

Dayton City Planning Commission
Regular Meeting—Agenda
Tuesday, January 28, 2020 at 6:30 PM
111 South 1st St., Dayton, Washington 99328



1. Call to Order
2. Roll Call and Establish Quorum
3. Review of Minutes
 - a. November 26, 2019
4. Communications from Citizens
5. Public Hearings
 - a. 6:31 PM – Amendments to Title 1 of the Dayton Municipal Code
6. Old Business
 - a. DMC Title 11 – Zoning Code
 - i. Continued review
7. New Business
 - i. NFIP, WA State Flood Damage Prevention Ordinance Updates
8. Adjournment

Next meeting: Tuesday, February 25, 2020 @ 6:30 PM

Dayton City Hall, 111 S. 1st St., Dayton, WA 99328

Dayton City Planning Commission
Regular Meeting—Minutes
Tuesday, November 26, 2019 at 6:30 PM
111 South 1st St., Dayton, Washington 99328



1. Call to Order
 - a. Chair Kari Dingman called to order the regular meeting of the Dayton Planning Commission at 6:30 pm.
2. Roll Call and Establish Quorum

Members present: Kari Dingman, Kathryn Witherington, and Byron Kaczmariski

Members absent: Alicia Walker

Staff present: Meagan Bailey, Director of Planning and Community Development

Public present: None
3. Review of Minutes
 - a. October 22, 2019
 - i. A motion was made by Witherington and seconded by Kaczmariski to approve the October 22, 2019 meeting minutes as presented; none opposed. Motion carries.
4. Communications from Citizens
 - a. None presented
5. Public Hearings
 - a. None scheduled
6. Old Business
 - a. DMC Chapters 1-6. & 1-13.
 - i. Ongoing review and discussion continued; the Planning Commission shared support of the proposed changes. Generally, the changes include the addition of new responsibility for the Planning Commission to include urban parks planning and to expand qualification requirements to allow community members residing in an established urban growth area to apply for appointment and to serve on the Dayton Planning Commission. Additionally, the proposed includes repealing Chapter 1-6. of the Dayton Municipal Code in its' entirety.

1. A motion was made by Witherington and seconded by Kaczmarski to schedule a public hearing to take testimony for or against the proposed changes to Chapters 1-6. & 1-13. of the Dayton Municipal Code on January 28, 2020 at 6:31 pm; none opposed. Motion carries.

7. New Business

- a. DMC Title 11 – Zoning Code
 - i. While working on the Comprehensive Plan update, staff had been documenting and keeping a log of potential hurdles that exist in the Dayton Municipal Code. Some of the discussion items included but was not limited to: removing inaccuracies within the code, removing the duplex and multifamily lot area minimums, clarifying the animal density standards, and reviewing the use matrix’s within the residential and commercial zones.
 - ii. Witherington offered support of the initial changes discussed since the changes are all intended to remove barriers and further enable and enhance development.
 - iii. The Planning Commission will continue to review and make additional suggestions for further review. No action was taken on the proposed amendments.

8. Adjournment

- a. Per the Dayton Planning Commission bylaws, the chairperson may reschedule or cancel a meeting when the meeting conflicts with a legal or religious holiday. The regular December meeting falls on December 24 (Christmas Eve). Chair Dingman canceled the December meeting, with the next regular meeting being scheduled for January 228, 2020 at 6:30 pm.
- b. A motion was made by Kaczmarski and seconded by Witherington to adjourn the regular meeting of the Dayton Planning Commission at 7: 14 pm; none opposed. Meeting adjourned.

Approved on January 28, 2020

Kari Dingman, Planning Commission Chair

Date

Attest:

Meagan Bailey, Planning Director

NOTICE OF PUBLIC HEARING
Ordinance Amendments: Title 1-Organization and
Administration

Notice is hereby given that the Dayton Planning Commission will hold a public hearing on January 28, 2020 at 6:31 PM at Dayton City Hall to take testimony for or against the proposed amendments to the Chapters 1-6 and 1-13 of the Dayton Municipal Code, related to duties of the Dayton Planning Commission. Copies of the draft ordinance may be reviewed at Dayton City Hall, 111 S. 1st St., Dayton, WA 99328 or 509-382-2361 or mbailey@daytonwa.com

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, AMENDING CERTAIN SECTIONS WITHIN TITLE 1-13 AND REPEALING CHAPTER 1-6 IN ITS ENTIRETY OF THE DAYTON MUNICIPAL CODE.

WHEREAS,

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

SECTION 1

CHAPTER 1-13 IS HEREBY AMENDED:

Chapter 1-13.

PLANNING COMMISSION

Sections:

- 1-13.04 Creation of city planning commission – objective.
- 1-13.08 Membership.
- 1-13.12 Instruction of members.
- 1-13.16 Meetings and rules.
- 1-13.20 Duties and responsibilities.
- 1-13.24 Staff support.
- 1-13.28 Severability.

1-13.04 Creation of city planning commission – objective.

The objective of the city planning commission is to provide guidance and direction for Dayton's future growth through continued review, improvement and implementation of the city's comprehensive land use plan and related land use documents.

1-13.08 Membership.

- A. *Qualifications.* The selection of city planning commission members shall be made from individuals who have an interest in environmental affairs, planning, land use, urban recreation, and/or residential and commercial development as evidenced by training, experience or actions. ~~City residency is required~~Residency inside the established City Limits or the established City Urban Growth Area is required. An intent of the selection process shall be to evenly represent the areas of interest as stated above.
- B. *Ex officio.* The Dayton Planning Commission may include ex officio membership by virtue of office held in any municipality. Not more than one-third of the commissioners may be an ex

officio member. The term of office for an ex officio member shall correspond to the respective tenure of the member.

- C. *Number of members/terms.* The city planning commission shall consist of at least five appointed members, not to exceed seven members, each of whom shall be appointed for a term of four years. Original terms shall be: one member for a term of one year, two members for terms of two years, two members for terms of three years, and one for a term of four years. Subsequent terms shall be for four years. Terms shall expire the first day of March of each year.
- D. *Appointment.* Members of the city planning commission shall be appointed by the mayor, subject to confirmation by the city council. Commissioners shall be selected without respect to political affiliations and shall serve without compensation.
- E. *Removal.* Members of the commission may be removed by the mayor, with the concurrence of the city council, for neglect of duty, conflict of interest, misfeasance or malfeasance in office, or other just cause, or for unexcused absence from more than three consecutive regular meetings. Work-shops shall be excluded from the definitions of meetings, for the purpose of this section. The decision of the city council shall be final and there shall be no appeal therefrom. Members finding themselves unable to attend regular meetings are expected to tender their resignations. The commission may recommend to the mayor removal of an appointed member upon the above said grounds.
- F. *Vacancies.* Vacancies occurring other than through the expiration of terms shall be filled for the unexpired term in the same manner as appointments above.

1-13.12 Instruction of members.

Each new member, as soon as practicable after his or her appointment, shall take a short course of instruction consisting of lectures, seminars or other presentations designed to afford an understanding of:

- A. The general principles of land use planning as applied to the city, its environs and the region;
- B. The nature and elements of the comprehensive plan for the city;
- C. The duties, responsibilities, scope of authority and limitations on discretion of the planning commission, with emphasis on constitutional and other legal aspects thereof;
- D. The appropriate standards to be applied in arriving at findings of fact and formulating recommendations.

The course of instruction shall be developed by the planning staff of the city and instruction may be given by staff members of the city administration, outside speakers having practical expertise or academic standing in the planning or governmental field, or by the use of pictorial presentations.

1-13.16 Meetings and rules.

- A. The city planning commission shall organize and elect from its members a chair and a vice-chair. A majority of the commission members shall constitute a quorum for the transaction of business, and a majority vote of the quorum shall be necessary to carry any proposition.

- B. The commission shall determine a regular meeting schedule (time, place and frequency), as necessary, but no less frequent as one regular meeting in each month for not less than nine months in each year. All meetings shall be open to the public.
- C. The commission shall adopt such rules and regulations as are necessary for the conduct of its business and shall keep a written record of its proceedings which shall be a public record.

1-13.20 Duties and responsibilities.

The city planning commission shall be an advisory body responsible for providing guidance and direction for Dayton's future growth and shall act as a research and fact-finding agency of the city in the areas of land use. The planning commission shall:

- A. Review the comprehensive plan for the city and make recommendations concerning it to the city council;
- B. Review land use management ordinances and regulations of the city and make recommendations regarding them to the city council;
- C. Review potential annexations to the city, as requested by the city council, and make recommendations concerning them;
- ~~D. Prepare a work program of the city planning commission activities for the next fiscal year and submit the same to the city council for its approval;~~
- ~~E. Submit an annual report to the city council for the past fiscal year's activities;~~
- ~~F.D.~~ Review and make recommendations to the city council concerning the city's capital improvements program, Six-Year Transportation Needs Plan and other planning studies and analyses, as they relate to land use or the comprehensive plan;
- ~~E.~~ Have jurisdiction to review any decision of the city planner relating to any provision of the Dayton Zoning Code. Appeals from the city planning commission decision to the city council shall be as set forth in the Dayton Zoning Ordinance;
- ~~F. Utilize the Cooperative Parks Master Plan and the Blue Mountain Regional Trails Plan and other recreation plans for the area to aid in planning efforts regarding the management, supervision, and control of existing parks and recreational facilities and programs as well the development of new facilities and programs;~~
- G. Hold public hearings in the exercise of its duties and responsibilities;
- H. Be encouraged to maintain liaison with the county and other area planning agencies.

The city planning commission shall have such other duties and powers as heretofore have been or hereafter may be conferred upon the commission by state law, city ordinances or as directed by council resolution, the performance of such duties and exercise of such authority to be subject to the limitations expressed in such legislative enactments.

1-13.24 Staff support.

Administrative and secretarial staff support shall be provided by the city planner or other city employee as needed.

1-13.28 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter shall not be affected.

SECTION 2

Chapter 1-6. – BOARD OF PARK COMMISSIONERS of the Dayton Municipal Code is hereby repealed in its entirety.

SECTION 3

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the other remaining parts which shall remain in full force and effect.

SECTION 4

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 _____ DAY OF _____, 2019.**

APPROVED:

Zac Weatherford, Mayor

ATTEST:

Trina D. Cole, City Clerk

APPROVED AS TO FORM:

Quinn Plant, City Attorney

ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, AMENDING CERTAIN SECTIONS WITHIN TITLE 1-13 AND REPEALING CHAPTER 1-6 IN ITS ENTIRETY OF THE DAYTON MUNICIPAL CODE.

The full text of the Ordinance No. XXXX adopted the _____th day of _____, 2020, is available for examination at the Dayton City Hall, 111 South 1st Street, Dayton, WA during normal business hours, 7:00 a.m. to 4:00 p.m., Monday – Thursday.

By: /s/ Zac Weatherford, Mayor

Attest: /s/ Trina Cole, City Clerk-Treasurer

Approved as to from: /s/ Quinn Plant, City Attorney

Published: _____

The Dayton Chronicle

Title 11 - ZONING CODE

CHAPTER 11-02. - DESIGNATION AND ESTABLISHMENT OF ZONING DISTRICTS

11-02.010. - Zoning districts.

The following zoning districts are hereby established in conformance with the goals of the Dayton Comprehensive Plan:

District Name:	Symbol
Residential Districts:	
Urban Residential	UR
Agricultural Residential	AR
Commercial Districts:	
Central Commercial	CC
Fringe Commercial	FC
Industrial District:	
Industrial	IN
Public Purpose Districts:	
Open Space and Recreation	OR
Public and Quasi-Public Zone	PU

11-02.020. - Overlay zones/districts.

Overlay zones are established to recognize and respond to special conditions such as historic districts, floodplains and slide-prone areas with special standards for development. The adopted overlay districts within the City of Dayton include:

Overlay Zone Name:	Symbol
Downtown Commercial Historic District	DCHD
<u>Clay Street Transitional District</u>	<u>CSTD</u>
<u>South Side Historic District</u>	<u>SSHHD</u>
<u>Washington Street Historic District</u>	<u>WSHD</u>

CHAPTER 11-03. - RESIDENTIAL ZONES

11-03.010. - Intent and purpose of residential zones.

The intent and purpose of the residential zone is to provide for residential uses and such other uses as may be compatible to the following zones:

- A. *Agricultural residential (AR)*. The intent of the agricultural residential zone is to retain a ~~single-family~~, low-density residential character. The base density for the agricultural residential zone is three to four dwelling units per acre. Varied housing types may be allowed through approved planned residential development, manufactured home parks, and manufactured home subdivisions.
- B. *Urban residential (UR)*. The intent of the urban residential zone is to provide for a mixture of housing unit types including single-family, duplex, manufactured, and multifamily dwellings. The base density is four to six dwelling units per acre. This zone also includes provisions for the manufactured home subdivisions.

11-03.020. - Uses.

All uses in residential zones shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in the Use Chart of this section. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use which is permitted as a similar use.

Use Chart	Residential Zones	
	AR	UR
A. Residential Uses.		
Accessory dwelling unit (ADU) > ¹ Accessory only to one primary single-family dwelling, also see DMC 11-01.020 G.	A ¹	A ¹
Adult family home	P	P
Boardinghouse	A	P
<u>Cottage housing development (see DMC 11-01)</u>	<u>P</u>	<u>P</u>
Duplexes (two attached dwellings units with a minimum of 3,600 square feet of lot area for each unit)	X	P
Group home	P	P
Manufactured and mobile home parks	C	C
Multifamily (three or more attached dwelling units with a minimum of 3,600 square feet of lot area for each unit)	X	P
Pets, household	A ²	A ²
Private garages and storage buildings, including carports	A	A
Private recreational facilities (pools, patios, and similar)	A	A
<u>Single manufactured home on one lot</u>	<u>P</u>	<u>P</u>
Single-family dwelling	P	P
Tent structure, residential—See DMC 11-03.040 for limitations	A	A
Vacation rental	P	P

B. Agricultural Uses.		
Feedlots	X	X
General farming	P ²	A ²
Large sized livestock	P ²	X
Moderate sized livestock	P ²	X
Small production animals	P ²	A ²
Marijuana producers and production including medical marijuana	X	X
Medical marijuana cooperative	X	X
C. Community Facilities.		
Community centers and similar facilities	C	C
Fire and police stations	C	C
Hospitals	X	C
Medical clinics	X	C
Parks	P	P
Religious facilities, faith centers and churches	C	C
Schools	C	C
Utility transformers, pump station, etc.	C	C
D. Commercial Uses. (Limitations on Commercial Uses—See 11-03.060)		
Bed and breakfast guest house	A	A
Inn	X	C

Communication towers including phone, radio, TV and similar	A	A
Community residential facilities (CRF)	X	C
Day care facilities		
Day care center	C	C
Mini Day Care Center	C	C
Family day care home	A	A
Home business or occupation	A	A
Kennels	A	X
Marijuana processor and processing	X	X
Marijuana retailers and retail stores with or without a medical marijuana endorsement	X	X
Nursing homes	C	C
Professional, administrative and service offices	A	A
Retail nurseries and greenhouses	A	A
Veterinary clinic	X	C
¹ Accessory only to one primary single-family dwelling, also see DMC 11-01.020(G) ² See DMC 11-03.100 for limitations to pets, livestock and production animals		

P—Permitted use; C—Conditional use; A—Accessory use; X—Not allowed

11-03.030. - Standards—Lot area, height, setback, lot coverage requirements and exceptions.

The lot areas, setbacks, structure heights and lot coverage required or permitted in residential zones, and additional specific standards are listed below:

Lot Areas, Setbacks, Structure Heights and Lot Coverage Required or Permitted	Zones	
	AR	UR

Lot area minimum	10,800 s.f.	7,200 s.f. NO MIN.
Lot width minimum	80'	50'
Lot depth minimum	120'	100'
Principal building setbacks		
Minimum front and rear yard setbacks for principal buildings including setbacks for front yards of a through lot	25'	20'
Minimum primary front (P), flank front (F) and rear (R) yard setbacks for principal buildings on a corner lot: P/F/R	25'/15'/25'	20'/10'/20'
Minimum garage setback for garage entry. P and/or F	25'/20'	20'/20'
Minimum side yard setback	10'	5'
Accessory building setbacks		
Minimum front yard setbacks including setbacks for front yards of a lot and through lot	25'	20'
Minimum primary front (P), and flank front (F) yard setbacks for an accessory buildings on a corner lot: P/F	25'/20'	20'/15'
Minimum garage front setback for garage entry. P/F	25'/20'	20'/20'
Minimum rear yard setback	10'	5'
Minimum side yard setback	10'	5'
Maximum Height for structures and buildings (exceptions listed below):		
Fence height: (refer to section 11-03.065 for vision clearance area requirements)		
On back property or side property line or within the rear or side yard setback	6'	6'

Fences on the front property line(s) or in the <u>primary</u> front yard setback(s) area	4'	4'
Buildings, portions of buildings or structures within 10 feet of a property line, shall have a maximum height from the finished grade to the top of the wall plate:	10' hgt.	10' hgt.
Buildings, portions of buildings or structures more than 10 feet but less than 20 feet from a property line shall have a max. height from the finished grade to the top of the wall plate:	20' hgt.	20' hgt.
Buildings, portions of buildings or structures shall have a max. height from the finished grade to the top of the roof:	35' hgt.	35' hgt.
Lot coverage—Maximum	40%	50%
Impervious surface—Maximum	65%	65%

11-03.050. - Building construction—All buildings in residential zones.

A. All buildings built or installed must:

1. Be built to the International Building and Residential Building Code requirements, or must be a designated manufactured house;
2. Meet the State Energy Code requirements;
3. Be installed on and attached to a permanent foundation; and the permanent foundation of a building must meet the requirements for footings and foundations contained in the International and Residential Building Codes or, for a designated manufactured house the footings and foundations must:
 - a. Be installed below the frost line to the ground level as required in the Uniform-International Building Code;
 - b. Be installed from the ground level to the house as required in the Washington Administrative Code and in the specifications provided by the manufacturer;
 - c. The area between the lowest inhabitable floor and the ground level at the perimeter of a designated manufactured house must be enclosed with solid material that provides an appearance similar to crawl space enclosures on permanent site-built single-family residences. The crawl space enclosure material and installation must meet the International and Residential Building Code requirements; and
 - d. Be permanently attached to all required utilities.

11-03.100. - Animal densities—Livestock and production animals and household pets restrictions.

- A. *Livestock and production animal restrictions.* Livestock and production animals such as horses, cows, goats, sheep and fowl are allowed subject to DMC 11-03.020 and as follows:

1. In the AR zone, large sized livestock animals such as a horse, cow or similar-sized animals require a minimum of 40,000 square feet of usable pasture area for the first large animal with an additional minimum usable pasture area of 20,000 square feet per each additional large animal.
2. In the AR zone, moderate sized livestock animals such as a sheep, goat or similar-sized animals totaling 200 pounds or less require a minimum of 10,000 square feet of usable pasture for the first moderate sized animal with an additional minimum usable pasture area of 5,000 square feet per each additional animal.
3. In the UR zone, moderate sized livestock animals such as sheep, goats or similar-sized animals totaling 200 pounds or less will only be allowed where the lot, or combination of lots owned by the same person and where the livestock will be kept, has at least 10,000 square feet of usable pasture (open space) for the first moderate sized animal with an additional minimum usable pasture area of 5,000 square feet per each additional animal, to a maximum of three moderate sized livestock.
 - a) Fencing shall be of a non-penetrable type so as to reduce nuisance impact on adjacent land uses.
 - b) Male moderate size livestock must be de-scented and/or neutered using humane standards.
 - c) All confinement areas shall be kept in a manner as not to cause a noise, odor, or visual nuisance with respect to neighboring property. All enclosure areas shall be kept clean.
 - d) Food and animal waste must be removed to keep the areas free from insect infestations, rodents or disease, as well as to prevent obnoxious or foul odors, and must not constitute a nuisance. Manure shall not be allowed in any place where it can affect any source of drinking water.
 - e) Offspring of animals legally permitted under this chapter may be kept for a period not to exceed four months. Beyond this period, offspring must meet the per-animal limitations of this chapter.
4. Small sized production animals such as chickens, rabbits or similar sized animals:
 - a) In the UR zone, a maximum of six small production animals are allowed on a lot 7,200 square feet or larger. A ~~variance-variation~~ may be requested to allow small production animals on a substandard sized lot in the UR zone (see 11-03.100 (6)).
 - b) In the AR zone, a minimum of 100 square feet of useable fenced or enclosed area is required for the first small production animal with an additional minimum area of 50 square feet per each additional animal.
5. The calculation of the number of livestock and production animals allowed shall be cumulative and the aggregate of the total number of animals shall not exceed the densities allowed in this section. For example, a 10,000 square foot lot in the UR zone may allow for six chickens or one goat, but not both.
6. To offer slight variation to the code, the director may authorize the presence of small production animals in the UR zone that coincides with a ratio of 1 animal: 1,200 square feet of lot space. An administrative permit shall be applied for and received prior to bringing animals on site.
76. Swine are prohibited.
87. No feedlots or similar dense animal-raising facilities or operations are permitted.
98. Shelters, fenced areas or corrals for animals ~~may-shall~~ be built 25-30 feet or more from any property line ~~or 50 feet or more from an existing residential building on adjacent properties.~~ Except that, a shelter, fenced area or corral for six or fewer small production animals ~~may-shall~~ be built 20 feet or more from any property line located 15 feet from a side or rear property line and 20 feet from a front property line.

CHAPTER 11-04. - COMMERCIAL ZONES

11-04.020. - Uses.

All uses in commercial zones shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in use chart below. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use that is permitted as a similar use.

Uses in Commercial Zones	Zones	
	CC	FC
A. Commercial uses.		
1. General retail sales and services:		
Grocery stores and general merchandise stores	P	P
Lumber, building supplies, nurseries and greenhouses	A	P
Marijuana retailers and retail stores with or without a medical marijuana endorsement	X-P	X-P
Pedestrian oriented specialty retail stores or lower volume in and out customer service such as books, music, stationary, jewelry, pet shops not including kennels, printing, second hand shops, and similar shops with related services	P	A-P
Specialty retail shops primarily providing in and out service that do not need major warehouse space such as cleaners, copying, laundries, convenience stores and similar	A-P	P
Specialty retail that needs customer and delivery access such as household appliances, heating, plumbing, hardware, locksmiths, retail nursery, paint and glass and similar	A	P
Specialty food shops such as bakeries, confectionery, ice cream and similar specialty foods	P	P
2. Hospitality businesses:		
Bowling alley, skating rinks, billiard halls and similar recreational uses	A	P
Drive in and take out restaurants	A	P

	<u>P</u>	
Eating and drinking establishments for service and consumption on site	P	P
Hotels, inns and hostels	P	P
Motels and recreational vehicle parks	X	P
Theaters and similar places of public assembly not including drive-ins	P	A
3. Professional and personal services:		
Banks	P	P
Community Residential Facilities (CRF)	C	P
Day care center	P	P
Insurance, accountants, attorneys, real estate and other professional service offices	P	P
Kennels	X	P
Medical offices and clinics	P	P
Nursing homes	C	P
Veterinary clinic	C	P
4. Vehicle sales, repair and other services:		
Automobile, truck and farm equipment sales, repair, fuel, service and commercial garages	X <u>P</u>	P
Bicycles and motorcycles sales, parts, repair and service	P	P
Boats, snowmobiles, recreational vehicles and similar sales, repair, parts, fuel and service	X <u>P</u>	P
Dismantling and/or salvaging of vehicles, equipment or parts	X	C
Vehicle parts <u>sales</u> only	P	P

5. Other commercial operations:		
Bus station, and other public transportation facilities	C	P
Communication towers including phone, radio and TV	C	C
General warehouse	A	P
Light manufacturing and production such as cabinet shops, production bakeries and meat processing	A	P
Marijuana processors and processing including medical marijuana	X	X
Marijuana producers and production including medical marijuana	X	X
Medical marijuana cooperative	X	X
Mini-storage	A	P
Parking and general outdoor sales lots	A	P
B. Community facilities.		
Community centers, lodge halls and museums	P	P
Fire and police stations	P	P
Governmental equipment repair and maintenance shops	A	C
Governmental offices	C	P
Hospital	C	P
Parks and playgrounds	C	P
Recycling collection center	C	P
Religious facility, faith centers and churches	P	P
Schools	C	P

Utility transformers, pump station, etc.	C	P
<p>C. Residential. The first floor street front of a building and 60% of the building area on the first floor cannot be used for residential uses <u>At least 45% of the main floor area, adjacent to the street front of the building, shall be used for commercial. The remaining 55% of the main floor and other floors may be used as residential.</u></p>		
Adult family homes	P	P
Boardinghouse	P	X
Caretaker or business owner/manager's unit	A	A
Group home	P	P
Mobile home parks	X	P X
Multi-family (three or more units)	P	P
D. Agricultural uses.	X	X

P—Permitted use; X—Not allowed; A—Accessory use; C—Conditional use

CHAPTER 11-07. - OVERLAY ZONES, SPECIAL DISTRICTS AND DEVELOPMENT AGREEMENTS

11-07.010. - Downtown Commercial Historic District (DCHD) Overlay Zone.

The intent of the DCHD is to maintain the historic and pedestrian nature of the downtown commercial core. The following restrictions are in addition to the limits included in the underlying zone:

- A. Exterior building material must be similar in appearance to the materials in the historic buildings within this zone;
- B. The front of the principal building must be within ten feet of the front property line;
- C. Outdoor sales, display and parking areas may not take up more than 40 percent of the street front area;
- D. The front 50 feet of the lot shall not be used for outdoor storage;
- E. Lot coverage 100 percent maximum is allowed;
- F. No off street parking is required; and
- G. No temporary structures shall be installed and used in this zone for more than 90 days of a calendar year.

11-07.040. - Clay Street Transitional District (CSTD) Overlay Zone.

The intent of the CSTD overlay zone is to allow flexibility of the type of uses along the north side of E. Clay St between S. 1st St. and lots on the east side of S. 4th St. as shown on the CSTD overlay map adopted under Ord. No. 1886. The CSTD allows existing single-family homes to be recognized as permitted by zoning. The following uses are allowed as "permitted principal uses" in addition to the uses listed for the underlining zones (central commercial or fringe commercial):

- A. Single-family residence.
- B. Duplex ~~based on 3,600 square feet of lot area per dwelling unit.~~
- C. Governmental offices.
- D. Schools.

11-08.020. - Off-street parking—Required spaces.

The minimum number of off-street parking spaces required for specific uses are set forth in this section. Any use not specifically listed shall meet the requirements of the most similar identified use as determined by the planning director. In the case of a mixture of uses on a single lot, the total requirement for off-street parking shall be the sum of the number of parking spaces required for each use subject to the conditions stated in DMC 11-08.050.

Required Off-Street Parking

Use Description	Required Off-Street Parking and Loading Spaces
A. Residential.	
1. Boarding houses, group homes and similar	1 <u>stall</u> for each two sleeping rooms
2. Duplex and multi-unit except housing for seniors	1 <u>1 stall</u> for each dwelling unit
3. Nursing homes, and congregate care facilities	1 <u>stall</u> for each 5 beds
4. Multi-unit housing for seniors	1 for <u>stall for</u> each dwelling unit
5. Single-family houses and mobile homes	2 <u>stalls</u> for each dwelling unit
<u>6. Accessory Dwelling Units</u>	<u>1 stall</u>
<u>7. Cottage Development</u>	<u>1 stall per cottage house</u>

**NATIONAL FLOOD INSURANCE PROGRAM
FLOOD DAMAGE PREVENTION ORDINANCE
WASHINGTON MODEL (REVISED 12/09/2019)**

Close to 300 towns, cities, counties, and tribes within the State of Washington participate in the National Flood Insurance Program (NFIP). As a condition of participation in the NFIP, communities are required to adopt and enforce a flood hazard reduction ordinance that meets the minimum requirements of the NFIP; however, there are occasionally additional requirements identified by state law that are more restrictive. In these cases, the Federal Emergency Management Agency (FEMA) will require that communities meet those standards as well.

This model identifies the basic requirements and cross references them to appropriate Code of Federal Regulations (CFR), Revised Code of Washington (RCW), or Washington Administrative Code (WAC) requirements. It also encourages community officials to consider the direct insurance implications of certain building standards that, if adopted, can reduce (or increase) annual flood insurance premiums for local citizens. This ordinance, as developed by FEMA and the Washington Department of Ecology, supersedes previous versions and includes all the minimum standards required as a condition of participation in the NFIP. It will be used by FEMA and state staff as the basis for providing technical assistance and compliance reviews during the Community Assistance Contact (CAC) and Community Assistance Visit (CAV) process to ensure federal and state law are met.

The model identifies the basic minimum federal and state regulation requirements that must be contained in local flood regulations, as well as suggestions for stronger measures, but notes these measures are *recommended*, not required. Additionally, it outlines several specific floodplain development practices and regulations that can reduce insurance premium. Adopting this model flood hazard reduction ordinance verbatim can ensure compliance with FEMA; however, *it should be emphasized that its adoption is not a mandatory requirement per NFIP regulation*. Some sections of this document are included for clarity and are not required by federal or state law. For instance, as indicated in SECTION 1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES, it is not mandatory to adopt this entire section, but by doing so, it will make your community's ordinance more legally enforceable.

Certain commentary is highlighted in the model ordinance. The **highlighted** commentary does not need to be included in the local ordinances.

Please note: Section 1612.4 of the 2015 International Building Code (IBC) and Section 1612.2 of the 2018 International Building Code incorporate the design and construction standards of ASCE 24 published by the American Society of Civil Engineers. ASCE 24-14 tables 1-1, 2-1, 4-1, and 6-1 contain specific building elevation requirements which

exceed minimum NFIP standards.

Please Note: RCW 86.16.190 requires that:

Local governments that have adopted floodplain management regulations pursuant to this chapter shall include provisions that allow for the establishment of livestock flood sanctuary areas at a convenient location within a farming unit that contains domestic livestock. Local governments may limit the size and configuration of the livestock flood sanctuary areas, but such limitation shall provide adequate space for the expected number of livestock on the farming unit and shall be at an adequate elevation to protect livestock. Modification to floodplain management regulations required pursuant to this section shall be within the minimum federal requirements necessary to maintain coverage under the national flood insurance program.

While state law requires that local governments make provision for critter pads, it is extremely important to note that RCW 86.16.190 does not relax NFIP standards, including the no rise standard in floodways, in any way.

This document may also serve as a foundation upon which communities can craft their own additional measures. The ordinance can be modified to accommodate local standards, provided they are not less restrictive than the minimum standards identified in this model. Areas on the model that exceed those minimum standards are clearly marked. The model ordinance is in a modular format.

Appendix A: Ordinance Standards for Communities with Shallow Flooding Identified as AO zones on Flood Insurance Rate Maps (FIRMs). These standards are mandatory in communities that have mapped AO zones.

Appendix B: Ordinance Standards for Communities with Coastal Flooding Identified as V zones on Flood Insurance Rate Maps (FIRMs). These standards are mandatory in communities that have mapped V or VE zones.

NOTE: A community may wish to use a numbering system that differs from this model ordinance. In such cases, special care should be taken to correctly identify internal code citations within the Flood Damage Prevention Ordinance.

**Section 1.0 - Statutory Authorization, Findings of Fact,
Purpose, and Objectives** *(Not mandatory to adopt section 1.0)*

1.1 Statutory Authorization

The Legislature of the State of Washington has delegated the responsibility to local communities to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the **{Decision Making Body}** of **{Community Name}**, does ordain as follows:

1.2 Findings of Fact

The flood hazard areas of {Community Name} are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

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

1.3 Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1) Protect human life and health;
- 2) Minimize expenditure of public money for costly flood control projects;
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) Minimize prolonged business interruptions;
- 5) Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;
- 6) Help maintain a stable tax base by providing for the sound use and development

of flood hazard areas so as to minimize blight areas caused by flooding;

- 7) Notify potential buyers that the property is in a Special Flood Hazard Area;
- 8) Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
- 9) Participate in and maintain eligibility for flood insurance and disaster relief.

1.4 Methods of Reducing Flood Losses

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

- 1) Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2) Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
- 3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- 4) Controlling filling, grading, dredging, and other development, which may increase flood damage; and
- 5) Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

Section 2.0 – Definitions *(44 CFR 59.1, not mandatory to adopt all definitions as shown. However, definitions needed for implementation of NFIP standards in a specific community can be required in the community’s Flood Damage Prevention Ordinance.)*

Terms with 1 asterisk trigger a specific minimum requirement and must be adopted. Unless specifically defined below, terms or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

***Alteration of watercourse:** Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

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

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

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

ASCE 24: The most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

***Base flood:** The flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the "100-year flood").

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

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

Building: See "Structure."

Building Code: The currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

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

Coastal High Hazard Area: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-30, VE or V.

Critical Facility: A facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police,

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

***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 located within the area of special flood hazard.

Elevation Certificate: An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

Elevated Building: For insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Essential Facility: This term has the same meaning as “Essential Facility” defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

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

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

Farmhouse: A single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

***Flood or Flooding:**

- 1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a) The overflow of inland or tidal waters.

- b) The unusual and rapid accumulation or runoff of surface waters from any source.
 - 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, 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 (1)(a) of this definition.

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

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

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

***Floodplain administrator:** The community official designated by title to administer and enforce the floodplain management regulations.

Floodplain management regulations: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

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

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

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

- 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;
- 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 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.

***Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance (i.e. provided there are adequate flood ventilation openings).

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

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

***Mean Sea Level:** For 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.

New construction: 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.

One-hundred-year flood or 100-year flood: See "Base flood."

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

Reasonably Safe from Flooding: 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: A vehicle,**

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and

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

***Start of construction:** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured 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:** 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.

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

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

- 1) Any project for improvement of a structure to correct previously identified 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
- 2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

Water surface elevation: The height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Water Dependent: A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Section 3.0 – General Provisions

3.1 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 **{Community Name}**.

3.2 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 **{exact title of study}**” dated **{date}**, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated **{date}**, 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 **{community address}**.

The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 4.3-2.

Note: *In some communities, the phrase “and any revisions thereto” is not considered legally binding and should not be adopted.*

3.3 Compliance

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

3.4 Penalties For Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this

ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than _____ or imprisoned for not more than ___ days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the _____ from taking such other lawful action as is necessary to prevent or remedy any violation.

3.5 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.

3.6 Interpretation (Not mandatory)

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

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body; and,
- 3) Deemed neither to limit nor repeal any other powers granted under state statutes.

3.7 Warning And Disclaimer of Liability (Not mandatory)

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of **{Community Name}**, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

3.8 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.

Section 4.0 – Administration

4.1 Establishment of Development Permit

4.1-1 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 3.2. 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.”

4.1-2 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:

- 1) 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.
- 2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- 3) 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 Section 5.2-2;
- 4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- 5) Where a structure is proposed in a V, V1-30, or VE zone, a V-zone design certificate;
- 6) Where development is proposed in a floodway, an engineering analysis indication no rise of the Base Flood Elevation, and
- 7) Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

Note: The format of section 4.1-2 is not mandatory but the elevation information in subsection 1 and the information in subsections 2 through 7 is mandatory. Elevation Certificates are not mandatory outside of Community Rating System communities but highly recommended.

4.2 Designation of the Floodplain Administrator (44 CFR 59.22(b)(1))

The {**job title of the appropriate administrative official**} 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.

4.3 Duties & Responsibilities of the Floodplain Administrator

Duties of the (*Floodplain Administrator*) shall include, but not be limited to:

4.3-1 Permit Review

Review all development permits to determine that:

- 1) The permit requirements of this ordinance have been 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 Section 5.4-1 are met;
- 5) Notify FEMA when annexations occur in the Special Flood Hazard Area.

4.3-2 Use of Other Base Flood Data (In A and V Zones) (44 CFR 60.3(b)(4))

When base flood elevation data has not been provided (in A or V zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, 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 5.2, SPECIFIC STANDARDS, and 5.4 FLOODWAYS.

4.3-3 Information to be Obtained and Maintained (The following language is required and should be adopted verbatim per 44 CFR)

- 1) Where base flood elevation data is provided through the FIS, FIRM, or required as in Section 4.3-2, 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 4.3-2:
 - a) 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))*
 - b) Maintain the floodproofing certifications required in Section 4.1-2(3). *(44 CFR 60.3(b)(5)(iii))*
- 4) Certification required by Section 5.4.1 {or the numbering system used by the community} (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))*

4.3-4 Alteration of Watercourse

Whenever a watercourse is to be altered or relocated:

- 1) 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))*
- 2) Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained. *(44 CFR 60.3(b)(7))*

4.3-5 Interpretation of FIRM Boundaries (*This section is not required, but if the Local Administrators are performing this task on a regular basis, it should be adopted.*)

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).

4.3-6 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 4.3-2), 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.

(Failure to elevate habitable buildings at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.)

4.3-7 Changes to Special Flood Hazard Area

- 1) 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.
- 2) 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.

Section 5.0 – Provisions for Flood Hazard Reduction

5.1 General Standards *(Section 5.0 is required)*

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

5.1-1 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 lateral 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.”

5.1-2 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.

5.1-3 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 **(recommended)**.
- 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 flood warning.

5.1-4 Utilities (44 CFR 60.3(a)(5) and (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 173-160-171);
- 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.

5.1-5 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 damage;
- 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 damage.
- 4) Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is the lesser) base flood elevation data shall be included as part of the application.

5.2 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 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, or Section 4.3-2, USE OF OTHER BASE FLOOD DATA. The following provisions are required:

5.2-1 Residential Construction (44 CFR 60.3(c)(2)(5))

- 1) In AE and A1-30 zones or other A zoned areas 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 basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE.

- 2) New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Appendix A.
- 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) New construction and substantial improvement of any residential structure in a V, V1-30, or VE zone shall meet the requirements in Appendix B.
- 5) 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:
 - 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.

5.2-2 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:
 - a) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained:

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.
 - b) If located in an AO zone, the structure shall meet the requirements in Appendix A.
 - c) 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.
 - d) If located in a V, V1-30, or VE zone, the structure shall meet the requirements in Appendix B.
 - e) 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:
 - 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 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:
 - a) 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;
 - b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this 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 4.3-3(2);
 - d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(5);

Note: Applicants who are floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

5.2-3 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.
(If the above phrase is applied to all manufactured homes in the floodplain, then the remaining verbiage is not necessary to adopt.)
This applies to manufactured homes:

- a) Outside of a manufactured home park or subdivision,
 - b) In a new manufactured home park or subdivision,
 - c) In an expansion to an existing manufactured home park or subdivision, or
 - d) 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; and
- 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:
- a) The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or
 - b) 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.

5.2-4 Recreational Vehicles *(44 CFR 60.3(c)(14))*

- 1) Recreational vehicles placed on sites are required to either:
- 2) Be on the site for fewer than 180 consecutive days, or
- 3) 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

Meet the requirements of 5.2-3 above.

5.2-5 Enclosed Area Below the Lowest Floor

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

5.2-6 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:
 - a) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
 - b) The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
 - c) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - d) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
 - e) The appurtenant structure must comply with floodway encroachment provisions in Section 5.4-1;
 - f) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 5.2-1(5).
 - g) The structure shall have low damage potential,
 - h) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and
 - i) 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 5.2-1.
- 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.

5.3 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.

5.4 Floodways (Note the more restrictive language for floodway development per RCW 86.16)

Located within areas of special flood hazard established in Section 3.2 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:

5.4-1 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))

5.4-2 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:

- a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;
- b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
- c) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
- d) A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
- e) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
- f) 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;
- g) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
- h) 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
- i) 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

- a) 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).

- b) 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:
 - i) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
 - ii) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
 - iii) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
 - iv) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
 - v) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.
 - vi) 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.
 - vii) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

5.4-3 All Other Building Standards Apply in the Floodway

If Section 5.4-1 is satisfied or construction is allowed pursuant to section 5.4-2, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, Provisions For Flood Hazard Reduction.

5.5 General Requirements for Other Development *(Optional Provision)*

All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the state building codes with adopted amendments and any {community name} amendments, shall:

- 1) Be located and constructed to minimize flood damage;
- 2) Meet the encroachment limitations of this ordinance if located in a regulatory floodway;
- 3) Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- 4) Be constructed of flood damage-resistant materials;
- 5) Meet the flood opening requirements of Section 5.2-1(5), and
- 6) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

5.6 Critical Facility (Optional Provision)

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

5.7 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.

Note: To be “elevated sufficiently to protect livestock” typically means to be elevated at least one foot above the BFE.

Section 6.0 - Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the **{governing body}** 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.

6.1 Requirements for Variances

- 1) Variances shall only be issued:
 - a) 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;
 - b) 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;

- c) Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - d) Upon a showing of good and sufficient cause;
 - e) Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - f) 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 Section 2.0 {or the numbering system used by the community} of this ordinance in the definition of “Functionally Dependent Use.”
- 2) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
 - 3) 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 Sections 4.0 and 5.0 {or the numbering system used by the community} 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.

6.2 Variance Criteria

In considering variance applications, the **{Governing Body}** shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- 1) The danger that materials may be swept onto other lands to the injury of others;
- 2) The danger to life and property due to flooding or erosion damage;
- 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) The importance of the services provided by the proposed facility to the community;
- 5) The necessity to the facility of a waterfront location, where applicable;

- 6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
- 7) The compatibility of the proposed use with existing and anticipated development;
- 8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
- 10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters 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, water system, and streets and bridges.

6.1 Additional Requirements for the Issuance of a Variance

- 1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - a) 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
 - b) Such construction below the BFE increases risks to life and property.
- 2) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
- 3) The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
- 4) 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.

**APPENDIX A
STANDARDS FOR SHALLOW FLOODING
AREAS (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:

1. 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).
2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a) 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
 - b) 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 5.2-2(3).
3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
4. Recreational vehicles placed on sites within AO zones on the community's FIRM either:
 - a) Be on the site for fewer than 180 consecutive days, or

- b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- c) Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes (Section 5.1-1(2)).

APPENDIX B
STANDARDS FOR COASTAL HIGH HAZARD AREAS (V ZONES)
44 CFR 60.3(e)(2 – 8)

Located within areas of special flood hazard established in Section 3.2 are Coastal High Hazard Areas, designated as zones V1-30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

1. All new construction and substantial improvements in zones V1-30 and VE (V if base flood elevation data is available) on the community's FIRM shall be elevated on pilings and columns so that:
 - a) Elevation:
 - i) Residential Buildings

The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level.
 - ii) Nonresidential buildings

The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level or meets the elevation requirements of ASCE 24, whichever is higher; and
 - b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (1)(a)(i) and (2)(a)(ii).

2. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new

and substantially improved structures in zones V1-30, VE, and V on the community's FIRM and whether or not such structures contain a basement. The (Floodplain Administrator) shall maintain a record of all such information.

3. All new construction within zones V1-30, VE, and V on the community's FIRM shall be located landward of the reach of mean high tide.
4. Provide that all new construction and substantial improvements within zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the design proposed meets the following conditions:
 - a) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

5. Prohibit the use of fill for structural support of buildings within zones V1-30, VE, and V on the community's FIRM.
6. Prohibit man-made alteration of sand dunes within zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage.
7. All manufactured homes to be placed or substantially improved within zones V1-30, V, and VE on the community's FIRM on sites:

- a) Outside of a manufactured home park or subdivision,
 - b) In a new manufactured home park or subdivision,
 - c) In an expansion to an existing manufactured home park or subdivision, or
 - d) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood; shall meet the standards of paragraphs (1) through (6) of this section and manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within zones V1-30, V, and VE on the FIRM shall meet the requirements of Section 5.2-3.
8. Recreational vehicles placed on sites within V or VE zones on the community’s FIRM shall either:
- a) Be on the site for fewer than 180 consecutive days, or
 - b) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - c) Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes (Section 5.1-1(2)).