



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

3/2/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Sheridan Plan Amendment
DLCD File Number 002-09

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: Tuesday, March 16, 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: Jim Jacks, City of Sheridan
Gloria Gardiner, DLCD Urban Planning Specialist

Chris Shirley, FEMA Specialist

<paa> YA



FORM 2

DLCD

Notice of Adoption

HAND DELIVERED

In person electronic mailed

DATE
STAMP

DEPT OF

FEB 23 2010

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Sheridan**

Local file number: **TA 09-10-07**

Date of Adoption: **2/16/10**

Date Mailed: **2/23/10 Hand Delivered**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 10/30/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The amendments adopt the new Flood Insurance Study for Yamhill County and the incorporated cities in the county; make numerous housekeeping changes; make numerous changes to be consistent with the State Model Floodplain Ordinance; adds definitions from the Model Ordinance; clarifies the Floodplain Development Permit process.

Does the Adoption differ from proposal? Please select one

The adopted language is more detailed and thorough than the language submitted for the 45-day notice. Several items from the Model Ordinance that were not in the 45-day notice submittal are in the adopted language.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD, FEMA.

Local Contact: **Jim Jacks**

Phone: (503) 540-1619 Extension:

Address: **Mid-Will. Valley COG 105 High SE**

Fax Number: 503-588-6094

City: **Salem, OR**

Zip: 97301

E-mail Address: **jjacks@mwvcog.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE 2010-01
AN ORDINANCE AMENDING SECTION 16.48, THE FLOOD PLAIN OVERLAY
ZONE, AND SECTION 16.08, ADMINISTRATION AND ENFORCEMENT, AND
DECLARING AN EMERGENCY.

WHEREAS, in a letter dated September 2, 2009, the Federal Emergency Management Agency (FEMA) notified the City of Sheridan of the final flood hazard determination in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations; and

WHEREAS, the final updated Flood Insurance Study and digital Flood Insurance Rate Maps must be locally adopted and effective no later than March 2, 2010 to ensure the continued effectiveness of the National Flood Insurance Program in the City of Sheridan; and

WHEREAS, on December 14, 2010, the Planning Commission conducted a public hearing regarding Planning File No. 09-10-07, an application by the City regarding amending Chapter 16.48, Floodplain Overlay District, at which time the public was given a full opportunity to be present and heard on the matter; and

WHEREAS, on December 14, 2009, the Planning Commission met to consider the proposed action, considered the information provided by City staff, and upon deliberation, voted to recommend to the City Council, approval of the requests; and

WHEREAS, on January 19, 2010, the City Council met to consider the proposed action, and conducted a public hearing at which time the public was given a full opportunity to be present and heard on the matter; and

WHEREAS on January 19, 2010, the City Council considered the information provided by City staff, and received and approved the recommendation of the Planning Commission; now therefore,

THE CITY OF SHERIDAN DOES ORDAIN AS FOLLOWS:

Section 1. §16.08.030A of the Sheridan Municipal Code is amended to add:

7. Flood Plain Development Permit

Section 2. §16.48 is replaced with the following:

16.48.010 Purpose.

A. The purpose of the floodplain overlay district is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize the expenditure of public money, and to minimize costly flood control projects, and to minimize the need for rescue and relief efforts associated with flooding which are generally undertaken at the expense of the general public;
3. To minimize prolonged business interruptions;
4. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
5. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood bight areas;
6. To ensure that potential buyers are notified that property is in an area of special flood hazard;
7. To ensure those who occupy the areas of special flood hazard assume responsibility for their actions;
8. To minimize flood insurance premiums paid by the citizens of the City of Sheridan by reducing potential hazards due to flood damage;
9. To implement the flood plain policies in the City of Sheridan Comprehensive Plan.

B. To accomplish its purposes, the Flood Plain Overlay District includes the following methods and provisions for reducing flood losses:

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.
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.

6. Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

16.48.020 Definitions.

For purposes of this overlay district, the following terms shall mean:

"Accessory structure" means a structure which is less than 200 square feet in gross floor area, is detached from and is on the same parcel of property as the principal structure, and the use of which is incidental to the use of the principal structure.

"Appeal" means a request for a review of (1) the interpretation of any provision of Section 16.48, (2) the decision for a flood plain development permit that includes the exercise of discretion, or (3) the decision for a variance to the standards of the Flood Plain Overlay District.

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

"Base Flood Elevation (BFE)" means the flood elevation having a one (1) percent chance of being equaled or exceeded in any given year. Also referred to as the "100 year flood." Designation on the Flood Insurance Rate Map always includes the letter A.

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

"Below-Grade Crawl Space" means an enclosed area below the base flood elevation in which the interior grade is not more than 2 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 thirty thousand (30,000) CFS at a cross section, this

means that thirty thousand (30,000) cubic feet of water pass through the cross section each second.

"Critical Facility" means a facility for which even a slight change 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" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"Elevated Building" means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"Encroachment" means any obstruction in the area of special flood hazard which affects flood flows.

"Existing manufactured home park or manufactured home subdivision" means a manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the spaces or 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 pad) is completed before the effective date of the ordinance codified in this chapter.

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

"FEMA" means the Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

"Fill" means 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.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

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

"Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary floodway map and the water surface elevation of the base flood and is on file with the city of Sheridan.

"Floodproofing" means a combination of structural or nonstructural 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.

"Floodway" means 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 foot.

"Floodway fringe" means 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.

"Hazardous material" means a combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

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

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when 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.

"Manufactured home park" means a parcel or lot (or contiguous parcels or lots) developed with manufactured homes placed on designated areas (typically referred to as a "space") and the manufactured home occupant rents the space.

"Manufactured home subdivision" means a subdivision wherein only manufactured homes may be placed on the lots created by the subdivision.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or the North American Vertical Datum of 1988 (NAVD88) to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" means a vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is thirty-two (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 in this section.

"New construction" means any structure(s) for which the start of construction commenced on or after the original effective date of the floodplain overlay district.

"New manufactured home park or new manufactured home subdivision" means a manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the spaces or 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 started on or after the effective date of the city's original flood plain regulations or amendments to the flood plain regulations.

"Obstruction" means 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 is placed where the flow of water might carry the same downstream to the damage of life or property.

"Recreational vehicle" means as defined in ORS 446.003(33), a vehicle with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and as further defined by rule, and is designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either 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, the installation of piles, the construction of columns, or any work

beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

1. 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.

2. 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.

3. For mobile/manufactured homes within a 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.

"State building code (SBC)" means the combined specialty codes adopted by the State of Oregon.

"Structure" means roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

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

"Substantial improvement" means any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds twenty-five (25) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
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:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions,

b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of the Flood Plain Overlay District which permits construction in a manner that would otherwise be prohibited by the Flood Plain Overlay District.

"Water Dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

"Watercourse" means a natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain.

16.48.030 Administration.

A. Applicable Lands.

The Floodplain Overlay District applies to all areas of special flood hazard within the City of Sheridan.

B. Basis for Special Flood Hazard Areas.

The areas of special flood hazard are identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," dated March 2, 2010, with accompanying Flood Insurance Rate Maps. The Study and Maps are incorporated in the Floodplain Overlay District by this reference and are on file at the City of Sheridan City Hall.

C. Compliance and Penalties for Noncompliance.

No person shall make, cause, suffer, or permit any intensification, change of use, or development within any area of special flood hazard without full compliance with the terms of this Chapter and all other applicable provisions of the Sheridan Zoning and Development Ordinance. Penalties shall be in accordance with Section 16.08.190, Violations-Penalties.

D. Abrogation and Greater Restrictions.

The Flood Plain Overlay District is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restriction. However, where a Flood Plain Overlay District or other Zoning and Development Ordinance regulation, state building code regulation, easement, covenant, or deed restriction conflicts or overlaps, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation.

In the interpretation and application of the Flood Plain Overlay District, all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the governing body.
3. Deemed neither to limit nor repeal any other powers granted under State statutes and rules including the state building code.

F. Designation of Local Administrator.

The City Manager, or designee, is hereby appointed as the local administrator to administer and implement the Flood Plain Overlay District by granting or denying Flood Plain Development Permit applications in accordance with the Flood Plain Overlay District provisions.

G. Duties and Responsibilities of the City Manager, or Designee.

Duties of the City Manager, or designee, shall include, but are not limited to:

1. Review all development permits to determine that the permit requirements and provisions of the Flood Plain Overlay District are met;
2. Review all development permits to ensure all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, ensure the encroachment provisions of Section 16.48.070, L, Floodways, are met.
4. Interpret the provisions of the Flood Plain Overlay District consistent with Section 16.48.030, E.

5. Use of Other Base Flood Data (in A Zone).

When base flood elevation data has not been provided on the FIRM (A Zone) in accordance with Section 16.48.030, B, Basis for Special Flood Hazard Areas, the City Manager, or designee, shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, to administer the provisions of the Flood Plain Overlay District.

6. Interpretation of Flood Insurance Rate Map Boundaries.

When base flood elevation data has not been provided, the City Manager, or designee, shall have the authority to make an interpretation decision where needed, as to the location of the boundary of the area of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. A party may appeal the interpretation decision provided a letter appealing the decision is submitted within fifteen (15) calendar days of the date the decision was mailed to the parties. The appeal shall be reviewed and decided consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

7. Information to be obtained and maintained:

a. Where base flood elevation data is provided through the Flood Insurance Study, Flood Insurance Rate Map, or as required in Section 16.48.030, G, 5, Use of Other Base Flood Data, obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basements and below-grade crawlspaces, of all new or substantially improved structures, and record whether the structure contains a basement;

b. For new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, Flood Insurance Rate Map, or as required in Section 16.48.030, G, 5, Use of Other Base Flood Data:

i. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and

ii. Maintain any floodproofing certifications required by the Flood Plain Overlay District;

c. Maintain for public inspection all records pertaining to the provisions of the Flood Plain Overlay District.

8. Alteration of Water Courses.

a. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure the flood carrying capacity is not diminished.

H. Establishment of Flood Plain Development Permit.

1. Except as set forth in Section 16.48.040 for exempt uses, and Section 16.48.070, D, for accessory structures, a Flood Plain Development Permit application shall be submitted for structures, including manufactured homes, as defined in Section 16.48.020, Definitions, and for all development, including fill and other activities, as defined in Section 16.48.020, Definitions. A Flood Plain Development Permit shall be approved before construction or development begins within any area of special flood hazard established in Section 16.48.030, B, Basis for Special Flood Hazard Areas.

2. A Flood Plain Development Permit shall be reviewed and decided by the City Manager, or designee, as a Type I action.

3. A Flood Plain Development Permit Application shall be submitted on forms provided by the City, filed with the City Recorder and accompanied by the appropriate fee.

4. If the Flood Plain Development Permit decision involves the interpretation or exercise of policy or legal judgment, the decision shall be issued as a Type II action.

5. A Flood Plain Development Permit decision involving an interpretation may be appealed by those aggrieved by the decision or by any taxpayer consistent with Section 16.48.030, I, Appeal Procedure.

6. Application Contents.

a. It shall be the applicant's responsibility to submit a complete application which addresses the provisions and standards of Sections 16.48.030, Administration, 16.48.040, General Requirements and Exemptions, 16.48.050, Permitted Uses, 16.48.070, Flood Protection Standards, and 16.48.080, Generalized Floodplain Areas. The application shall include plans in duplicate drawn to scale. Building Permit Application materials may be used for partial fulfillment of the application contents requirements provided they address 16.48.030, H, 6, b-f, below. The Flood Plain Development Permit Application shall include, but is not limited to, the following:

- b. The nature, location, dimensions, and elevations of:
 - i. The subject property,
 - ii. Existing and proposed structures,
 - iii. Existing and proposed fill,
 - iv. Existing and proposed storage for materials, and
 - v. Existing and proposed drainage facilities.
- c. Elevation in relation to mean sea level, of the lowest floor, including basement, of all structures.
- d. Elevation in relation to mean sea level of floodproofing in any structure.
- e. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 16.48.070, C, Nonresidential Development.
- f. Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development.

I. Appeal Procedure.

1. The Planning Commission shall review and decide appeals of the City Manager, or designee, decision for an interpretation of the provisions of the Flood Plain Overlay District. An appeal of the Planning Commission's decision shall be reviewed and decided by the City Council.

2. In deciding appeals, the Planning Commission and City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of the Zoning and Development Ordinance, and the following factors:

- a. The danger that materials may be swept onto other lands to the injury of others.
- b. The danger to life and property due to flooding or erosion damage.
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

d. The importance of the services provided by the proposed facility to the community.

e. The necessity to the facility of a waterfront location, where applicable.

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

g. The relationship of the proposed use to the comprehensive plan, the underlying zone for the subject property, and the Flood Plain Overlay District for that area.

h. The safety of access to the property in times of flood for ordinary and emergency vehicles.

i. 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.

j. 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.

3. Upon consideration of the factors of Section 16.48.030, 1, 2, a – j, the Planning Commission may approve, approve with conditions or deny the appeal as it deems necessary to implement the Flood Plain Overlay District.

4. The City Manager, or designee, shall maintain the records of all appeal actions.

16.48.040 General requirements and exemptions.

Within the Flood Plain Overlay District, no uses, structures, vehicles, premises or land shall be used or established, except as provided in the applicable underlying zone and the provisions of this overlay zone. 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;

B. Driveways, parking lots and other open space use areas where no alteration of topography will occur;

C. Routine maintenance and repairs to existing structures provided the maintenance and repairs do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 16.48.020;

D. Replacement of utility facilities necessary to serve established and permitted uses within areas of special flood hazard, such as telephone poles. This exemption does not apply to the replacement of buildings and substations, or to electrical, heating, ventilation, plumbing and air-conditioning systems, or other similar types of service development in areas of special flood hazard.

16.48.050 Permitted uses.

Except for accessory structures as set forth in Section 16.48.070, D, if otherwise allowed as a permitted use or a conditional use in the underlying zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, structures and the placement of fill to elevate a structure, may be allowed subject to an approved Flood Plain Development Permit showing the following requirements are met or will be met as construction occurs:

- A. The structure or fill is not located within a floodway;
- B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study, Flood Insurance Rate Map, or consistent with Section 16.48.030, G, 5, Use of Other Base Flood Data;
- C. The structures will be located on natural grade or compacted fill;
- D. The lowest floor will be elevated to at least one foot above the base flood elevation and the requirements in Section 16.48.070, Flood Protection Standards, will be met;
- E. The building official has determined that any construction and substantial improvements below the base flood elevation meet the requirements of Section 16.48.070, Flood Protection Standards;
- F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements, , any foundation venting requirements and provides the certification required for floodproofing under Section 16.48.070 (C)(1)(c), Flood Protection Standards, prior to occupancy;
- G. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor, including basement, is at least one foot above the base flood elevation, is submitted to the City Manager, or designee, prior to use of the structure;

H. No alteration of topography beyond the perimeter of the structure is proposed;

I. Recreational Vehicles.

1. A recreational vehicle may be temporarily located in a recreational vehicle park in an area of special flood hazard, provided it is not used for continuing human habitation and it complies with the requirements in Section 16.48.070, M, 1, Recreational Vehicles.

2. A recreational vehicle not in a recreational vehicle park may be parked or stored in an area of special flood hazard, provided it is not used for human habitation and it complies with the requirements in Section 16.48.070, M, 2, Recreational Vehicles.

J. Customary dredging associated with channel maintenance consistent with applicable state or federal law.

16.48.060 Reserved for Future Use.

16.48.070 Flood protection standards.

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1 – 30, AH, and AE) as set forth in Section 16.48.030, B, Basis For Special Flood Hazard Areas, or Section 16.48.030, G, 5, Use of Other Base Flood Data (in A Zone), the following requirements apply:

A. Residential Development, Except Manufacture Homes.

1. New construction and substantial improvement of any residential structure, except a manufactured home, shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

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:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

B. Manufactured Homes.

1. All manufactured homes shall be elevated on a permanent foundation with the finished floor of the manufactured home elevated a minimum of 18 inches (46 cm) above the base flood elevation and securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement when the manufactured home is to be placed or substantially improved on a site that is:

a. Outside of a manufactured home park or subdivision,

b. In a new manufactured home park or subdivision,

c. In an expansion area to an existing manufactured home park or manufactured home subdivision, or

d. In an existing manufactured home park or manufactured home subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or manufactured home subdivision that are not subject to the provisions of 16.48.070, B, 1, shall be elevated so that either:

a. The finished floor of the manufactured home is a minimum of 18 inches (46 cm) 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 are securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

C. Nonresidential Development.

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structures shall either have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of Section 16.48.070 based on their development and/or review of the structural design, specifications and plans. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed. Such certifications shall be submitted with the Floodplain Development Permit Application as required in Section 16.48.030, H, 6.

2. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 16.48.070, A, 2.

3. Applicants floodproofing nonresidential buildings shall be notified by the City that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood elevation will be rated as one foot below that elevation).

D. Accessory Structures. An accessory structure as defined in Section 16.48.020 is not required to apply for and be granted a Flood Plain Development Permit and is exempt from elevation and floodproofing standards provided the following development standards are met:

1. It is used only for the parking of vehicles and the storage of items unlikely to be damaged by flood waters, including but not limited to lawn furniture and garden tools. An accessory structure shall not be used for human habitation or to operate equipment or to place appliances such as freezers.

2. It is anchored consistent with Section 16.48.070, F, Anchoring, to prevent floatation and lateral movement;

3. It is resistant to flood damage and is constructed to minimize flood damage consistent with Section 16.48.070, G, Construction Materials and Methods;

4. It is vented consistent with Section 16.48.070, A, 2, Residential Development; and

5. Electrical, heating, ventilation, plumbing and air-conditioning systems, and other similar types of service development are elevated at least one (1) foot above the base flood elevation.

E. Fill.

1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not 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.

2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

F. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.

2. All manufactured homes shall be anchored to prevent floatation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

G. Construction Materials and Methods.

1. All new construction and substantial improvements below the base flood elevation shall be constructed with materials resistant to flood damage. Utility equipment shall be at least one (1) foot above the base flood elevation.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

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

H. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

I. Developments Generally. Residential developments involving more than one single-family dwelling, including, but not limited to, partitions, subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under Sections 16.48.070, A, B, and C, shall meet the following requirements:

1. Be designed to minimize flood damage;
2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. Have adequate drainage provided to reduce exposure to flood damage;
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated by the applicant for subdivision and development applications which contain at least 50 lots or 5 acres, whichever is less.

J. Storage of Materials and Equipment. Materials that are buoyant, flammable, toxic or otherwise injurious to persons or property, and can be 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.

K. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, Flood Insurance Rate Map, or from another authoritative source in accordance with Section 16.48.030, G, 5, Use of Other Base Flood Data (in A Zone), Flood Plain Development Permit Applications related to a building permit shall be reviewed through the Type II process to ensure the proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

L. Floodways. The Floodway is designated within the areas of special flood hazard established in Section 16.48.030, B, Basis for Special Flood Hazard Areas. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles, and cause erosion. The following provisions and the requirements in Section 16.48.070, I, Developments Generally, shall apply to development in the floodway and to areas within areas of special flood hazard where a

floodway has not been technically determined and the base flood elevation is three or more feet above the land surface:

1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless, through a Flood Plain Development Permit processed as a Type II action, certification by a registered professional civil engineer is provided 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 submitted to the Federal Emergency Management Agency for technical review;

2. If Section 16.48.070, L, 1, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section;

3. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure.

4. Except as provided in Subsections a and b, below, the installation of a manufactured home is prohibited in the floodway in accordance with the 2002 Oregon Manufactured Dwelling Park Specialty Code.

a. A manufactured home existing in the floodway may remain provided the placement was permitted at the time of the original installation, and its continued use is not a threat to life, health, property, or the general welfare of the public.

b. A manufactured home existing in the floodway may be replaced with a manufactured home provided the existing manufactured home was permitted at the time of the original installation, the replacement manufactured home will not be a threat to life, health, property, or the general welfare of the public, and it meets the following criteria:

i. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the new replacement manufactured home and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;

ii. The new replacement manufactured home and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the base flood elevation as identified on the Flood Insurance Rate Map;

iii. The new replacement manufactured home is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and is approved by the City Manager or designee;

iv. The new replacement manufactured home, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) are designed by an Oregon professional engineer or architect to not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties and that such design is approved by the City Manager or designee;

v. The new replacement manufactured home's location is allowed by the Sheridan Zoning and Development Ordinance; and

vi. The new replacement manufactured home meets any other requirements deemed necessary by the City Manager or designee.

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-2007-1023); and,

b. A qualified professional (a Registered Professional Engineer; or staff of Natural Resources Conservation Service (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 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 the flood carrying capacity remains unchanged is included as part of the local approval.

6. 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 Flood Insurance Rate Map, unless through a Flood Plain Development Permit processed as a Type II action, it is demonstrated in a written report 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.

M. Recreational Vehicles.

1. A recreational vehicle in a recreational vehicle park shall comply with M, 1, a, or M, 1, b, or M, 1, c:

- a. Be on the site for fewer than 180 consecutive days;
- b. Be:
 - i. Fully licensed and ready for highway use; and
 - ii. On its wheels or jacking system; and
 - iii. Have no permanently attached additions; and
 - iv. Be attached to the site only by quick disconnect type devices for utilities and security systems;
- c. Meet the requirements of Section 16.48.070, B, Manufactured Homes.

2. A recreational vehicle not in a recreational vehicle park shall:

- a. Be fully licensed and ready for highway use;
- b. Be on its wheels or jacking system;
- c. Have no permanently attached additions; and
- d. Be attached to the site only by quick disconnect type devices for electricity.

N. Below Grade Crawl Space.

1. A below-grade crawlspace is allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, "Crawlspace Construction for Buildings Located in Special Flood Hazard Areas." For structures with a below grade crawlspace the National Flood Insurance Program requires increased insurance premium costs due to a charge that is added to the basic policy premium for the below-grade crawlspace. Contact an insurance agent for more information.

a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings 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.

b. 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.

c. 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.

d. 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.

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

f. 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.

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

h. 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. For more detailed information refer to FEMA Technical Bulletin 11-01, including the diagrams that illustrate the 2-foot and 4-foot rules, and note the State building code requirements require the lowest floor to be at least 1-foot above the Base Flood Elevation for residential structures.

O. Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the area of special flood hazard (100-year floodplain). Construction of new critical facilities shall be permissible within the area of special flood hazard if no feasible alternative site is available. Critical facilities constructed within the area of special flood hazard shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. The access route(s) to and from the critical facility should be elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. Floodproofing and sealing measures shall 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.

16.48.080 Generalized floodplain areas.

Where elevation data is generalized, such as the unnumbered A zones on the Flood Insurance Rate Map, a Flood Plain Development Permit processed as a Type II action shall include a review and determination that the proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed floodplain 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 not in a floodplain. In such cases, a letter of map amendment may be required by the City Manager, or designee.

16.48.090 Variances--Issuance, notification and records.

A. The Planning Commission shall decide requests for variances from the requirements of the Flood Plain Overlay District consistent with the Type II process. Generally, the only situation 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, in conformance with the criteria in Section 16.48.100. For lots greater than one-half acre the technical justification required for approving the variance increases.

B. Prior to the public hearing the City Manager, or designee, shall notify the applicant in writing that: (1) the granting of a variance to construct a structure with the elevation of the lowest floor less than one (1) foot above the base flood elevation will result in increased premium rates for flood insurance commensurate with the increased risk resulting from the reduced lowest floor elevation; and (2) such construction less than one (1) foot above the base flood elevation increases risk to life

and property. Such notification shall be maintained with a record of all variance actions as required in subsection C of this section.

C. The City Manager, or designee, shall: (1) maintain a record of all variance actions, including justification for their issuance; and (2) report variances granted to the Federal Insurance Administration upon request.

D. 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 Sections 16.48.090, Variances, and 16.48.100, Variance Criteria.

E. Upon consideration of the factors in Section 16.48.100, the Planning Commission may approve, approve with conditions or deny the variance as it deems necessary to implement the Flood Plain Overlay District.

16.48.100 Variance criteria.

In deciding variance applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other relevant sections of the Zoning and Development Ordinance, and the following factors:

- A. There is a good and sufficient cause;
- B. That failure to grant the variance would result in exceptional hardship to the applicant;
- C. 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;
- D. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- E. The variance will be consistent with the intent and purpose of the provision being varied;
- F. There has not been a previous land use action approved on the basis that variances would not be allowed; and
- G. 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.

H. The danger that materials may be swept onto other lands to the injury of others.

I. The danger to life and property due to flooding or erosion damage.

J. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

K. The importance of the services provided by the proposed facility to the community.

L. The necessity to the facility of a waterfront location, where applicable.

M. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

N. The compatibility of the proposed use with existing and anticipated development.

O. The relationship of the proposed use to the comprehensive plan, the underlying zone for the subject property, and the Flood Plain Overlay District for that area.

P. The safety of access to the property in times of flood for ordinary and emergency vehicles.

Q. 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.

R. 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.

S. Variances 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.

T. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 16.48.090, A, and

otherwise complies with Sections 16.48.070, F, Anchoring, G, Construction Materials and Methods, and H, Utilities.

16.48.110 Warning and disclaimer of liability.

The degree of flood protection required by the Flood Plain Overlay District 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. The Flood Plain Overlay District 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. The Flood Plain Overlay District will not create liability on the part of the City of Sheridan, 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 thereunder."

Section 3. Emergency Clause and Effective Date. This Ordinance being essential to the preservation of the health, safety and welfare of the citizens of the city, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its passage by the City Council and approval by the Mayor.

PASSED by the Council of the City of Sheridan on this 16th day of February 2010 by the following votes:

AYES: Mishler; Acuff; Sample; Quinones; Cooley.
NAYS: 0
ABSENT: Breed
ABSTAIN: 0

Approved by the Mayor on this 16th day of February, 2010.

SIGNED:


Val Adamson, Mayor

ATTEST:



Trish Henderson, City Recorder

EXHIBIT 'A'
CITY COUNCIL FINDINGS – FLOODPLAIN AMENDMENTS
Planning File No. 09-10-07

This matter comes before the Sheridan City Council on the application of the City to amend the City of Sheridan Zoning and Development Ordinance to incorporate the Federal Emergency Management Agency's March 2, 2010 updated Flood Insurance Study and digital Flood Insurance Rate Maps. The proposed amendments are shown in the material with the heading, Exhibit 'A' Continued, A Mark-up Copy of the Proposed Amendments.

I. BACKGROUND

Nationwide, the Federal Emergency Management Agency (FEMA) has been changing the paper Flood Insurance Rate Maps to digital maps. FEMA released a digital version of the Flood Insurance Rate Map (DFIRM – pronounced de-firm) covering Yamhill County per letter dated September 2, 2009. The two CD's with the digital information for Sheridan were received by the City during the week of October 12, 2009. Yamhill County and each city in the county are required to amend their development codes to adopt the digital versions effective no later than March 2, 2010.

The Sheridan Zoning and Development Ordinance, Chapter 16.48, Flood Plain Overlay District (FP), must be amended to include the official name of the new digital Flood Insurance Rate Map and the March 2, 2010 "Flood Insurance Study, Yamhill County, Oregon and Incorporated Areas." If the amendment is not adopted and effective by March 2, 2010 the City's flood plain program and the flood plain insurance policies held by the City's citizens will be placed on suspension. No flood damage claims could be requested, no new flood plain insurance policies could be initiated, and existing policies can't be renewed.

Additionally, Chapter 16.08, Administration and Enforcement, must be amended to add the Floodplain Development Permit to Section 16.08.030, A, as a Type I action.

The amendment process offers an opportunity to also update the Flood Plain Overlay District to be consistent with Title 44, Code of Federal Regulations (CFR) and to be more consistent with the "Oregon Model Flood Damage Prevention Ordinance" language.

II. SUMMARY OF PROPOSED AMENDMENTS

The following lists the Sections proposed to be amended and summarizes the amendments.

16.48.010 Purpose.

Add and delete language to be more consistent with the State Model Flood Plain Ordinance.

16.48.020 Definitions.

Add and delete language to be consistent with Title 44, Code of Federal Regulations (CFR) and the State Model Flood Plain Ordinance, interpretations from FEMA Region X, and language related to the State Building Code.

Important definitions proposed to be added are:

Below Grade Crawl Space.

Critical Facility.

Substantial Damage.

16.48.030 Applicability -- Administration.

This section includes the most important amendment at 16.48.030, B, wherein the new title of the 2009 Flood Insurance Study replaces the title of the old Flood Insurance Study. Section 16.48.030, H, establishes the Floodplain Development Permit and its processes. Additional amendments make Chapter 16.48 more consistent with the State Model Flood Plain Ordinance

16.48.040 General Requirements and Exemptions.

Numerous clarifying amendments are proposed.

16.48.050 Permitted Uses.

Numerous clarifying amendments are proposed.

16.48.060 Conditional Use Procedures and Requirements.

This section is proposed to be deleted because its purpose is not clear. It sets forth a conditional use process, but a conditional use permit process with a public hearing and Planning Commission decision is not needed to decide a Flood Plain Development Permit. The time involved would be about 2 months and unnecessarily delay the issuance of building permits for additions, remodels, and new structures. Later, other sections are proposed to be amended to require an appeal of a staff decision on a Flood Plain Development Permit to be heard by the Planning Commission.

16.48.070 Flood Protection Standards

This section is reorganized to address manufactured homes in a separate section (16.48.070, B). The section on Accessory Structures (16.48.070, D), Floodways (16.48.070, L), Recreational Vehicles (16.48.070, M), Below Grade Crawlspace (16.48.070, N), and Critical Facilities (16.48.070, O) are amended to more closely follow Title 44, CFR.

16.48.080 Generalized Flood Plain Areas
This section includes minor amendments.

16.48.090 Variances – Issuance, Notification and Records.
This section is amended to clearly state the Planning Commission is the decision authority for variances to the Floodplain Overlay District, that variances can be issued without regard to the floodplain requirements for State and Federally designated Historic Sites.

16.48.090 Variance Criteria
This section is significantly amended to add the language in the State Model Ordinance.

16.48.090 Warning and Disclaimer of Liability
This section includes minor amendments.

16.08 ADMINISTRATION AND ENFORCEMENT

16.08.030 Application Types and Review Procedures
This section is amended to add Flood Plain Development Permit as a Type I action to Subsection 16.08.030, A.

III. CRITERIA AND FINDINGS

1. The proposed amendments to the Flood Plain Overlay District are legislative amendments and will be reviewed through a legislative process. The Sheridan Zoning and Development Ordinance does not include criteria for a legislative amendment to the zoning regulations, but appropriate criteria to address are any applicable goals and policies in the Sheridan Comprehensive Plan and any applicable Statewide Planning Goals.
2. The City of Sheridan Charter, Chapter II, Section 5, states, in part: "...the city shall have for the conduct of its municipal affairs all the powers contemplated by the municipal home rule provisions of the constitution and laws of the state." The City has the authority and responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry, including regulations related to the 100-year floodplain. The proposed amendments to the Flood Plain Overlay District (FP) will promote the public health, safety, and general welfare of its citizenry.
3. The flood hazard areas of the City of Sheridan are subject to periodic inundation which results in (1) loss of life and property, (2) health and safety hazards, (3) disruption of commerce and governmental services, (4) extraordinary public expenditures for flood protection and relief, and (5) impairment of the tax base, all of

which adversely affect the public health, safety, and general welfare. The proposed amendments to the Flood Plain Overlay District (FP) and the Type I process will promote the public health, safety, and general welfare of its citizenry.

4. Flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. The proposed amendments to the Flood Plain Overlay District (FP) and the Type I process will promote the reduction of flood losses.
5. Applicable goals and policies in the Comprehensive Plan.

Flood Plain Policy 3 states, "The City shall recognize and incorporate additional flood data as it becomes available."

Amending Sections 2.110 and 3.101 by adopting the digital Flood Insurance Rate Maps and the Flood Insurance Study, amending Section 3.101 regarding Type I actions, and including other changes from the Oregon Model Flood Plain Ordinance will recognize and incorporate new information that is now available. The proposed amendments are consistent with Policy 3.

Flood Plain Policy 10 states in part, "The City shall develop appropriate zoning and subdivision ordinances as a way to guide development within the flood plain."

Amending Sections 2.110 and 3.101 by adopting the digital Flood Insurance Rate Maps and the Flood Insurance Study, amending Section 3.101 regarding Type I actions, and including other changes from the Oregon Model Flood Plain Ordinance will update the zoning ordinance and improve its effectiveness in guiding development in the flood plain. The proposed amendments are consistent with Policy 10.

Amending Section 3.101.01 to add "Flood Plain Development Permit" as a Type I action will make it clear what the process is to make decisions for those permits. The current zoning regulations do not list "Flood Plain Development Permit" as a Type I, II, III or IV action.

6. Applicable Statewide planning goals.
 - A. Goal 1, Citizen Involvement.

Goal 1 applies. The Planning Commission and City Council will conduct public hearings. The process is a Legislative process because the proposed amendments affect properties Citywide and because they propose changes to the laws of the City. Public notice has been provided in accordance with the

Sheridan Zoning and Development Ordinance Legislative public hearings by the Planning Commission and the City Council. Goal 1 is met.

B. Goal 2. Land Use Planning.

Goal 2 applies. The 45-day notice prior to the first evidentiary hearing to the Oregon Department of Land Conservation and Development (DLCD) was provided to notify and garner comments from those parties on the DLCD notification list. Goal 2 is met.

C. Goal 3. Agricultural Lands.

Goal 3 does not apply because the proposed amendments do not add or remove land from exclusive farm use zoning.

D. Goal 4. Forest Lands.

Goal 4 does not apply because the proposed amendments do not add or remove land from exclusive forest use zoning.

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

Goal 5 does not apply because the proposed amendments do not change the designation of natural resources, scenic areas, historic areas or open space areas.

F. Goal 6. Air, Water and Land Resources Quality.

Goal 6 does not apply because the proposed amendments do not change the requirements related to air, water and land resources quality.

G. Goal 7. Areas Subject to Natural Hazards.

Goal 7 applies. The proposed amendments will help to ensure inappropriate structures are not constructed in the floodway and that appropriate structures constructed in the 100-year flood plain meet or exceed the federal and state flood plain requirements. For example, the State of Oregon requires the lowest floor be at least 1-foot above the 100-year flood height and that manufactured homes have their lowest floor at least 18 inches above the 100-year flood height. Goal 7 is met.

H. Goal 8, Recreation Needs.

Goal 8 does not apply because the designation of recreation resources will not be changed.

I. Goal 9. Economic Development.

Goal 9 does not apply because the proposed amendments do not change the designation of lands zoned for residential, commercial, industrial or public uses.

J. Goal 10. Housing.

Goal 10 does not apply because the proposed amendments do not change the designation of lands zoned for residential uses.

K. Goal 11. Public Facilities and Services.

Goal 11 does not apply because the proposed amendments do not relate to public facilities or services.

L. Goal 12. Transportation.

Goal 12 does not apply because the proposed amendments do not relate to transportation facilities.

M. Goal 13. Energy Conservation.

Goal 13 does not apply because the proposed amendments do not relate to energy conservation.

N. Goal 14. Urbanization.

Goal 14 does not apply because the proposed amendments do not relate to the urban growth boundary.

O. Goal 15 for the Willamette River Greenway and Goals 16 – 19 for the Coastal Goals.

Goals 15 – 19 do not apply because the City is not on the Willamette River or on the coast.

The proposed amendments are consistent with the applicable Statewide Planning Goals.

The proposed amendments meet the applicable criteria of the Sheridan Comprehensive Plan and the Statewide Planning Goals.

IV. PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on December 14, 2009 and unanimously passed a motion recommending the City Council approve the proposed amendments to the Zoning and Development Ordinance. The motion of the Planning Commission cannot be accepted by the City Council as an official action by the Commission because only two of the five members were in attendance and a quorum did not exist. No one attended the hearing except for the two Commissioners and two City staff. Due to the impending deadline to adopt the amendments the two members in attendance made and passed the motion as an expression of their position.

V. CONCLUSION

Based on the above findings, the City Council concludes the proposed amendments to the Sheridan Zoning and Development Ordinance, Chapters 16.08 and 16.48, comply with the decision criteria contained in the Sheridan Comprehensive Plan and Sheridan Zoning and Development Ordinance.

EXHIBIT 'A' CONTINUED
A MARK-UP COPY OF THE PROPOSED AMENDMENTS

Chapter 16.48

FLOODPLAIN (FP) OVERLAY DISTRICT

Sections:

16.48.010 Purpose.

16.48.020 Definitions.

16.48.030 Applicability— Administration.

16.48.040 General requirements and exemptions.

16.48.050 Permitted uses.

16.48.060 ~~Conditional use procedures and requirements.~~ *Reserved For Future Use.*

16.48.070 Flood protection standards.

16.48.080 Generalized floodplain areas.

16.48.090 Variances—Issuance, notification and records.

16.48.100 Variance criteria.

16.48.110 Warning and disclaimer of liability.

16.48.010 Purpose.

A. The purpose of the floodplain overlay ~~zone~~ *district* is to *promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:*

~~A1. 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;~~ *To protect human life and health;*

~~B2. M~~ *To minimize the expenditure of public money for , and to minimize costly flood control projects, and to minimize the need for rescue and relief efforts in areas subject to associated with flooding which are generally undertaken at the expense of the general public;*

~~C3. Minimize flood damage to new construction by elevating or flood proofing all structures.~~ *To minimize prolonged business interruptions;*

~~D4. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.~~ *To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;*

~~E5. Control filling, grading, dredging and other development which may be subject to or increase flood damage.~~ *To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood bight areas;*

~~F6. Prevent or regulate the construction of flood barriers which may increase~~

~~flood hazards in other areas. To ensure that potential buyers are notified that property is in an area of special flood hazard;~~

~~G7. Comply with the requirements of the Federal Insurance Administration to qualify the City of Sheridan for participation in the National Flood Insurance Program. To ensure those who occupy the areas of special flood hazard assume responsibility for their actions;~~

~~H8. M To minimize flood insurance premiums paid by the citizens of the City of Sheridan by reducing potential hazards due to flood damage;~~

~~I9. I To implement the flood plain policies in the City of Sheridan Comprehensive Plan.~~

B. To accomplish its purposes, the Flood Plain Overlay District includes the following methods and provisions for reducing flood losses:

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.

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.

6. Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.01, 1993)

16.48.020 Definitions.

For purposes of this overlay zone *district*, the following terms shall mean:

"Accessory structure" means sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area. **a structure which is less than 200 square feet in gross floor area, is detached from and is on the same parcel of property as the principal structure, and the use of which is incidental to the use of the principal**

structure.

“Appeal” means a request for a review of (1) the interpretation of any provision of Section 16.48, (2) the decision for a flood plain development permit that includes the exercise of discretion, or (3) the decision for a variance to the standards of the Flood Plain Overlay District.

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

“Base Flood Level Elevation (BFE)” means the flood level elevation having a one (1) percent chance of being equaled or exceeded in any given year. (Also referred to as the “ 100 year flood plain). ” Designation on the Flood Insurance Rate Map always includes the letter A.

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

“Below-Grade Crawl Space” means an enclosed area below the base flood elevation in which the interior grade is not more than 2 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 thirty thousand (30,000) CFS at a cross section, this means that thirty thousand (30,000) cubic feet of water pass through the cross section each second.

“Critical Facility” means a facility for which even a slight change 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" means Any activity that has the potential to cause erosion or increase the velocity or depth of floodwater. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, bridges, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials. any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“Elevated Building” means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear

walls, post, piers, pilings, or columns.

"Encroachment" means any obstruction in the flood plain *area of special flood hazard* which affects flood flows.

"Existing Mobile/manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale *manufactured home park or manufactured home subdivision* for which the construction of facilities for servicing the *spaces or* lots on which the mobile/manufactured homes is *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, ~~and the construction of streets~~) is completed before the effective date of the ordinance codified in this chapter.

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

"FEMA" means the Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

"Fill" means 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.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of usually *normally* dry land areas from *(1) the overflow of inland or tidal waters or (2) the unusual and rapid accumulation of runoff of surface waters* from any source.

"Flood boundary floodway map (FBFM)" ~~means the map portion of the flood insurance study (FIS) issued by the Federal Insurance Agency on which is delineated the floodplain, floodway (and floodway fringe), and cross sections (referenced in the text portion of the FIS).~~

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

"Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary floodway map and the water surface elevation of the base flood and is on file with the city of Sheridan.

~~"Floodplain" means lands within the city that are subject to a one percent or greater chance of flooding in any given year as identified on the official zoning maps of the city of Sheridan.~~

"Floodproofing" means a combination of structural or nonstructural 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.

"Floodway" means 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 foot. ~~Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.~~

"Floodway fringe" means the area of the floodplain lying outside of the floodway as delineated on the FBFM **FIRM** where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

"Hazardous material" means a combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

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

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes mobilehomes 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.

~~"Manufactured home park or subdivision" means a parcel *or lot* (or contiguous parcels *or lots*) divided into two or more manufactured home lots for rent or sale developed with manufactured homes placed on designated areas (typically referred to as a "space") and the manufactured home occupant rents the space.~~

~~"Manufactured home subdivision" means a subdivision wherein only manufactured homes may be placed on the lots created by the subdivision.~~

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or ~~other datum~~, ***the North American Vertical Datum of 1988 (NAVD88)*** to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobilehome" means a vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is thirty-two (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 in this section.

"New construction" means any structure(s) for which the start of construction commenced on or after the original effective date of the floodplain overlay zone ~~district~~.

"New manufactured home park or new manufactured home subdivision" means a manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the spaces or 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 started on or after the effective date of the city's original flood plain regulations or amendments to the flood plain regulations.

"Obstruction" means 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 is placed where the flow of water might carry the same downstream to the damage of life or property.

"Recreational vehicle" means ~~"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 sub V., of this Section~~ ***as defined in ORS 446.003(33), a vehicle with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and as further defined by rule, and is designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.***

"Start of construction" ***includes substantial improvement, and*** means the ***date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date.*** The ***actual start means either 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, the installation of piles, the construction of columns, or any work beyond***

the stage of excavation ; *or the placement of a manufactured home on a foundation.* Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not 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.

1. 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.

2. 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.

3. For mobile/manufactured homes within a 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.

“State building code (SBC)” means the combined specialty codes adopted by the State of Oregon.

"Structure" means roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

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

"Substantial improvement" means any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds twenty-five (25) percent of the market or assessed value of the structure before the start of construction of the improvement *either:*

1. Before the improvement or repair is started; or
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:

a. Any project *for improvement of a structure* to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions,

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.~~

“Variance” means a grant of relief from the requirements of the Flood Plain Overlay District which permits construction in a manner that would otherwise be prohibited by the Flood Plain Overlay District.

“Water Dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

"Watercourse" means a natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain.
(Ord. 2000-10 § 1, 2000; Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.02, 1993)

16.48.030 Applicability-- Administration.

~~The following regulations apply to all lands in identified floodplains as shown graphically on the zoning maps.~~

A. *Applicable Lands.*

The Floodplain Overlay District applies to all areas of special flood hazard within the City of Sheridan.

B. *Basis for Special Flood Hazard Areas.*

~~The floodplain is those areas of special flood hazard *are* identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Sheridan, Oregon," dated August 1, 1980, with accompanying flood insurance rate maps dated September 30, 1988. "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," dated March 2, 2010, with accompanying Flood Insurance Rate Maps. The report Study and m Maps are incorporated in the overlay zone Floodplain Overlay District by this reference and are on file at the e City of Sheridan City Hall. When base flood elevation data has not been provided, the city recorder, or designee, 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.~~

C. Compliance and Penalties for Noncompliance.

No person shall make, cause, suffer, or permit any intensification, change of use, or development within any area of special flood hazard without full compliance with the terms of this Chapter and all other applicable provisions of the Sheridan Zoning and Development Ordinance. Penalties shall be in accordance with Section 16.08.190, Violations-Penalties.

D. Abrogation and Greater Restrictions.

The Flood Plain Overlay District is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restriction. However, where a Flood Plain Overlay District or other Zoning and Development Ordinance regulation, state building code regulation, easement, covenant, or deed restriction conflicts or overlaps, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation.

In the interpretation and application of the Flood Plain Overlay District, all provisions shall be:

- 1. Considered as minimum requirements.*
- 2. Liberally construed in favor of the governing body.*
- 3. Deemed neither to limit nor repeal any other powers granted under State statutes and rules including the state building code.*

F. Designation of Local Administrator.

The City Manager, or designee, is hereby appointed as the local administrator to administer and implement the Flood Plain Overlay District by granting or denying Flood Plain Development Permit applications in accordance with the Flood Plain Overlay District provisions.

G. Duties and Responsibilities of the City Manager, or Designee.

~~A.~~Duties of the city manager, or designee, shall include, but *are* not be limited to:

- 1. Review all development permits to determine that the permit requirements ~~and provisions of this chapter~~ **the Flood Plain Overlay District** have been satisfied ~~are met~~;*

2. Review all development permits to ~~determine that~~ *ensure* all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, ~~assure that~~ *ensure* the encroachment provisions of Section 16.48.070 , (L) , *Floodways*, are met.

4. *Interpret the provisions of the Flood Plain Overlay District consistent with Section 16.48.030, E.*

B5. Use of Other Base Flood Data (*in A Zone*).

When base flood elevation data has not been provided on the FIRM (*A Zone*) ~~in accordance with Section 16.48.030, B, Basis for Special Flood Hazard Areas, or when more detailed data is available;~~ the city recorder *City Manager*, or designee, shall obtain, review, and reasonably utilize any base flood elevation *and floodway* data available from a federal, state or other source, ~~in order to administer the provisions of this section~~ *the Flood Plain Overlay District.*

6. *Interpretation of Flood Insurance Rate Map Boundaries.*

When base flood elevation data has not been provided, the city recorder *City Manager*, or designee, 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;~~ *make an interpretation decision where needed, as to the location of the boundary of the area of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. A party may appeal the interpretation decision provided a letter appealing the decision is submitted within fifteen (15) calendar days of the date the decision was mailed to the parties. The appeal shall be reviewed and decided consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).*

€7. Information to be obtained and maintained:

1a. ~~From the developer of the property~~ *Where base flood elevation data is provided through the Flood Insurance Study, Flood Insurance Rate Map, or as required in Section 16.48.030, G, 5, Use of Other Base Flood Data,* obtain and record the actual elevation , (in relation to mean sea level ,) of the lowest habitable floor , (including basements *and below-grade crawlspaces,*) of all new or substantially improved structures , *and record whether the structure contains a basement;*

2b. For all new or substantially improved floodproofed structures *where base flood elevation data is provided through the Flood Insurance Study, Flood Insurance Rate Map, or as required in Section 16.48.030, G, 5, Use of*

Other Base Flood Data :

ai. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and

bii. Maintain any floodproofing certifications required by ~~this chapter~~ ***the Flood Plain Overlay District;***

3c. Maintain for public inspection all records pertaining to the provisions of ~~this chapter~~ ***the Flood Plain Overlay District.***

8. *Alteration of Water Courses.*

a. ***Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.***

b. ***Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure the flood carrying capacity is not diminished.*** [[Moved from 16.48.070, K.]]

H. *Establishment of Flood Plain Development Permit.*

~~D. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A action. Activities requiring conditional use approval shall be reviewed as a Type II action.~~

1. ***Except as set forth in Section 16.48.040 for exempt uses, and Section 16.48.070, D, for accessory structures, a Flood Plain Development Permit application shall be submitted for structures, including manufactured homes, as defined in Section 16.48.020, Definitions, and for all development, including fill and other activities, as defined in Section 16.48.020, Definitions. A Flood Plain Development Permit shall be approved before construction or development begins within any area of special flood hazard established in Section 16.48.030, B, Basis for Special Flood Hazard Areas.***

2. ***A Flood Plain Development Permit shall be reviewed and decided by the City Manager, or designee, as a Type I action.***

3. ***A Flood Plain Development Permit Application shall be submitted on forms provided by the City, filed with the City Recorder and accompanied by the appropriate fee.***

4. *If the Flood Plain Development Permit decision involves the interpretation or exercise of policy or legal judgment, the decision shall be issued as a Type II action.*

5. *A Flood Plain Development Permit decision involving an interpretation may be appealed by those aggrieved by the decision or by any taxpayer consistent with Section 16.48.030, I, Appeal Procedure.*

6. *Application Contents.*

a. *It shall be the applicant's responsibility to submit a complete application which addresses the provisions and standards of Sections 16.48.030, Administration, 16.48.040, General Requirements and Exemptions, 16.48.050, Permitted Uses, 16.48.070, Flood Protection Standards, and 16.48.080, Generalized Floodplain Areas. The application shall include plans in duplicate drawn to scale. Building Permit Application materials may be used for partial fulfillment of the application contents requirements provided they address 16.48.030, H, 6, b-f, below. The Flood Plain Development Permit Application shall include, but is not limited to, the following:*

b. *The nature, location, dimensions, and elevations of:*

i. *The subject property,*

ii. *Existing and proposed structures,*

iii. *Existing and proposed fill,*

iv. *Existing and proposed storage for materials, and*

v. *Existing and proposed drainage facilities.*

c. *Elevation in relation to mean sea level, of the lowest floor, including basement, of all structures.*

d. *Elevation in relation to mean sea level of floodproofing in any structure.*

e. *Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 16.48.070, C, Nonresidential Development.*

f. *Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development.*

I. *Appeal Procedure.*

1. *The Planning Commission shall review and decide appeals of the City Manager, or designee, decision for an interpretation of the provisions of the Flood Plain Overlay District. An appeal of the Planning Commission's decision shall be reviewed and decided by the City Council.*

2. *In deciding appeals, the Planning Commission and City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of the Zoning and Development Ordinance, and the following factors:*

a. *The danger that materials may be swept onto other lands to the injury of others.*

b. *The danger to life and property due to flooding or erosion damage.*

c. *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.*

d. *The importance of the services provided by the proposed facility to the community.*

e. *The necessity to the facility of a waterfront location, where applicable.*

f. *The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.*

g. *The relationship of the proposed use to the comprehensive plan, the underlying zone for the subject property, and the Flood Plain Overlay District for that area.*

h. *The safety of access to the property in times of flood for ordinary and emergency vehicles.*

i. *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.*

j. *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.*

3. *Upon consideration of the factors of Section 16.48.030, I, 2, a – j, the Planning Commission may approve, approve with conditions or deny the appeal as it deems necessary to implement the Flood Plain Overlay District.*

4. *The City Manager, or designee, shall maintain the records of all appeal actions.*

(Ord. 2000-10 § 3, 2000; Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.03, 1993)

16.48.040 General requirements and exemptions.

Within an ~~FP (floodplain)~~ *the Flood Plain* ~~Overlay zone~~ *District*, no uses, structures, vehicles, and premises *or land* 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 issuance of a determination or a conditional use permit as provided in Sections 16.48.060 and 16.48.070.~~ 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;
- B. Driveways, parking lots and other open space use areas where no alteration of topography will occur;
- C. ~~Minor~~ *Routine maintenance and* repairs ~~or alterations~~ to existing structures provided the ~~alterations~~ *maintenance and repairs* do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 16.48.020;
- D. ~~Customary dredging associated with channel maintenance consistent with applicable state or federal law; [Moved to 16.48.050, J, below.]]~~

~~ED.~~ Placement *Replacement* of utility facilities necessary to serve established and permitted uses within ~~flood plain~~ areas *of special flood hazard*, such as telephone poles. This exemption does not apply to *the replacement of* buildings, *and* substations, *or to electrical, heating, ventilation, plumbing and air-conditioning systems*, or other *similar* types of ~~flood plain service~~ development *in areas of special flood hazard*.
(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.04, 1993)

16.48.050 Permitted uses.

Except for accessory structures as set forth in Section 16.48.070, D, and if otherwise allowed *as a permitted use or a conditional use* in the *underlying* zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit, including *and* the placement of fill to elevate a structure, may be allowed subject to a ~~written determination (flood plain development permit)~~ that *an approved Flood Plain Development Permit showing* the following requirements are met *or will be met as construction occurs*:

- A. The structure *or fill* is not located within a floodway;

B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the ~~the Flood Insurance Study~~, *Flood Insurance Rate Map, or consistent with Section 16.48.030, G, 5, Use of Other Base Flood Data*;

C. The structures will be located on natural grade or compacted fill;

D. The lowest floor will be elevated to *at least* one foot above the level of the base flood elevation and the anchoring requirements in Section 16.48.070(F), *Flood Protection Standards, will be met*;

E. The building official has determined that any construction and substantial improvements below ~~the~~ *the* base flood level *elevation* meet the requirements of Section 16.48.070, *Flood Protection Standards*;

F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements, *any foundation venting requirements* and requires *provides the* ~~provision of~~ certification *required for floodproofing* under Section 16.48.070 (C)(1)(c), *Flood Protection Standards*, prior to occupancy;

G. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor, including basement, is at ~~or above the specific minimum~~ *least one foot above the base flood elevation*, is submitted to the zoning administrator *City Manager, or designee*, prior to use of the structure;

H. No alteration of topography beyond the perimeter of the structure is proposed;

I. *Recreational Vehicles.*

1. *A recreational vehicle may be temporarily located in a recreational vehicle park in an area of special flood hazard, provided, it is not used for continuing human habitation and it complies with the requirements in Section 16.48.070, M, 1, Recreational Vehicles.*

2. A recreational vehicle *not in a recreational vehicle park* may be located *parked or stored* in a floodplain only during the non-flood season (June 1 through September 30) *an area of special flood hazard*, provided, *it is not used for human habitation and* it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreational 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 *complies with the requirements in Section 16.48.070, M, 2, Recreational Vehicles.*

J. *Customary dredging associated with channel maintenance consistent with applicable state or federal law.* [[[Moved from 16.48.040, D, above.]]]

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.05, 1993)

16.48.060 Conditional use procedures and requirements. *Reserved for Future Use.*

~~———— A. ——— Except as provided in Sections 16.48.040 and 16.48.050, a conditional use permit shall be obtained before construction or development begins within the floodplain overlay zone. The conditional use permit shall include conditions ensuring that the flood protection standards in Section 16.48.070 are met.~~

~~———— B. ——— When base flood elevation data and floodway data have not been provided in accordance with Section 16.48.030, the applicant, with the assistance of the city recorder or designee, 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 city recorder or designee may require that the applicant provide data derived by standard engineering methods.~~

~~———— C. ——— 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 16.48.070(A), (B) and (C).~~

~~———— D. ——— 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;~~
- ~~———— 2. ——— Base flood level expressed in mean sea level data on the site;~~
- ~~———— 3. ——— Plot plan showing property location, floodplain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken;~~
- ~~———— 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.~~

~~———— 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;~~

2. The danger that materials may be swept onto other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance to the community of the service provided by the proposed facility;
6. The requirements of the facility for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
10. The safety of access to property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;
12. Such other factors which are relevant to the purpose of this section.

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:

1. Limitations on periods of use and operation;
2. Imposition of operation controls, sureties, and deed restrictions;
3. Floodproofing measures.

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.06, 1993)

16.48.070 Flood protection standards.

In all areas of ~~identified floodplain~~, *special flood hazards where base flood elevation data has been provided (Zones A1 – 30, AH, and AE) as set forth in Section 16.48.030, B, Basis For Special Flood Hazard Areas, or Section 16.48.030, G, 5, Use of Other Base Flood Data (in A Zone)*, the following requirements apply:

~~A. Dwellings and Manufactured Homes.~~

A. Residential Development, Except Manufacture Homes.

~~1. New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of the ordinance codified in this chapter shall:~~

1. New construction and substantial improvement of any residential structure, except a manufactured home, shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

~~a. Have the lowest floor, including basement, elevated on a permanent foundation to one foot above base flood elevation; and~~

~~b. Manufactured homes shall be anchored in accordance with subsection F of this section; and~~

~~c. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.~~

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:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

~~B. Manufactured Homes in Existing Manufactured Home Parks.~~

- ~~1. Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:
 - ~~a. Have the lowest floor at, or above, the base flood elevation; or~~
 - ~~b. Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.~~~~
- ~~2. Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.~~

B. Manufactured Homes.

1. All manufactured homes shall be elevated on a permanent foundation with the finished floor of the manufactured home elevated a minimum of 18 inches (46 cm) above the base flood elevation and securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement when the manufactured home is to be placed or substantially improved on a site that is:

- a. Outside of a manufactured home park or subdivision,*
- b. In a new manufactured home park or subdivision,*
- c. In an expansion area to an existing manufactured home park or manufactured home subdivision, or*
- d. In an existing manufactured home park or manufactured home subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;*

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or manufactured home subdivision that are not subject to the provisions of 16.48.070, B, 1, shall be elevated so that either:

- a. The finished floor of the manufactured home is a minimum of 18 inches (46 cm) 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 are securely anchored to an*

adequately anchored foundation system to resist floatation, collapse, and lateral movement.

C. Nonresidential Development.

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structures shall either have the lowest floor, including basement, elevated to *a minimum of* one foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level *elevation* the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; *and*

c. Be certified by a registered professional engineer or architect that the ~~standards in this subsection and subsection F of this section are satisfied.~~ *design and methods of construction are in accordance with accepted standards of practice for meeting provisions of Section 16.48.070 based on their development and/or review of the structural design, specifications and plans.* This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed. *Such certifications shall be submitted with the Floodplain Development Permit Application as required in Section 16.48.030, H, 6.*

2. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in ~~subsection (A)(2) of this section~~ *Section 16.48.070, A, 2.*

3. Applicants floodproofing nonresidential buildings shall be notified *by the City* that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level *elevation* will be rated as one foot below that level *elevation*).

D. Accessory Structures. ~~Accessory structures such as sheds or detached garages may be~~ *An accessory structure as defined in Section 16.48.020 is not required to apply for and be granted a Flood Plain Development Permit and is exempt from elevation and floodproofing standards providing provided* the following development standards are met:

~~1. The structure cannot be more than four hundred eighty (480) square feet in area and shall not be used for human habitation;~~

~~2. Shall be designed to have low potential for flood damage;~~

3. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and

4. Shall be firmly anchored to prevent flotation which may result in damage to other structures.

1. *It is used only for the parking of vehicles and the storage of items unlikely to be damaged by flood waters, including but not limited to lawn furniture and garden tools. An accessory structure shall not be used for human habitation or to operate equipment or to place appliances such as freezers.*

2. *It is anchored consistent with Section 16.48.070, F, Anchoring, to prevent floatation and lateral movement;*

3. *It is resistant to flood damage and is constructed to minimize flood damage consistent with Section 16.48.070, G, Construction Materials and Methods;*

4. *It is vented consistent with Section 16.48.070, A, 2, Residential Development; and*

5. *Electrical, heating, ventilation, plumbing and air-conditioning systems, and other similar types of service development are elevated at least one (1) foot above the base flood elevation.*

E. Fill.

1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not 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.

2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

F. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.

2. All manufactured homes shall be anchored to resist *prevent* floatation, collapse or lateral movement ~~by providing over the top and frame ties to ground anchors. Specific requirements shall be that:~~ , *and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for*

additional techniques).

- a. ~~Over the top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations with manufactured homes more than fifty (50) feet long requiring only one additional tie per side;~~
 - b. ~~Frame ties be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than fifty (50) feet long requiring only four ties per side;~~
 - c. ~~All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds;~~
 - d. ~~Any additions or expansions to the manufactured home be similarly anchored.~~
3. ~~An alternative method of anchoring may involve a system designed to withstand a wind force of ninety (90) miles per hour or greater (must be certified).~~

G. Construction Materials and Methods.

1. All new construction and substantial improvements below *the* 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. *Utility equipment shall be at least one (1) foot above the base flood elevation.*

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage s.

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

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.

2. New and replacement sanitary sewage systems shall be designed and located to minimize floodwater contamination consistent with the requirements of the Oregon State Department of Environmental Quality *or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.*

3. Electrical, heating, ventilation, plumbing and air conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding. *On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.*

I. Developments Generally. Residential developments involving more than one single-family dwelling, including, *but not limited to, partitions*, subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under subsections *Sections 16.48.070, A, B, and C* of this section, shall meet the following requirements:

1. Be designed to minimize flood damage;
2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. Have adequate drainage provided to reduce exposure to flood damage;
4. *Where B base flood elevation data shall be has not been provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods will be required. or is not available from another authoritative source, it shall be generated by the applicant for subdivision and development applications which contain at least 50 lots or 5 acres, whichever is less.*

J. Storage of Materials and Equipment. Materials that are buoyant, flammable, ~~obnoxious~~, toxic or otherwise injurious to persons or property, ~~if~~ *and can be* 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.

K. ~~Alteration of Watercourses (Floodways):~~ *Review of Building Permits.* When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:

1. ~~Adjacent communities, and the Oregon Division of State Lands and the Department of Land Conservation and Development, shall~~

be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.

2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. [Moved to 16.48.030, G, 8.]

Where elevation data is not available either through the Flood Insurance Study, Flood Insurance Rate Map, or from another authoritative source in accordance with Section 16.48.030, G, 5, Use of Other Base Flood Data (in A Zone), Flood Plain Development Permit Applications related to a building permit shall be reviewed through the Type II process to ensure the proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

L. Floodways. ~~Located~~ *The Floodway is designated* within the areas of floodplain *special flood hazard* established in Section 16.48.030 , **B, Basis for Special Flood Hazard Areas**. ~~are areas designated as floodways. Since~~ *The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris , and potential projectiles, and cause erosion potential, .* ~~† The following provisions shall apply in addition to~~ *and the requirements in subsection Section 16.48.070, I , Developments Generally, of this section shall apply to development in the floodway (these provisions shall also apply and to areas within a floodplain areas of special flood hazard where a floodway has not been technically determined and the base flood level elevation is three or more feet above the land surface) :*

1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided , *through a Flood Plain Development Permit processed as a Type II action, certification* by a registered professional *civil engineer or architect is provided* 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 submitted to the Federal Emergency Management Agency for technical review;

2. If subsection ~~(L)(1)~~ of this section *Section 16.48.070, L, 1*, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section;

3. ~~Prohibit the placement of any manufactured homes except in an existing manufactured home park ;~~

43. The area below the lowest floor shall remain open and unenclosed

to allow the unrestricted flow of floodwaters beneath the structure.

4. Except as provided in Subsections a and b, below, the installation of a manufactured home is prohibited in the floodway in accordance with the 2002 Oregon Manufactured Dwelling Park Specialty Code.

a. A manufactured home existing in the floodway may remain provided the placement was permitted at the time of the original installation, and its continued use is not a threat to life, health, property, or the general welfare of the public.

b. A manufactured home existing in the floodway may be replaced with a manufactured home provided the existing manufactured home was permitted at the time of the original installation, the replacement manufactured home will not be a threat to life, health, property, or the general welfare of the public, and it meets the following criteria:

i. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the new replacement manufactured home and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;

ii. The new replacement manufactured home and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the base flood elevation as identified on the Flood Insurance Rate Map;

iii. The new replacement manufactured home is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and is approved by the City Manager or designee;

iv. The new replacement manufactured home, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) are designed by an Oregon professional engineer or architect to not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties and that such design is approved by the City Manager or designee;

v. The new replacement manufactured home's location is allowed by the Sheridan Zoning and Development Ordinance; and

vi. The new replacement manufactured home meets any other requirements deemed necessary by the City Manager or designee.

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-2007-1023); and,*

b. *A qualified professional (a Registered Professional Engineer; or staff of Natural Resources Conservation Service (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 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 the flood carrying capacity remains unchanged is included as part of the local approval.*

6. *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 Flood Insurance Rate Map, unless through a Flood Plain Development Permit processed as a Type II action, it is demonstrated in a written report 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.*

M. *Recreational Vehicles.*

1. *A recreational vehicle in a recreational vehicle park shall comply with M, 1, a, or M, 1, b, or M, 1, c:*

a. *Be on the site for fewer than 180 consecutive days;*

b. *Be:*

i. *Fully licensed and ready for highway use; and*

ii. *On its wheels or jacking system; and*

iii. *Have no permanently attached additions; and*

iv. *Be attached to the site only by quick disconnect type devices for utilities and security systems;*

c. *Meet the requirements of Section 16.48.070, B, Manufactured Homes.*

2. *A recreational vehicle not in a recreational vehicle park shall:*

a. *Be fully licensed and ready for highway use;*

b. *Be on its wheels or jacking system;*

c. *Have no permanently attached additions; and*

d. *Be attached to the site only by quick disconnect type devices for electricity.*

N. *Below Grade Crawl Space.*

1. *A below-grade crawlspace is allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, "Crawlspace Construction for Buildings Located in Special Flood Hazard Areas." For structures with a below grade crawlspace the National Flood Insurance Program requires increased insurance premium costs due to a charge that is added to the basic policy premium for the below-grade crawlspace. Contact an insurance agent for more information.*

a. *The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings 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.*

b. *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.*

c. *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.*

d. 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.

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

f. 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.

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

h. 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. For more detailed information refer to FEMA Technical Bulletin 11-01, including the diagrams that illustrate the 2-foot and 4-foot rules, and note the State building code requirements require the lowest floor to be at least 1-foot above the Base Flood Elevation for residential structures.

O. **Critical Facilities.** Construction of new critical facilities shall be, to the extent possible, located outside the area of special flood hazard (100-year floodplain). Construction of new critical facilities shall be permissible within the area of special flood hazard if no feasible alternative site is available. Critical facilities constructed within the area of special flood hazard shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. The access route(s) to and from the critical facility should be elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. Floodproofing and sealing measures shall 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.

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.07, 1993)

16.48.080 Generalized floodplain areas.

Where elevation data is generalized, such as the unnumbered A zones on the ~~FIRM~~ **Flood Insurance Rate Map, a Flood Plain Development Permit processed as a Type II action** conditional use permits shall include a review and determination that ~~the~~ proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed floodplain 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 not in a floodplain. In such cases, a letter of map amendment may be required by the ~~city recorder~~ **City Manager, or designee**.
(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.08, 1993)

16.48.090 Variances--Issuance, notification and records.

A. *The Planning Commission shall decide requests for variances from the requirements of the Flood Plain Overlay District consistent with the Type II process. Generally, the only situation under which* A 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, in conformance with the criteria in Section 16.48.100. *For lots greater than one-half acre the technical justification required for approving the variance increases.*

B. *Prior to the public hearing* A community *the City Manager, or designee,* shall notify the applicant in writing ~~over the signature of a community official~~ that: (1) the issuance *granting* of a variance to construct a structure *with the elevation of the lowest floor less than one (1) foot above* below the base flood level *elevation* will result in increased premium rates for flood insurance ~~up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage~~ *commensurate with the increased risk resulting from the reduced lowest floor elevation*; and (2) such construction ~~below less than one (1) foot above~~ the base flood level *elevation* increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C of this section.

C. ~~A community~~ *The City Manager, or designee,* 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 *granted to the Federal Insurance Administration upon request.*

D. *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 Sections 16.48.090, Variances, and 16.48.100, Variance Criteria.*

E. Upon consideration of the factors in Section 16.48.100, the Planning Commission may approve, approve with conditions or deny the variance as it deems necessary to implement the Flood Plain Overlay District.

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.09, 1993)

16.48.100 Variance criteria.

~~The following criteria shall be used to review variance applications. Variances shall only be issued upon a showing that~~ *In deciding variance applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other relevant sections of the Zoning and Development Ordinance, and the following factors:*

- A. There is a good and sufficient cause;
- B. That failure to grant the variance would result in exceptional hardship to the applicant;
- C. 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;
- D. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- E. The variance will be consistent with the intent and purpose of the provision being varied;
- F. There has not been a previous land use action approved on the basis that variances would not be allowed; and
- G. 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.
- H. The danger that materials may be swept onto other lands to the injury of others.*
- I. The danger to life and property due to flooding or erosion damage.*
- J. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.*
- K. The importance of the services provided by the proposed facility to the community.*

L. The necessity to the facility of a waterfront location, where applicable.

M. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

N. The compatibility of the proposed use with existing and anticipated development.

O. The relationship of the proposed use to the comprehensive plan, the underlying zone for the subject property, and the Flood Plain Overlay District for that area.

P. The safety of access to the property in times of flood for ordinary and emergency vehicles.

Q. 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.

R. 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.

S. Variances 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.

T. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 16.48.090, A, and otherwise complies with Sections 16.48.070, F, Anchoring, G, Construction Materials and Methods, and H, Utilities.

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.10, 1993)

16.48.110 Warning and disclaimer of liability.

The degree of flood protection required by ~~this overlay zone~~ *the Flood Plain Overlay District* 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~~ *The Flood Plain Overlay District* 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~~ *The Flood Plain Overlay District* will not create liability on the part of the city *City of Sheridan*, 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 thereunder.

(Ord. 94-16 § 2 Exh. A (part), 1994; Ord. 93-5 Exh. A § 2.110.11, 1993)

PROPOSED AMENDMENTS TO SECTION 16.08, ADMINISTRATION AND ENFORCEMENT

Chapter 16.08

ADMINISTRATION AND ENFORCEMENT

16.08.030 Application types and review procedures.

All development permits and land use actions are processed under the city's administrative procedures. There are four types of actions, each with its own procedures.

A. Type I Action. A Type I action is a ministerial review process in which city staff apply clear and objective standards that do not allow much discretion. Appeal is to the planning commission. The following actions are processed under the Type I procedure:

1. Minor partition;
2. Home occupation;
3. Similar use;
4. Site development review;
5. Nonconforming use;
6. Minor exception.
7. ***Flood Plain Development Permit***

B. Type II Actions. A Type II action is a quasi-judicial review in which the planning commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing is provided. Section 16.08.100 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:

1. Conditional use permit;
2. Major partition;
3. Planned unit development;
4. Subdivision;
5. Variance.

C. Type III Actions. A Type III action is a quasi-judicial process in which the city council applies a mix of objective and subjective standards. The planning commission has an advisory role. Public notice is provided and public hearings are held

at the planning commission and city council. Section 16.08.100 lists the notice requirements. Appeal of the decision is to the land use board of appeals (LUBA). The following actions are processed under a Type III procedure:

1. Annexation;
2. Comprehensive plan map amendments;
3. Vacation;
4. Zone change.

D. Type IV Actions. A Type IV action is a legislative review in which the city considers and enacts or amends laws and policies. Private parties cannot request 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.
(Ord. 95-2 Exh. A § 1, 1995; Ord. 93-5 Exh. A §§ 3.101.01--3.101.04, 1993)

END OF PROPOSED AMENDMENTS