or subdivision;
    iii. In an expansion to an existing manufactured home park or subdivision; or
    iv. In an existing manufactured home park or subdivision on a site which a manufactured home has incurred "substantial damage" as the result of a flood
2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:
    i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or
    ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

D. Recreational Vehicles (44 CFR 60.3(c)(14))

1. Recreational vehicles placed on sites are required to either:
    i. Be on the site for fewer than 180 consecutive days, or
    ii. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions or,
2. Meet the requirements of section 17-02.075 (C).

E. Enclosed Area Below the Lowest Flood

If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lower floor, the areas shall be used solely for the parking of vehicles, building access, or storage.

F. Appurtenant Structures (detached garages & small storage structures)
For A zones (A, AE, A1-30, AH, AO)

1. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:
    i. Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
    ii. The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
    iii. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
    iv. Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
    v. The appurtenant structure must comply with floodway encroachment provisions in section 17-02.090 (A);
    vi. The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with 17-02.075 (A)(4).
    vii. The structure shall have low damage potential;
    viii. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and
    ix. The structure shall not be used for human habitation.
2. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in section 17-02.075 (A).
3. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

17-02.080 – Standards for AO Zones (44 CFR 60.3(c)7, 8, and 11)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In addition to other provisions in this code, the

following additional provisions also apply in AO zones:

A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one foot or more above the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).
B. New construction and substantial improvements of nonresidential structures within AO zones shall either:
    1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
    2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer, or architect as in section 17-02.075 (B).
C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
D. Recreational vehicles placed on sites within AO zones on the community's FIRM either:
    1. Be on the site for fewer than 180 consecutive days, or
    2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
    3. Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes (Section 5.1-1(2)).

17-02.085 – AE and A1-30 Zones with Base Flood Elevations but no Floodways (44 CFR 60.3(c)(10))

In areas with BFEs (but 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.

17-02.090 – Floodways

Located within areas of special flood hazard established in section 17-02.005 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply.

A. No rise standard

Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. (44 CFR 60.3(d)(3))

B. Residential construction in floodways

Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

1. Replacement of farmhouses in floodway

Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:

i. The new farmhouse is a replacement for an existing farmhouse on the same farm site;
ii. There is no potential building site of a replacement farmhouse on the same farm outside the designated floodway;
iii. Repairs, construction, or improvements to a farmhouse shall

not increase the total square footage of encroachment of the existing farmhouse;

iv. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;

v. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within 90 days after occupancy of a new farmhouse;

vi. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;

vii. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;

viii. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and

ix. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

2. Substantially damaged residences in floodway

   i. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-

158-070(1).

ii. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:
    a. There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
    b. A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
    c. Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
    d. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
    e. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.
    f. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.
    g. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

C. All other building standards apply in the floodway
If section 17-02.090 (A) is satisfied or construction is allowed pursuant to section 17-02.090 (B), all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 17-02.070, Provisions for Flood Hazard Reduction.

17-02.095 – Livestock Sanctuaries

Elevated areas for the for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated

sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

17-02.100 – Variances

It is the duty of the City to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Base Flood Elevation are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

17-02.105 – Requirements for Variances

A. Variances shall only be issued:
    1. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
    2. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
    3. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
    4. Upon a showing of good cause and sufficient cause;
    5. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
    6. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in 17.01.050 of the Dayton Municipal Code as "Functionally Dependent Use."
B. Variances shall not be issued within the floodway if any increase in flood levels during the base flood discharge would result.
C. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical

justification required for issuing the variance increases.

17-02.110 – Variance Criteria

In considering variance applications, the City shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

A. The danger that materials may be swept onto other lands to the injury of others;
B. The danger to life and property due to flooding or erosion damage;
C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
D. The importance of the services provided by the proposed facility to the community;
E. The necessity to the facility of a waterfront location, where applicable;
F. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
G. The compatibility of the proposed use with existing and anticipated development;
H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
I. The safety of access to the property in time of flood for ordinary and emergency vehicles;
J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
K. 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, water system, and streets and bridges.

17-02.115 – Additional Requirement for the Issuance of a Variance

A. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
    1. The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and
    2. Such construction below the BFE increases risks to life and property.
B. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
C. The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
D. Variances as interpreted in the NFIP are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or

financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

17-02.120 – Variance Application and Procedure

Applications for variances related to this chapter shall be processed in accordance with section 17-01.090 – Variance procedure.

Section 4: Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, or phrase of this ordinance.

Section 5: Effective Date. A summary thereof of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF DAYTON, WASHINGTON, AT A REGULAR MEETING THIS 14TH **DAY OF** OCTOBER **2020.**

City of Dayton

Zac Weatherford, Mayor

Attested/Authenticated by:

Trina Cole, City Administrator

Approved as to form:

Quinn Plant, City Attorney

ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES
ORDINANCE NUMBER 1968

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON AMENDING PORTIONS OF CHAPTER 17-01, REPEALING ORDINANCE 1841, AND ADOPTING NEW REGULATIONS PERTAINING TO FREQUENTLY FLOODED AREAS AND FLOOD DAMAGE PREVENTION

The full text of Ordinance 1968, adopted the 14th day of October 2020, is available for examination at the City Clerk's Office, 111 S. 1st St., Dayton, WA during normal business hours, 9:00 a.m. to 4:00 p.m., Monday – Friday.

Section 1: Amendments
Section 2: Repeal
Section 3: Adopt
Section 4: Severability
Section 5: Effective Date

By: /s/ Zac Weatherford, Mayor
Attest: /s/ Trina Cole, City Administrator
Approved as to from: /s/ Quinn Plant, City Attorney

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