



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

3/25/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Keizer Plan Amendment
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, April 08, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Sam Litke, City of Keizer
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA

2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE
STAMP

DEPT OF

MAR 19 2010

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: Keizer Local file number: TA2009-17
Date of Adoption: 3/15/2010 Date Mailed: 3/18/2010
Date original Notice of Proposed Amendment was mailed to DLCD: 11/20/2010

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Text amendment to Section 2.122 (Floodplain Overlay Zone) of the Keizer Development Code that will update the standards used for development within floodplains within the city limits.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Amended Section 3.101 (Summary of Application Types); 3.102 (Administrative Land Use Procedures); and 3.202 (General Procedures) to be consistent with recent LUBA decision regarding notice relating to floodplain development permits.

Plan Map Changed from: na to: na

Zone Map Changed from: na to: na

Location: na Acres Involved: na

Specify Density: Previous: na New: na

Applicable Statewide Planning Goals: na

Was and Exception Adopted? YES NO

DLCD File No.: 003-09 (17956) [16060]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

none

Local Contact: Sam Litke, Senior Planner Phone: (503) 856-3442 Extension: _____

Address: 390 Chemawa Rd. City: Keizer

Zip Code + 4: 97307- Email Address: litkes@keizer.org

ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to maru.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

1 BILL NO. 579,

A BILL

ORDINANCE NO.

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2010- 600

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FOR

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AN ORDINANCE

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AMENDING KEIZER DEVELOPMENT CODE REGARDING
SECTION 2.122 (FLOODPLAIN OVERLAY ZONE),
SECTION 3.101 (SUMMARY OF APPLICATION TYPES),
SECTION 3.102 (ADMINISTRATIVE LAND USE
PROCEDURES) AND SECTION 3.202 (GENERAL
PROCEDURES – TYPES I, II, AND III ACTIONS);
AMENDING ORDINANCE 98-389

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WHEREAS, the Keizer Planning Commission has recommended to the Keizer
City Council amendments to the Keizer Development Code (Ordinance No. 98-389); and

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WHEREAS, the City Council has held a hearing on this matter and considered the
testimony given and the recommendation of the Keizer Planning Commission; and

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WHEREAS, the Keizer City Council has determined that it is necessary and
appropriate to amend the Keizer Development Code as set forth herein; and

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WHEREAS, the Keizer City Council has determined that such amendments meet
the criteria set forth in state law, the Keizer Comprehensive Plan, and the Keizer
Development Code;

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NOW, THEREFORE,

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The City of Keizer ordains as follows:

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Section 1. FINDINGS. The City of Keizer adopts the Findings set forth in
Exhibit "A" attached hereto and by this reference incorporated herein.

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1 Section 2. AMENDMENT TO THE KEIZER DEVELOPMENT CODE. The
2 Keizer Development Code (Ordinance No. 98-389) is hereby amended by the adoption
3 of the changes to Section 2.122 (Floodplain Overlay Zone), Section 3.101 (Summary of
4 Application Types), Section 3.102 (Administrative Land Use Procedures), and Section
5 3.202 (General Procedures – Types I, II, and III Actions) as set forth in Exhibit "B"
6 attached hereto, and by this reference incorporated herein.

7 Section 3. SEVERABILITY. If any section, subsection, sentence, clause,
8 phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional, or
9 is denied acknowledgment by any court or board of competent jurisdiction, including,
10 but not limited to the Land Use Board of Appeals, the Land Conservation and
11 Development Commission and the Department of Land Conservation and Development,
12 then such portion shall be deemed a separate, distinct, and independent provision and
13 such holding shall not affect the validity of the remaining portions hereof.

14 Section 4. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days
15 after its passage.

16 PASSED this 15th day of March, 2010.

17 SIGNED this 15th day of March, 2010.

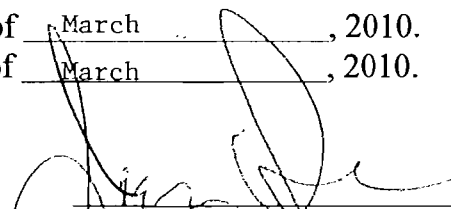
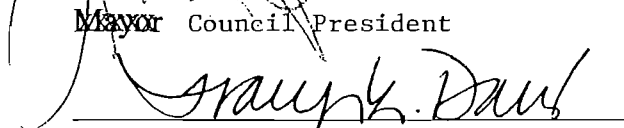
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22 Mayor Council President
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24 City Recorder

EXHIBIT "A"

Findings regarding the adoption of amendments to the Keizer Development Code (Section 2.122, Floodplain Overlay Zone, Section 3.101, Summary of Application Types, Section 3.102, Administrative Land Use Procedures, and Section 3.202, General Procedures)

The review criteria are listed in Section 3.111.04 of the Keizer Development Code.

The City of Keizer finds that:

1. General Findings.
 - a. The Floodplain Overlay Zone section of the Keizer Development Code contains the requirements used for the siting of new structures within a 100-year floodplain.
 - b. A floodplain is the area that is adjacent to a body of water which may be subject to periodic inundation. In Keizer, these are primarily located along the Willamette River and smaller streams such as Claggett Creek. The floodplains have been mapped by the federal government. From a regulatory perspective the 100-year floodplain is the area of greatest concern. While this area is referred to as a 100-year floodplain it is because it has a statistical probability of having a 1% chance of flooding in any one year. The last major 100 year flood event was the 1964 flood.
 - c. The particulars of this case are found within planning file Text Amendment 2009-17. Public hearings were held before the Planning Commission on January 13, 2010 and February 10, 2010, and also before the City Council on March 1, 2010. The Planning Commission reviewed the proposed revisions and unanimously recommended that they be adopted. The City Council unanimously directed staff to prepare findings and an ordinance to adopt the proposed text amendments.
2. Amendments to the Comprehensive Plan or Development Ordinance text shall be approved if the evidence can substantiate the following. Amendments to the map shall be reviewed for compliance with each of the following, while text amendments shall only be reviewed for compliance with Section 3.111.04 B, C, and D. Given that this is a text amendment Section 3.111.04 A is not applicable.
3. Section 3.111.04.B - A demonstrated need exists for the product of the proposed amendment -

Findings: The proposed revision to the Keizer Development Code (KDC) reflects a demonstrated need. The City Council has recognized that periodically

the KDC should be updated to avoid having the code become so out of date that it would require a massive and costly comprehensive update. This section of the Development Code was last reviewed in 1998. While the proposed amendments to Section 2.122 make use of the State's model floodplain regulations an attempt was made to merge the state model code into the city's existing regulations. This is in recognition that the city's existing code requirements were considered to be fairly good although there were a number of ambiguities with the code which will be clarified with this amendment. The intent of the text amendment is to resolve a number of ambiguities within this section and to clarify code requirements. The code requirements governing floodplain regulations have proven to be difficult to understand by both staff and the public. This revision is an attempt to rectify this problem. Therefore, the proposed code revision complies with this review criterion.

4. **Section 3.111.04.C- The proposed amendment to the Keizer Development Code complies with statewide land use goals and related administrative rules**

FINDINGS: The proposed text amendment complies with the statewide land use planning goals as discussed below.

Goal 1 – Citizen Involvement: The adoption of this ordinance followed notice to interested parties, a public process of decision making involving public hearings, deliberation, and ordinance adoption. Public notice was provided in the KeizerTimes. Public hearings were held before the Planning Commission and the City-Council. Public hearings were held before the Planning Commission on January 13, 2010 and February 10, 2010, and also before the City Council on March 1, 2010. Citizens were afforded the opportunity to participate in the public process. Finally, the city council meetings are televised further providing an avenue for awareness of the issue. This process is consistent with the provision for providing an opportunity for citizens to be involved in all phases of this planning process as required by this goal and with implementing administrative rules within Oregon Administrative Rules.

Goal 2 – Land Use Planning: This ordinance amends the Keizer Development Code. The adoption proceeding was conducted in a manner consistent with requirements of the Keizer Comprehensive Plan, Keizer Development Code, and applicable state law. Notice was published in the Keizer Times. Public hearings were conducted before both the planning commission and city council where an opportunity for both verbal and written testimony was provided. Therefore, the proposed revision to the zone code is consistent with this statewide planning goal and administrative rules.

Goal 3 – Farm Land: The purpose of this goal is to protect lands that are designated for agricultural uses. Within the city limits there is only one zone located in the northwest portion of the city near the city's urban growth boundary that is designated to allow for commercial agricultural uses. The

amendment involves regulations within the boundaries of the city limits of Keizer. The amendment governing floodplain regulations does not impact any properties that are designated to allow for agricultural uses. Therefore, the proposed amendment will comply with the Farm Land Goal and with any implementing administrative rules.

Goal 4 – Forest Land: The intent of this goal is to protect lands that are designated for commercial forest uses. There are no lands designated within the city limits to allow for commercial forestry. The amendment to floodplain regulations of the Keizer Development Code does not involve any land which is designated as forest land, nor will it impact the use of any forest lands. Therefore, this Goal and implementing administrative rules are not applicable to the proposed zone code amendments.

Goal 5 – Natural Resources: The intent of the Natural Resources Goal is to protect various natural resources such as wetlands, waterways, big game habitat, etc. The city established a Resource Conservation Overlay zone to maintain, preserve and protect the natural features adjacent to Claggett Creek. Much of this area is within an identified 100-year floodplain. The proposed amendment to the zone code regulations will enhance the city's natural resources protection regulations. They will not prohibit the lawful use of any properties that are within this overlay zone but will require that any future development within this area be consistent with floodplain regulations. Therefore, the amendment to the floodplain regulations will be consistent with this goal and with administrative rules designed to implement this goal.

Goal 6 – Air, Water and Land Quality: The intent of this goal is to protect the city's air, water and land qualities. The city provides its residents with city water from groundwater sources. New construction is required to be connected to the established sanitary sewer system thereby reducing the likelihood of groundwater contamination from failing on-site septic systems. The revision to the city's zone code regarding floodplain regulations will have no impact on the quality of air, water, or land resources and so complies with this goal and with administrative rules that implement this goal.

Goal 7 – Natural Hazards: The purpose of this goal is to protect life and property from hazards resulting from flooding, steep slopes or other natural occurrences. The city has floodplain regulations that govern the placement of structures within identified 100-year floodplains. A floodplain is the area that is adjacent to a body of water which may be subject to periodic inundation. In Keizer, these are primarily located along the Willamette River and smaller streams such as Claggett Creek. The floodplains have been mapped by the federal government. With the exception of areas removed from the 100-year floodplain through the Letter of Map Amendment the 100-year floodplain is the area of greatest concern. While this area is referred to as a 100-year floodplain it is because it has a statistical probability of having a 1% chance of flooding in

any one year. The last major 100 year flood event was the 1964 flood. By contrast, the 1996 flood was not a 100 year flood event for Keizer, although clearly there was a significant amount of water flowing through parts of Keizer during that flood event. The intent of the floodplain regulations is to minimize the loss of life and property damage by either preventing development, elevating structures above the flood elevation, or flood proofing structures in the floodplain. Only in the area identified as a floodway will most forms of development be prohibited. The floodway is that area that is generally the channels of rivers and streams which during a flood event will experience very significant water depth and velocity flows. The revision to the zone code will implement this goal and any administrative rules.

Goal 8 – Recreation: This goal requires the city to identify and plan for the current and future recreation needs of the residents of the city. There are a number of parks, playgrounds, and other recreational opportunities within the city limits. There are several parks within the city limits which are located either within or along floodplains. Park use and development of park lands can occur provided that any placement of structures is consistent with any applicable floodplain regulations. The proposed amendment to the floodplain regulations will have no impact on the recreational activities or uses of park lands within the city. Therefore, this goal and any related rules are not applicable.

Goal 9 – Economic Development: The intent of this goal is to ensure that the city plans for its overall economic vitality. The intent of the text amendment is to resolve a number of ambiguities within this section and to clarify code requirements. The proposed amendment to the city's floodplain regulations does not reflect new requirements of developments since the revision will not create new code requirements but rather will clarify the existing floodplain requirements. While there will be additional cost associated with development in a floodplain such as by utilizing flood proofing measures, or elevating a new structure, or by contracting with an engineer to attest that the dwelling has been constructed out of the floodplain the goal of these requirements is to prevent loss of life and property damage. Therefore, the proposal is consistent with this goal.

Goal 10 – Housing: This goal requires the city to plan and provide for the housing needs of its residents. The proposed amendments to the city's floodplain regulations will not prohibit new residential development within a 100 year floodplain but will require that this new development be done in accordance with these regulations. The intent of the floodplain regulations is to minimize the loss of life and property damage by either preventing development, elevating structures above the flood elevation, or flood proofing structures in the floodplain. Only in the area identified as a floodway will most forms of development be prohibited. The proposed floodplain requirements will not impact either this goal or any related rules.

Goal 11- Public Facilities and Services: The intent of this goal is to develop a timely, orderly and efficient arrangement of public facilities and services necessary to serve the residents of Keizer. The city provides its residents with water, sanitary sewer, has an established street system, administrative and police and public safety is also provided by the city. Their impacts on these services will be almost nonexistent as the placement of utility facilities which are necessary to serve established and permitted uses in as floodplain are exempt to the floodplain requirements. The proposed amendments to Sections 2.122, 3.101, 3.102, and 3.202 will not impact the city's public facilities and services, and so this goal and any rules are satisfied.

Goal 12 – Transportation: The city has an adopted Transportation System Plan that describes the city's transportation systems. This system includes streets, transit bike, and pedestrian systems. The revisions to the floodplain provisions within the Keizer Development Code will have no impact on the city's transportation systems. While streets by the nature of their design do not have structures they will most likely require a floodplain permit if there is grading and fill placement within a floodplain. While the construction of a bridge would be over a floodplain it would likely require a floodplain permit if any portion of it is within the floodplain. The revision to Sections 2.122, 3.101, 3.102, and 3.202 will have no impact any of the city's public transportation systems, and so this goal and any rules will be met.

Goal 13 – Energy Conservation: This goal seeks to maximize the conservation of energy. All new construction requires compliance for review to applicable energy conservation standards. The proposed zone code text amendments will have not impact this goal nor any of the implementing administrative rules.

Goal 14 – Urbanization: The intent of this goal to provide for an orderly and efficient transition from rural to urban land use. The city has an adopted Comprehensive Plan and zone code that complies with the goal. The proposed zone code revision on the floodplain regulations will have no impact on the intent of this goal as it only will involve land that is within the city limits and not the use of land being transitioned from rural to urbanized uses.

Goal 15 – Willamette River: This goal seeks to protect, conserve, maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River. While the Willamette River is located along the western flanks of Keizer the proposed text amendments will not impact the Willamette River. Portions of property located along the Willamette River are within the 100-year floodplain along the river. In addition, some properties which may extend into the river also have the floodway portion of the river on these properties. The regulations seek to prohibit development which is within the floodway, or channel of the river. This is the portion of the floodplain which can experience high water flows and high river velocity during flood

events. The risk of loss of life or property damage in the floodway during these events can be considered extreme. In recognition of the river wall that was constructed by the Army Corps of Engineers along the river and which has resulted in a significant portion of west Keizer being removed from the floodplain a special requirement has been included which prohibits the physical alteration of this structure without prior approval by the City Engineer. The revisions will have positively impact the ability of the city to regulate uses along the river or the Willamette River overlay zone regulations and so this goal is met.

Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources) govern areas along the ocean. Since Keizer is not located along the coast these goals are not applicable

In consideration of the above findings, the proposed zone code revision to Section 2.427 complies with all applicable statewide land use goals and with all applicable administrative rules which implement the relevant goal.

5. **Section 3.111.04.D - The amendment is appropriate as measured by at least one of the following criteria:**

- a. It corrects identified error(s) in the previous plan.
- b. It represents a logical implementation of the plan.
- c. It is mandated by changes in federal, state, or local law.
- d. It is otherwise deemed by the council to be desirable, appropriate, and proper.

FINDINGS: The proposed amendment is intended in part to correct several identified errors within the existing floodplain development regulations. The intent of the text amendment is to resolve a number of ambiguities within this section and to clarify code requirements. While the proposed amendments to Section 2.122, 3.101, 3.102, and 3.202 make use of the State's model floodplain regulations an attempt was made to merge the state model code into the city's existing regulations. Significant changes from the existing code to the proposed code are:

- Section 2.122.01- slight expansion to the purpose section.
- Section 2.122.02 - expanded definition section to offer better understanding of terms used and to update some definitions.
- Section 2.122.03 – the general provision section has included additions from the model code intended to give clarity to this section.
- Section 2.122.04 and .05 – these sections have minimal changes to either the uses exempted or the permitted sections.
- Section 2.122.06 - delete the conditional use process as it is determined to be unwarranted.
- Section 2.122.06 - incorporates a number of changes. These include rewriting the residential and manufactured home subsections to both conform with state requirements as well to be more understandable. Sub-o which relates to alterations to the riverwall along the Willamette River.

- Sections 2.122.08 through 10 - refers to a variance process based on model code language that is only applicable to floodplain applications.

Under advice from legal staff it is recommended that the city's administrative process is inconsistent with a recent LUBA ruling and should be revised. Currently, a Floodplain Permit is a Type IA process (administrative with no notice provided). This has been changed to a Type IB process (administrative with notice provided). That means that upon determining that a Floodplain Permit is complete that notice will be mailed to property owners within 250 feet of the property and a 10 day appeal period will be provided.

While there are no Comprehensive Plan goals or policies that offer guidance it is determined that the proposed amendment to the zone code represents a logical implementation of the Keizer Comprehensive Plan. The proposed amendments are not mandated by any federal, state, or local laws. The City Council has, by this adoption, determined that the text revisions to Section 2.122, 3.101, 3.102, and 3.202 are desirable, appropriate, and proper. As such, the proposal complies with this criterion.

2.122 FLOODPLAIN OVERLAY ZONE (FPO)

Section 2.122 Purpose

The purpose of the Floodplain Overlay Zone is to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities. (5/98)
- B. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding. (5/98)
- C. Minimize flood damage to new construction by elevating or flood proofing all structures. (5/98)
- D. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which hold, accommodate or channel floodwaters. (5/98)
- E. Control filling, grading, dredging and other development, which may be subject to or increase flood damage. (5/98)
- F. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas. (5/98)
- G. Comply with the requirements of the Federal Insurance Administration to qualify the City of Keizer for participation in the National Flood Insurance Program. (5/98)
- H. Minimize flood insurance premiums paid by the citizens of the City of Keizer by reducing potential hazards due to flood damage. (5/98)
- I. Implement the floodplain policies in the City of Keizer Comprehensive Plan. (5/98)

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

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

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- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

2.122.02 Definitions

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

Accessory Structure: Sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 4-200 square feet in area. (3/00)

Area of Special Flood Hazard: Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. (5/98)

Base Flood Elevation Level: The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100-year flood plain). Designation on maps always includes the letters A. (5/98)

Basement: Any area of the building having its floor sub-grade (below ground level) on all four sides. (3/00)

Below Grade Crawl Space: An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

Conveyance: Refers to the carrying capacity of all or a part of the floodplain. It reflects the quantity and velocity of floodwaters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second. (5/98)

Critical Facility: A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development: Any activity that has the potential to cause erosion or increase the velocity or depth of floodwater. Any man made change to property including, but is not limited to, residential and non-residential structures, fences, mining, dredging, filling, grading, excavation or drilling operations, utilities, transportation facilities, and

DRAFT Planning Commission's recommendation to City Council

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the storage and stockpiling of materials located within the area of special flood hazard. (3/00)

Elevated Building: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns. (3/00)

Encroachment: Any obstruction in the floodplain that affects flood flows. (5/98)

Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision: A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Ordinance. (5/98)

Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets). (5/98)

FEMA: The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program. (5/98)

Fill: The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc. (5/98)

Flood or Flooding: A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source. (5/98)

Flood Boundary Floodway Map (FBFM): The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plain, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS). (5/98)

Flood Elevation Certificate (FEC): Certification by a professional surveyor or other authorized official indicating the height of the lowest floor of a building. (5/98)

Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards

DRAFT Planning Commission's recommendation to City Council

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(flood plain) and the risk premium zones applicable to the community and is on file with the City of Keizer. (5/98)

Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway map and the water surface elevation of the base flood and is on file with the City of Keizer. (5/98)

Floodplain: Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Keizer. Also may be referred to as area of special flood hazard. (5/98)

Flood Proofing: A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area. (5/98)

Floodway: The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation. (5/98)

Floodway Fringe: The area of the floodplain lying outside of the floodway as delineated on the FIRM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge. (3/00)

Hazardous Material: Combustible, flammable, corrosive, explosive, toxic or radioactive substance, which is potentially harmful to humans and the environment. (5/98)

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. (5/98)

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 connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes mobile homes as defined in this Section. For insurance and floodplain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. (5/98)

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Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (5/98)

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, such as the North American Datum of 1988 (NAVD 88), to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. (5/98)

Mobile home: A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by this Section. (5/98)

New Construction: Any structure(s) for which the start of construction commenced on or after the original effective date of the Floodplain Overlay Zone. (5/98)

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:

Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property. (5/98)

Recreational vehicle: A "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801.350, and 801.565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in this Section. (5/98)

Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a

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basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure. For a 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. (3/00)

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. (5/98)

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed. (5/98)

Structure: Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground. (5/98)

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would be equal to or exceed 50% of the market value of the structure before the damage occurred. (3/00)

Substantial Improvement: Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which equals or exceeds 20 50% of the market value of the structure before the start of construction of the improvement: (3/00)

1. Before the improvement or repair is started; or (5/98)
2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
(5/98)
 - a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions. (5/98)

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- b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure. (5/98)

Variance: A grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

Water Dependent: A structure which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations:

Watercourse: A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain. (5/98)

2.122.03 General Provisions

The Zoning Administrator or his designee is hereby appointed to administer and implement this ordinance by granting or denying Floodplain Development Permit applications in accordance with its provisions. The Zoning Administrator shall have the authority to make interpretations to the provisions of these regulations where conflict or ambiguity may exist. In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberal construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes

The following regulations apply to all lands in identified floodplains as shown graphically on the zoning maps. The floodplain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Keizer Marion County and incorporates Areas, Oregon, dated January 2, 2003 "or any revisions thereto with accompanying Flood Insurance Rate Maps. The most recent report and maps are incorporated in the overlay zone by this reference and are on file at the City of Keizer, located in Keizer City Hall, 930 Chemawa Road, Keizer, Oregon. When base flood elevation data has not been provided, the City shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination. The best available information or any revisions thereto for flood hazard area identification as outlined in Section 2.122.03B of this Ordinance shall be the basis for regulation until a new FIRM is issued, which incorporates the data utilized under Section 2.122.03B. (3/00)

A Floodplain Development Permit shall be obtained before construction or development begins within any area of special flood hazard in accordance with

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the provisions within this section. 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."

- A. City Responsibilities. Duties of the City shall include, but not be limited to:
1. Review all Floodplain d Development p Permits, including manufactured homes, fill and other activities as set forth in Section 2.122.02 of this Ordinance, to determine that the permit requirements of this ordinance have been satisfied. (3/00)
 2. Review all Floodplain d Development p Permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required. (5/98)
 3. Review all Floodplain d Development p Permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 2.122.07 06 L., are met. (5/98)
- B. Use of Other Base Flood Data: When base flood elevation data has not been provided on the FIRM, the City shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Ordinance. (3/00)
- C. Information Requirements. Information to be Obtained and Maintained:
1. ~~From the developer of the property, where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as in Section 2.122.03B, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement. (3/00)~~
- Application for a Floodplain Development Permit shall be made on forms furnished by the City 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;

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- (2) Elevation in relation to mean sea level of floodproofing in any structure;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 2.122.06.C; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

2. For all new or substantially improved flood-proofed structures:
 - a. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level) to which the structure was flood proofed, and,
 - b. Maintain any flood-proofing certifications required by this Section. (3/00)
3. Maintain for public inspection all records pertaining to the provisions of this Ordinance. (5/98)

D. Procedures. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A I-B action. Activities requiring conditional-use variance approval shall be reviewed as a Type I-B action. (5/98)

E. Penalty 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 civil infraction. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to citation pursuant to the Civil Infraction ordinance of the City of Keizer. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

F. Abrogation or other restrictions

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

2.122.04 Uses - Exempt

Within the Floodplain Overlay zone no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying zone and the provisions of this overlay zone. ~~Except as provided herein all uses and floodplain development shall be subject to Type I A or Type I B action.~~ The following uses are exempt from the regulations of this overlay zone:

- A. Signs, markers, aids, etc., placed by a public agency to serve the public. (5/98)
- B. Driveways, parking lots and other open space use areas where no alteration of topography will occur. (5/98)
- C. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.122. (5/98)
- D. Customary dredging associated with channel maintenance consistent with applicable State or Federal law. (5/98)
- E. Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. ~~This exemption does not apply to buildings, substations, or other types of floodplain development.~~ (5/98)
- F. Accessory residential or noncommercial structures less than 200 square feet in area. (3/00)

2.122.05 Uses - Permitted

If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, commercial, public, and industrial structures, and other structures that involve a building permit, including the placement of fill to elevate a structure, may be allowed subject to a written determination ~~(f Floodplain d Development p Permit)~~ that the following requirements are met: (5/98)

- A. The structure is not located within a floodway. (5/98)
- B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study. If in zone A, the requirements of Sections 2.122.03B and 2.122.03C must be met. (3/00)
- C. The structures will be located on natural grade or compacted fill. (5/98)
- D. The lowest floor will be elevated to at least 1 foot above the level of the base flood elevation and the anchoring requirements in Section 2.122.07 06 D. (5/98)

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- E. The Building Official has determined that any construction and substantial improvements below base flood level elevation meet the requirements of Sections 2.122.07-06. (5/98)
- F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 2.122.07-06 F, prior to occupancy. (3/00)
- G. A Elevation Certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the Zoning Administrator prior to use of the structure. (5/98)
- H. No alteration of topography beyond the perimeter of the structure is proposed. (5/98)
- I. A recreational vehicle may be located in a floodplain provided it is fully licensed and ready for highway use, or meets the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and, has no permanently attached additions. (5/98)

2.122.06 Conditional Use Procedures and Requirements

- ~~A. Conditional Use Required. Except as provided in Section 2.122.04 and 2.122.05, a conditional use permit shall be obtained before construction or development begins within the Flood Plain Overlay Zone. The conditional use permit shall include conditions ensuring that the Flood Protection standards in Section 2.122.07 are met. (5/98)~~
- ~~B. Base Flood Elevation Data. When base flood elevation data and floodway data have not been provided in accordance with Section 2.122.03, the applicant, with the assistance of the City shall obtain any base flood elevation data or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the Zoning Administrator, or designee, may require that the applicant provide data derived by standard engineering methods. (5/98)~~
- ~~C. Certification. Prior to occupancy the applicant shall provide a certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures meets the requirements of Sections 2.122.07 A., B., and, C. (5/98)~~

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- ~~D. Application Information. In addition to other information required in a conditional use application, the application shall include:~~
- ~~1. Land elevation in mean sea level data at development site and topographic characteristics of the site. (5/98)~~
 - ~~2. Base flood level expressed in mean sea level data on the site. (5/98)~~
 - ~~3. Plot plan showing property location, floodplain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, and the location of grading or filling where ground surface modifications are to be undertaken. (3/00)~~
 - ~~4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone. (5/98)~~
- ~~E. Factors of Consideration. In reviewing a conditional use application for a development permit, the following factors shall be considered in making a decision on approval or denial of the permit:~~
- ~~1. The danger to life and property due to increased flood heights or velocities caused by encroachments. (5/98)~~
 - ~~2. The danger that materials may be swept on to other lands or downstream to the injury of others. (5/98)~~
 - ~~3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions. (5/98)~~
 - ~~4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner. (5/98)~~
 - ~~5. The importance to the community of the service provided by the proposed facility. (5/98)~~
 - ~~6. The requirements of the facility for a waterfront location. (5/98)~~
 - ~~7. The availability of alternative locations not subject to flooding for the proposed use. (5/98)~~
 - ~~8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future. (5/98)~~

9. ~~The relationship of the proposed use to the comprehensive plan and flood plain management program for the area. (5/98)~~
 10. ~~The safety of access to property in times of flood for ordinary and emergency vehicles. (5/98)~~
 11. ~~The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site. (5/98)~~
 12. ~~Such other factors which are relevant to the purpose of this Section. (5/98)~~
- F. ~~Imposition of Conditions. The City may attach such conditions deemed necessary to further the purpose of this Section. Such conditions may include, but are not limited to: (5/98)~~
1. ~~Limitations on periods of use and operation. (5/98)~~
 2. ~~Imposition of operation controls, sureties, and deed restrictions. (5/98)~~
 3. ~~Flood proofing measures. (5/98)~~

2.122.07-06 Flood Protection Standards

In all areas of identified floodplain, the following requirements apply:

- A. Residential Construction. Dwellings and Manufactured Homes.
1. ~~New residential construction and substantial improvement of any residential structures or Manufactured Homes, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this ordinance shall: (3/00)~~
 1. ~~H ave the lowest floor, including basement, elevated on a permanent foundation to at least 1 foot above base flood elevation; and (5/98)~~
 2. ~~Manufactured homes shall be anchored in accordance with subsection F; and (3/00)~~
 3. ~~No manufactured home shall be placed in a floodway, except in an existing manufactured home park. The Manufactured Homes shall use the existing footprint of the previous Manufactured Home. If a larger footprint is proposed, Section 2.122.07-06 L applies. (3/00)~~

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2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of 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: (5/98)
 - a. A minimum of 2 openings, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters, and having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided. (5/98)
 - b. The bottom of all openings shall be no higher than one foot above grade. (5/98)
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (5/98)

B. Manufactured Homes

1. All manufactured homes to be placed or substantially improved on site:
 - a. outside of 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 be elevated on a permanent foundation such that the floor of the manufactured home is elevated a minimum 18 inches above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.
2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within the special flood hazard area on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:
 - a. The finished floor of the manufactured home is elevated to a minimum of 18 inches 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 designed foundation system to resist flotation, collapse, and lateral movement.

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~~B. Manufactured Homes in Existing Manufactured Home Parks. Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either: (5/98)~~

- ~~1. Have the lowest floor at, or above, the base flood elevation; or, (5/98)~~
- ~~2. Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement. (3/00)~~
- ~~3. Manufactured homes to be located on lots or pads on which a home has incurred substantial damage, must be elevated a minimum of one foot above base flood elevation. This includes existing manufactured home parks or subdivisions. (5/98)~~

C. Non-residential development. New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to at least 1 foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall: (5/98)

1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water. (5/98)
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (5/98)
3. Be certified by a registered professional engineer or architect that the standards in this subsection are satisfied. This certificate shall include the specific elevation, in relation to mean sea level, to which such structures are flood-proofed and provided to the City as set forth in Section 2.122.03C.3. (3/00)
4. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 2.122.07 06 A.4. (5/98)

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5. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the flood-protected level (e.g. a building constructed to the base flood level will be rated as 1 foot below that level). (5/98)

D. Accessory Structures. ~~Minor~~ Structures less than ~~120~~ 200 square feet in area and not used for human habitation, such as sheds or detached garages may be exempt from elevation and flood-proofing standards providing the following development standards are met: (3/00)

1. Shall be designed to have low potential for flood damage;
2. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,
3. Shall be firmly anchored to prevent flotation, which may result in damage to other structures. (3/00)

E. Fill and Grading

1. Any ~~fill or materials or grading~~ proposed must be shown to have a beneficial purpose and the amount thereof shall not be greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials. (5/98)
2. Such ~~fill or other materials~~ grading shall be protected against erosion by rip-rap, vegetation cover, or bulk heading. (5/98)
3. Fill or grading is prohibited within the floodway and areas within a floodplain where a floodway has not been technically determined unless the provisions in Section 2.122.07 06 L are met. (3/00)

F. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. (5/98)
2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, over-the-top and frame ties to ground anchors. All manufactured homes shall meet Oregon Building Code specifications for anchoring. (5/98)

G. Construction Materials and Methods

1. All new construction and substantial improvements below base flood level elevation shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications. (5/98)
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages. (5/98)
3. Electrical, heating, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.

H. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system as approved by the State Health Division. (5/98)
2. New and replacement sanitary sewage systems shall be designed and located to minimize or elimination infiltration of flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality. (3/00)
3. Electrical, heating, ventilation, plumbing, and air-conditioning or other service facilities equipment shall be designed and/or **elevated or located** so as to prevent water from entering or accumulating within the components during conditions of flooding. (3/00)

I. General Development Requirements. Residential developments involving more than one single-family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under A., and C., shall meet the following requirements: (5/98)

1. Be designed to minimize flood damage. (5/98)
2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (3/00)

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3. Have adequate drainage provided to reduce exposure to flood damage. (5/98)
 4. Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods will be required. (5/98)
- J. Storage of Materials and Equipment. Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning. (5/98)
- K. Alteration of Watercourses (Floodways). When considering a conditional use Floodplain Development Permit to allow alteration or modification of a watercourse (floodway) the City following shall apply:
1. Provide notice to adjacent communities, the Oregon Division of State Lands and the Department of Land Conservation and Development and other appropriate state and federal agencies shall be notified prior to any alteration or relocation of a watercourse. Evidence of such notification shall be submitted to the Federal Insurance Administration. (5/98)
 2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. (5/98)
- L. Floodways. Located within areas of floodplain established in Section 2.122.03 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential. The following provisions shall apply to land within the floodway and to areas within a flood plain where a floodway has not been technically determined: (5/98)
1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be

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submitted to the Federal Emergency Management Agency for technical review. (3/00)

2. If Section 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 2.122.07 06. (5/98)
3. Prohibit the placement of any manufactured homes except in an existing manufactured home park. (5/98)
4. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure. (5/98)
5. Projects for stream habitat restoration may be permitted in the floodway provided:
 - a) The project qualifies for a Department of the Army, Portland District Regional General permit for Stream Habitat Restoration (NWP-2007-1203); and
 - b) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources. Or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in the 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - c) No structures would be impacted by a potential rise in flood elevation; and,
 - d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is include as part of the local approval.

M. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (3/00)

N. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area

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(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 or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

- O. Willamette River Riverwall. In addition to any requirements within this section affecting the use of property within a floodplain, there shall be no physical alterations to the riverwall constructed along the Willamette River in the areas of Cummings Lane (west of Shoreline Drive), and Rafael Avenue without the prior approval of the City Engineer.

Nothing in these regulations reduces or modifies any terms or obligations under any riverwall easements granted to the City.

P. Below-grade crawl spaces

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:

(1)i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(2)ii. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

iii.(3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The

recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

~~iv.~~(4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

~~v.~~(5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

~~vi.~~(6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

~~vii.~~(7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

~~viii.~~(8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

(2) 2.122.07 GENERALIZED FLOODPLAIN AREAS

Where elevation data is generalized, such as the unnumbered A zones on the FIRM, ~~conditional use permits~~ the Zoning Administrator shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that demonstrate the site is reasonable safe from flooding. In such cases, a letter of map amendment may be required by the City. (3/00)

2.122.08 FLOODPLAIN DEVELOPMENT VARIANCES

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- A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-x-i-xi) in Section 2.122.09.G B and satisfying the criteria in Section 2.122.09.A. As the lot size increases the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such action will have low damage potential, complies with all variance Sections 2.122.09. A and C.
- E. The Zoning Administrator shall decide requests for variances from the requirements of this ordinance.
- F. Variance as interpreted in the National Flood Insurance Program 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 the flood elevations should be quite rare.
- G. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- H. The City shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

2.122.09 FLOODPLAIN VARIANCE CRITERIA

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- A. The applicant may receive a variance from the requirements, standards and terms of this Ordinance provided that the applicant provides evidence of compliance with the following criteria:
1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, or conflict with existing local laws or ordinances;
 4. A determination that the granting of the variance is the minimum necessary, considering the flood hazard, to avoid relief.
- B. When reviewing the above criteria, the city shall consider the following:
- (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- C. In reviewing variance applications, the City shall consider all technical evaluations, as well as all relevant factors and standards specified in other sections of this ordinance.

2.122.10 Conditions for Variances

Upon consideration of the factors of this Section and the purposes of this ordinance, the City may attach such conditions to the granting of variances as it is deemed necessary to further the purposes of these regulations.

- A. ~~Requirements. A variance may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 2.122.10.~~ (5/98)
- B. ~~Notification of Applicant. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.~~ (5/98)
- C. ~~Community Responsibility. A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the Administrator.~~ (5/98)

2.122.10 Variance Criteria

The following criteria shall be used to review variance applications. (5/98)

- A. ~~Variances shall only be issued upon a showing that:~~
 - 1. ~~There is a good and sufficient cause;~~ (5/98)
 - 2. ~~That failure to grant the variance would result in exceptional hardship to the applicant;~~ (5/98)
 - 3. ~~That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;~~ (5/98)
 - 4. ~~The variance is the minimum necessary, considering the flood hazard, to afford relief;~~ (5/98)

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5. ~~The variance will be consistent with the intent and purpose of the provision being varied; (5/98)~~
6. ~~There has not been a previous land use action approved on the basis that variances would not be allowed; and (5/98)~~
7. ~~The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result. (5/98)~~

2.122.11 Warning and Disclaimer of Liability

The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This zone does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This zone will not create liability on the part of the City of Keizer, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any decision lawfully made there under. Failure to comply with these provisions is considered a violation and subject to violation procedures in Section 1.102.06. (5/98)

3.101 SUMMARY OF APPLICATION TYPES

There are four types of development permits and land use actions, each with its own procedures as found in Chapter 3.2. (5/98)

3.101.01 Type I Action - Summary

Type I actions are administrative reviews processed by the City staff according to the procedures found in Section 3.202.01, 02 & 03. The review standards are generally clear and objective and allow little or no discretion. This process is further divided into two four parts: (5/98)

- A. Type I-A: A ministerial action reviewed by staff based on clear and objective standards. Conditions may be placed on the decision and notice of the decision is sent only to the applicant. Appeal is to the Hearings Officer. The following actions are processed under the Type I-A procedure: (2/01)
1. Signs (excluding variances or conditional uses) (5/98)
 2. ~~Floodplain Development Permit (excluding variances or conditional uses) (5/98)~~
 3. 2. Temporary Use Permit (2/01)
- B. Type I-B: A ministerial action reviewed by staff based on generally clear and objective standards with some discretion afforded to staff. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Hearings Officer. The Zoning Administrator may refer any application to the Hearings Officer or the City Council for public hearing and decision. The following actions are processed under the Type I-B procedure: (5/98)
1. Variance (Minor and Sign) (Ord 2005-533 11/2005)
 2. Lot Line Adjustment (5/98)
 3. Conditional Use (except Transit Station) (05/09)
 4. Partitions (5/98)
 5. Greenway Development Permit (2/01)
 6. Floodplain Development Permit (including Floodplain Development Permit Variances)

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C. Type I-C: A ministerial action reviewed by staff based on generally clear and objective standards with some discretion afforded to staff. Conditions may be placed on the decision and notice is sent to the applicant. Appeal is to the Planning Commission. Notice is sent to property owners within the required notice area for public hearing. The Zoning Administrator may refer any application to the Planning Commission or the City Council for public hearing and decision. The following action is processed under the Type I-C procedure:

1. Development Review (2/01)

D. Type I-D: A ministerial action reviewed by staff based on generally clear and objective standards with some discretion afforded to staff. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The Zoning Administrator may refer any application to the Planning Commission or City Council for public hearing and decision. The following actions are processed under the Type I-D procedure: (07/07/03)

1. Variance (Major) (07/07/03)

3.101.02 Type II Actions - Summary

A. A Type II action is a quasi-judicial review in which the Hearings Officer applies a mix of objective and subjective standards that allow considerable discretion. A Type II action follows the procedures found in Section 3.202.04. Staff has an advisory role. The Zoning Administrator may refer any application to the City Council for public hearing and decision bypassing the Hearings Officer. Public notice and a public hearing are provided. Section 3.204 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure: (2/01)

1. Subdivision (5/98)
2. Planned Unit Development (5/98)
3. Manufactured Home Parks (5/98)

A. Type II-B: A quasi-judicial action in which the City Council applies a mix of objective and subjective standards that allow considerable discretion. Type II-B actions follow the procedures found in Section 3.204.02. Staff has an advisory role. The City Council shall hold a public hearing and make the decision instead of the Hearings Officer. Public notice and a public hearing are provided. Section 3.202 lists the notice requirements. Section 3.206 sets forth the hearings process. The following actions are processed under a Type II-B procedure: (2/03)

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1. Keizer Station Master Plans, Subdivision and Partitioning (2/03)
2. Transit Station (Ordinance 2009-586 May 2009)

3.101.03 Type III Actions - Summary

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. A Type III action follows the procedures found in Section 3.202.04. Staff and the Hearings Officer have advisory roles for Comprehensive Plan Map Amendments and Zone Changes. Staff and Planning Commission have advisory roles for Annexations. Public notice is provided and public hearings are held before the Hearings Officer, Planning Commission and City Council as determined by the application. Section 3.204 lists the notice requirements. In addition to applications by private parties, the City Council, by resolution, may initiate a Type III action. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure: (2/01)

- A. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships) (5/98)
- B. Zone Changes (involving 5 or fewer adjacent land ownerships) (5/98)
- C. Annexation (5/98)

3.101.04 Type IV Actions - Summary

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. A Type IV action follows the procedures found in Section 3.203. Private parties cannot apply for a Type IV action; it must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure: (2/01)

- A. Text Amendments to the Comprehensive Plan (5/98)
- B. Text Amendments to the Development Code (5/98)
- C. Enactment of new Comprehensive Plan or Development Code text (5/98)
- D. Comprehensive Plan Map Amendments (involving more than 5 adjacent land ownerships, or, non-adjacent properties) (5/98)
- E. Zone Changes (involving more than 5 adjacent land ownerships, or, non-adjacent properties) (5/98)

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LAND USE APPLICATION PROCESS (07/07/03)

| LAND USE ACTION | TYPE | STAFF | HEARINGS OFFICER | PLANNING COMMISSION | CITY COUNCIL |
|---|------|--------------------------------|---------------------------------|---------------------|--------------------------------|
| Signs, Floodplain, Temporary Use | I-A | Final Decision | Appeal of Staff Decision | | Appeal of H.O. decision |
| Floodplain Development Permit (including Floodplain Development Permit Variances) | I-B | <u>Final Decision</u> | <u>Appeal of Staff Decision</u> | | <u>Appeal of H.O. Decision</u> |
| Greenway Development Permit | I-B | Final Decision | Appeal of Staff Decision | | Appeal of H.O. Decision |
| Conditional Use (except Transit Station) (05/09) | I-B | Final Decision | Appeal of Staff Decision | | Appeal of H.O. Decision |
| Variance (Minor and Signs) | I-B | Final Decision | Appeal of Staff Decision | | Appeal of H.O. Decision |
| Lot Line Adjustment | I-B | Final Decision | Appeal of Staff Decision | | Appeal of H.O. Decision |
| Partition | I-B | Final Decision | Appeal of Staff Decision | | Appeal of H.O. Decision |
| Keizer Station Master Plan Review (02/03) | II-B | Recommendation to City Council | | | Final Decision |

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| LAND USE ACTION | TYPE | STAFF | HEARINGS OFFICER | PLANNING COMMISSION | CITY COUNCIL |
|--|------|---------------------------------------|--------------------------------|--------------------------------|--|
| Transit Station (05/09) | II-B | Recommendation to City Council | | | Final Decision |
| Development Review | I-C | Final Decision | | Appeal of Staff Decision | Appeal of Planning Commission Decision |
| Variances (Major) | I-D | Final Decision | | Appeal of Staff Decision | Appeal of Planning Commission Decision |
| Subdivision | II | Recommendation to Hearings Officer | Final Decision | | Appeal of H.O. Decision |
| Planned Unit Development | II | Recommendation to Hearings Officer | Final Decision | | Appeal of H.O. Decision |
| Manufactured Home Park | II | Recommendation to Hearings Officer | Final Decision | | Appeal of H.O. Decision |
| Comprehensive Plan Map Amendment | III | Recommendation to Hearings Officer | Recommendation to City Council | | Final Decision |
| Zone Change | III | Recommendation to Hearings Officer | Recommendation to City Council | | Final Decision |
| Annexation | III | Recommendation to Planning Commission | | Recommendation to City Council | Final Decision |
| Text Amendments; Legislative Zone and Comprehensive Plan Map Changes | IV | Recommendation to Planning Commission | | Recommendation to City Council | Final Decision |

3.102 ADMINISTRATIVE LAND USE PROCEDURES

3.102.01 Signs

Section 2.308.03 establishes the procedures for review of sign permits. Administrative actions are a Type I-A review. The applicant must indicate compliance with the sign code requirements in Section 2.308. Appeal of the decision is to the Hearings Officer. (2/01)

3.102.02 Floodplain Development Permit

Section 2.122 establishes the procedures for review of development within the Floodplain. Administrative actions of this type are a Type I-A I-B review. The applicant must indicate compliance with the floodplain development standards Section 2.122.05. Appeal of the decision is to the Hearings Officer. (2/01)

3.102.03 Greenway Development Permit

Section 2.123 establishes the procedures for review of development within the Greenway. Administrative actions are a type I-A review. The applicant must demonstrate compliance with the Greenway development standards in Section 2.123.06. Administrative actions permit uses outright and are not subject to staff review. The proposed action, however, may require a building permit and/or floodplain development permit. Appeal of the decision is to the Hearings Officer. (2/01)

3.102.04 Temporary Use Permit

- A. Permit Required. Each temporary business use under Section 2.203.04 A., shall be required to obtain a permit from the Community Development Department to operate within the City. Copies of approved permits shall be forwarded to the Police Department and Fire District. (5/98)
- B. Requirements. The permit shall be issued by the Community Development Department, upon payment of the applicable fee, provided the intended use conforms to the requirements set forth in Section 2.203.04 A., any conditions placed on approval and further provided that the applicant furnishes the following: (2/01)
1. A signed statement from the property owner or lessee of the primary use on said property: (1) granting permission for the property to be used by the permit applicant, (2) copy of property deed or

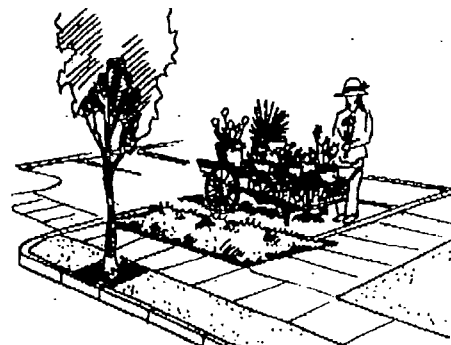


Figure General
Provisions PAGER –
Example of Temporary Use

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ground lease for subject property, (3) specifying the day(s) for which permission is granted, (4) containing the name, mailing address and telephone number of the owner or lessee, and (5) acknowledging responsibility to ensure all litter, trash and materials on the property associated with the temporary use are removed within two days after the temporary use ceases. (2/01)

2. A signed statement from the permit applicant: (1) specifying the permit applicant's name, permanent home or business address (not P.O. Box), home or business telephone number, (2) specifying the type of use proposed by the applicant, (3) attaching proof that any applicable state or federal licenses or other requirements to engage in the temporary use proposed by the applicant have been granted by the appropriate governmental agencies, (4) acknowledging responsibility to ensure that all litter, trash and materials on the property associated with the temporary use are removed within two days after the temporary use ceases. (2/01)
 3. Each applicant shall be accompanied by a site plan. The site plan shall be drawn to a standard scale on a 8 ½" x 11" sheet of paper. The site plan shall include the following: (1) locations of all existing structures, (2) proposed location of temporary use, (3) parking spaces and aisles within the parking lot, (4) driveways, and (5) streets. (2/01)
- C. Fee. The permit fee may be established by the City Council by resolution. The Community Development Department shall waive the permit fee for nonprofit organizations upon a written request for the waiver of said fee and appropriate proof that such organization has been granted nonprofit status by the Internal Revenue Service. (5/98)
- D. Length of Operation. In determining the length of operation of a temporary use, the use will be deemed continuous from the first day that the permit was issued. The use will be deemed discontinued upon cessation of the temporary use, restoration of the premises as set forth herein, and surrender of the permit to the Community Development Department, which ever occurs last. The applicant may apply and be granted approval up to six months in advance of the actual issuance of the permit. (2/01)
- E. Revocation. The temporary business permit may be revoked in the event that the operating business does not conform to the requirements specified in subsection 2.203.04 A., or if any of the information in the written statements referred to in subsection 3.102.04 is false. (5/98)
- F. Denial. Denial of a temporary use permit may be appealed to the Hearings Officer. (5/98)

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3.102.05 Development Review

Section 2.315 establishes the procedures for compliance with the Development Standards. Development Review is an administrative action, which may be appealed to the Planning Commission. Development Review is a Type I-C administrative action. See review procedures in Section 2.315.04. (2/01)

3.202 GENERAL PROCEDURES – TYPES I, II, AND III ACTIONS

3.202.01 Procedure for Type I-A Review

(Type 1-A: Temporary Use Permit, Floodplain Development permit excluding variances or conditional uses, Signs excluding variances or conditional uses)

Applications subject to a Type I-A administrative review shall be reviewed and decided by the Zoning Administrator. (5/98)

- A. Initial Review. Upon receipt of an application for a Type I-A land use action, the City staff shall review the application for completeness. (5/98)
 - 1. Incomplete applications shall not be reviewed until the applicant has submitted all required information. (5/98)
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary. (5/98)

- B. Complete Application. The application shall be deemed complete for the purposes of processing the application and all related timing provisions either: (5/98)
 - 1. Upon receipt of the additional information; or, if the applicant refuses to submit the information; (5/98)
 - 2. On the 31st day after the original submittal the application shall be deemed complete for review purposes. (5/98)

- C. Staff Review. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance; (5/98)

- D. Conditions. Approvals of a Type I-A action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals: (2/01)
 - 1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following: (2/01)

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- a. Ensure that the standards of the development code are met; or, (2/01)
 - b. Fulfillment of the need for public service demands created by the proposed use. (2/01)
2. Changes of alterations of conditions shall be processed as a new administrative action. (2/01)
- E. Notice. Notice shall be provided to the applicant consistent with Section 3.204.01. (5/98)
- F. Appeals. A Type I-A land use decision may be appealed by the applicant to the Hearings Officer, except that Site plan Reviews shall be appealed to the Planning Commission. The appeal shall be filed within 10 days from the date of mailing of the decision, pursuant to the provisions of Section 3.205. (5/98)
- G. Final Decision. The final land use decision, including all appeals, shall be completed within 120 days as per the requirements in Section 3.202.05 (2/01)

3.202.02 Procedure for Type I-B and I-D Review

(Type I-B: Minor Variance, Lot Line Adjustment, Conditional Use, Partition, Greenway Development Permit Floodplain Development Permit, including Floodplain Development Permit Variances) (Type I-D Major Variance)

Applications subject to administrative review shall be reviewed and decided by the Zoning Administrator. (5/98)

- A. Initial Review. Upon receipt of an application for a Type I-B or I-D land use action, the City staff shall review the application for completeness. (07/07/03)
1. Incomplete applications shall not be reviewed until the applicant has submitted all required information. (5/98)
 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary. (5/98)
- B. Complete Application. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either: (5/98)
1. Upon receipt of the additional information; or, if the applicant refuses to submit the information; (5/98)

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2. On the 31st day after the original submittal the application shall be deemed complete for review purposes. (5/98)
- C. Agency Referrals. Referrals may be sent to interested agencies such as City departments, police and fire departments, school district, utility companies, and applicable city, county, and state agencies at the Director's option. Referrals will be sent to affected neighborhood associations. (5/98)
- D. Staff Review. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance; The Administrator shall have the option of referring a type I-B application to the Hearings Officer or City Council for the initial decision. The Administrator shall have the option of referring a type I-D application to the Planning Commission or City Council for the initial decision. (07/07/03)
- E. Conditions. Approvals of a Type I-B and I-D action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals: (07/03)
 1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following: (2/01)
 - a. Ensure that the standards of the development code are met; or, (2/01)
 - b. Fulfillment of the need for public service demands created by the proposed use. (5/98)
 2. Changes of alterations of conditions shall be processed as a new administrative action. (5/98)
 3. Performance bonding to comply with applicable conditions of approval shall comply with the provisions in Section 3.202.05B. (2/01)
- F. Notice. Notice of the decision shall comply with the provisions in Section 3.204.01. (5/98)
- G. Appeals. A Type I-B land use decision may be appealed to the Hearings Officer, by either the applicant or persons receiving notice of the decision. A Type I-D land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. (07/03)

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The appeal shall be filed within 10 days from the date of the mailing of the decision, pursuant to the provisions of Section 3.205. (5/98)

- H. Time Limit. The final land use decision, including all appeals, shall be completed within 120 days as per the requirements in Section 3.202.05. (5/98)

3.202.03 Procedure for Type I-C Review

- A. Initial Review. Upon receipt of an application for a Type I-C land use action, the City staff shall review the application for completeness. (2/01)
1. Incomplete applications shall not be scheduled for Type I-C review until all required information has been submitted by the applicant. (2/01)
 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary. (2/01)
- B. Complete Application. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either: processing the application and all related timing provisions either: (2/01)
1. Upon receipt of the additional information; or, if the applicant refuses to submit the information; (2/01)
 2. On the 31st day after the original submittal the application shall be deemed complete for review purposes. (2/01)
- C. Staff Review. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance; (2/01)
- D. Conditions. Approvals of a Type I-C action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals: (2/01)
1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following: (2/01)
 - a. Ensure that the standards of the development code are met; or, (2/01)

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- b. Fulfillment of the need for public service demands created by the proposed use. (2/01)
- 2. Changes of alterations of conditions shall be processed as a new administrative action. (2/01)
- E. Notice. Notice shall be provided to the applicant consistent with Section 3.204.01. (2/01)
- F. Appeals. A Type I-C land use decision may be appealed by the applicant to the Planning Commission. The appeal shall be filed within 10 days from the date of mailing of the decision, pursuant to the provisions of Section 3.205. (2/01)
- G. Final Decision. The final land use decision, including all appeals, shall be completed within 120 days as per the requirements in Section 3.202.05 (2/01)

3.202.04 Procedures for Type II and Type III Actions

(Type II. Subdivision, Planned Unit Development and Manufactured Home Parks)
(Type III. Annexation, Zone Changes involving 5 or fewer adjacent land ownership and Comprehensive plan Map Amendments involving 5 or fewer adjacent land ownerships)

- A. Initial Review. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness. (5/98)
 - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant. (5/98)
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary. (5/98)
- B. Complete Application. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either: (5/98)
 - 1. Upon receipt of the additional information; or, if the applicant refuses to submit the information;
 - 2. On the 31st day after the original submittal the application shall be deemed complete for scheduling purposes only. (5/98)
- C. Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire districts, school district, utility companies, and applicable city, county, and state agencies. Affected jurisdictions and

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agencies could include the Department of Environmental Quality, The Oregon Department of Transportation, Salem-Keizer Transit District, and the City of Salem. Notice of projects affecting state transportation facilities will be sent to ODOT. Referrals will be sent to affected neighborhood associations.
(07/09)

- D. Public Hearing. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 3.204.02. (5/98)
- E. Staff Review. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties. The Zoning Administrator may refer the initial decision to the City Council. (5/98)
- F. Notice of Application. Notice of a subdivision application shall be mailed to owners of property within 250 feet of the site and neighborhood association representatives. The notice to owners and neighborhood association members will invite the submittal of written comments on the proposal to the City within 10 days. (01/02)
- G. Hearings Procedures. The public hearing before the Hearings Officer shall comply with the provisions in Section 3.205. (2/01)
- H. Conditions. Approvals of any Type II or Type III action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals: (5/98)
 - 1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following: (5/98)
 - a. Protection of the public from the potentially deleterious effects of the proposed use; or, (5/98)
 - b. Fulfillment of the need for public service demands created by the proposed use. (5/98)
 - 2. Changes of alterations of conditions shall be processed as a new administrative action. (5/98)
 - 3. Performance bonding for applicable conditions shall comply with the provisions in Section 3.202.05B. (2/01)

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- I. Notice. The applicant shall be notified, in writing, of the Hearings Officer's decision or recommendation. In addition, notice of the decision shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing. (5/98)
- J. Appeals. A Type II land use decision may be appealed to the City Council by either the applicant, persons receiving notice of the decision or the Administrator. The appeal shall be filed within 10 days from the date of the mailing of the decision, pursuant to the provisions of Section 3.205. Type III land use applications are automatically reviewed by the City Council. (5/98)
- K. Time Limit. The final land use decision, including all appeals, shall be completed within 120 days as per the requirements in Section 3.202.05. (2/01)

3.202.05 Special Procedural Requirements

A. 120 Day Time Limit

If for any reason it appears that such final action may not be completed within the 120 day period, unless the applicant voluntarily extends the time period, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance. (5/98)

- 1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period. (5/98)
- 2. Public notice shall be mailed to affected parties as specified in Section 3.204.02. (5/98)
- 3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application. (5/98)

B. Performance and Maintenance Bonding (2/01)

Conditions of approval required by the City shall be completed prior to the issuance of any building permit within a residential subdivision or partitioning, or an occupancy permit for any other use. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. (2/01)

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1. Types of Guarantees - Performance guarantees may be in the form of performance bond payable to the City of Keizer, cash, certified check, time certificate of deposit, or other form acceptable to the City. The City Attorney must approve the form and appropriate documents filed with the City Recorder. Agreements may be recorded to restrict building permits. (2/01)
2. Amount of Guarantee - The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment and other costs of the required performance. (5/98)
3. Completion of Performance - All improvements shall be completed within one year of filing the performance guarantee. The Administrator may extend this time limit for up to one additional year. (2/01)
4. Maintenance Bonds for public improvements of 40% of the total cost of improvements is required for one year warranty. (2/01)

CITY OF KEIZER
COMMUNITY DEVELOPMENT
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