

**AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, TA2018-0001,
FEMA FLOODPLAIN MAP UPDATE TEXT AMENDMENT AND AMENDING THE
CITY CODE (CHAPTERS 5.05, 8.02 AND 9.05), AND DECLARING AN EMERGENCY**

WHEREAS, on July 18, 2018, the Planning Commission conducted public hearings to consider a City-initiated application to update the Development Code to adopt the "Letter of Final Determination" provided by FEMA, dated April 19, 2018, with accompanying Flood Insurance Rate Maps, flood profiles and related data for Washington County and Incorporated Areas, revising and replacing four panels of the current County-Wide Floodplain study, "The Flood Insurance Study for Washington County, Oregon and Incorporated Areas" dated November 4, 2016. The amendment also proposed adopting language related to facilities within the floodplain, as required by FEMA. The update affects Chapters 60 and 90 of the Development Code; and

WHEREAS, the Planning Commission received and considered the submitted staff report, exhibits, public testimony and staff-recommended approval of this text amendment; and

WHEREAS, the Planning Commission voted to recommend approval of the text amendment on July 18, 2018; and

WHEREAS, no appeal of the Planning Commission's decision was filed; and

WHEREAS, on October 9, 2018 the City Council opened a public hearing to receive and consider the Planning Commission's recommendation of approval, and additional code changes received from the FEMA on September 3, 2018, affecting the Beaverton Development Code Chapters 60 and 90 and the City of Beaverton City Code, Chapter 5.05, Chapter 8.02 and Chapter 9.05; and

WHEREAS, the City Council adopts as to facts and findings for this ordinance the materials described in the Planning Division Staff Report dated July 11, 2018, Land Use Order No. 2631, Exhibit 1.6 and the explanatory materials and exhibits in the memorandum dated October 3, 2018, all of which the Council finds constitute an adequate factual basis for this ordinance and incorporates by reference herein; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, the Development Code, is amended to read as set forth in Attachment "A" to this Ordinance attached to and incorporated herein by this reference.

Section 2. Beaverton City Code is amended at Chapter 5.05, Chapter 8.02 and Chapter 9.05 to read as set out in Attachment "B" to this Ordinance attached to and incorporated herein by this reference.

Section 3. Severance Clause.

If the Land Use Board of Appeals, Circuit Court, or any other tribunal with competent jurisdiction holds any part of this ordinance illegal, unconstitutional, or not in compliance with the statewide planning goals, the remaining parts of this ordinance shall remain in full force and effect, and any provisions of a prior ordinance amended or repealed by the stricken portion of this ordinance shall be revived and again be considered in full force and effect.

Section 4. Declaration of an Emergency.

The floodplain map amendments, and limited changes to the Development Code, which were recommended for approval by the Planning Commission on July 18, 2018, were scheduled to come before the City Council on September 4, 2018. After receiving FEMA's additional requested amendments to the City Code and Development Code, staff withdrew the item from the City Council agenda to conduct a thorough review of the newly requested amendments. Because FEMA requires City adoption of all these changes by October 19, 2018, to avoid suspension from the National Flood Insurance Program (NFIP), an emergency is hereby declared, and this ordinance takes effect upon its adoption by the Council and approval by the Mayor.

First reading this 9th day of October, 2018.

Second reading and passage this 16th day of October, 2018.

Approved by the Mayor this 17th day of October, 2018.

ATTEST:


CATHY JANSEN, City Recorder

APPROVED:


DENNY DOYLE, Mayor
by Abigail Elder, Mayor Pro Tem

60.10.10. Floodplain Designation.

1. Consistent with Clean Water Services Design and Construction Standards, the floodplain is the flood management area and shall include those areas identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Washington County, Oregon and Incorporated Areas," with amendments, dated October 19, 2018, with accompanying Flood Insurance Rate Maps (FIRM), is hereby adopted by reference and declared to be a part of this ordinance. The City of Beaverton shall notify the U.S. Department of Homeland Security's Federal Emergency Management Agency as soon as possible, but no later than six months after the date such information becomes available, of any changes to the base flood elevation, by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data. The Flood Insurance Study and revisions are on file with the City Engineer and the City Recorder. [ORD 3563; May 1987] [ORD 4130; December 2000]. When base flood elevation data has not been provided in accordance with this section, the City Engineer 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 City of Beaverton Code Section 9.05.060, subsections A and D, relating to site development. For all development applications, the best available information as determined by the City Engineer shall be used in the determination of the floodplain limits. [ORD 3563; May 1987] [ORD 4337; January 2005] [ORD 4388; May 2006] [ORD 4692; November 2016]
2. When interpretation is requested by a property owner, or designee concerning the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), or if a development application is received for a site where a floodplain is unclear or lacks an established elevation, the City Engineer shall require the concerned

60.10.10.2.

All applicable floodplain regulations for preservation flood conveyance and flood storage of sites and building elevation requirements shall be determined from the base flood elevation as established by the City Engineer. A person dissatisfied with the City Engineer's decision may appeal that decision in the same manner as provided in Beaverton Code Section 9.05.091. [ORD 3563; May 1987] [ORD 4155; May 2001] [ORD 4392; July 2006]

3. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Large floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. [ORD 3563; May 1987]
4. Uncontained areas of hazardous materials, as defined by the Department of Environmental Quality, are prohibited in the floodplain. Any storage or placement of materials in the floodplain that would obstruct the flow of water or reduce the available flood holding capacity of a site is prohibited. [ORD 3441; May 1985] [ORD 4093; April 2000] [ORD 4155; May 2001]

60.10.15. Development in Floodway.

1. Development in the floodway is prohibited, with the following exceptions, pursuant to the site development ordinance, which requires hydrological and hydraulic analyses demonstrating the proposed encroachment would not increase flood levels during the base flood discharge;
 - A. Stormwater outfall pipes and other drainage; improvements;
 - B. Bridges;
 - C. Culverts;
 - D. Public utility lines;
 - E. Trails or bikepaths;

SPECIAL REQUIREMENTS

Floodplain Regulations

- F. Roads and other uses identified on the City's Transportation Plan; and
- G. Stream habitat restoration, including vegetated corridor enhancement.
- H. Grading associated with A through G above.

SPECIAL REQUIREMENTS

Floodplain Regulations

60.10.20. Commercial and Industrial Uses in the Floodway Fringe. All commercial and industrial uses, if allowed in the primary zone are allowed in the floodway fringe if the proposed development:

1. Meets the requirements of Beaverton Code Section 9.05;
2. Meets the requirements of the City Engineering Design Manual and Standard Drawings;
3. Meets the requirements of the Clean Water Services District Design and Construction Standards Manual based on affirmative statements in documentation from CWS; and [ORD 4224; August 2002] [ORD 4392; July 2006]
4. Has been reviewed and approved by the appropriate City approval authority as meeting the requirements and standards of this ordinance.

[ORD 3441; May 1985] [ORD 4093; April 2000] [ORD 4155; May 2001]

60.10.25. Residential Uses in the Floodway Fringe.

1. Unless property is developed as a planned unit development, single family and two family dwellings, even though allowed in the primary zone, are prohibited in the floodway fringe on any lot smaller in area than five acres.
2. All other residential uses, if allowed in the primary zone, are allowed only as Conditional Uses in the floodway fringe. The request for a Conditional Use shall be processed and reviewed in the manner set forth in this ordinance. In addition to all other findings of fact required to be made in order to grant the Conditional Use, the following findings shall also be made: [ORD 4155; May 2001]
 - A. The proposed development meets all the site and building design standards and requirements of the Beaverton Code Section 9.05 and the technical standards of this ordinance; and [ORD 4155; May 2001] [ORD 4392; July 2006]
 - B. The proposed development meets the building design standards and requirements of the Clean Water Services Design and Construction Standards based on affirmative statements in documentation from CWS. [ORD 4155; May 2001] [ORD 4224; August 2002]

SPECIAL REQUIREMENTS

Floodplain Regulations

60.10.25.

3. The provisions of subsection 2., above, shall not operate to impose the status of nonconforming use on any single family or two family dwelling or use lawfully existing on the effective date of this ordinance.
4. Single family and two family dwellings and uses located in the floodway fringe and on lots smaller in area than five acres shall be allowed to continue, subject to the provisions of the primary zone, as conforming uses.
5. A structure or use regulated by this section that does not comply with any regulation provided by this ordinance for the primary zone in which it is located shall be considered nonconforming in those particulars only and shall be treated in a manner consistent with the provisions of Chapter 30, the nonconforming use provisions. All manufactured dwellings otherwise allowed to be placed or substantially improved within the floodplain shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam of the manufactured home is at or above the base flood elevation, and shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. All electrical crossover connections shall be elevated a minimum of two feet above the base flood elevation. [ORD 3563; May 1987] [ORD 4155; May 2001] [ORD 4392; July 2006]

SPECIAL REQUIREMENTS

Floodplain Regulations

7. In the floodplain, the long-term storage, permanent placement, or installation of recreational vehicles on the land is prohibited.

60.10.30. Development of Critical Facilities within the Floodway Fringe.

1. Construction of critical facilities shall be, to the extent possible, located outside the limits of the floodplain. Construction of new critical facilities within the floodway fringe shall be permissible if no feasible alternative site is available. Critical facilities that are constructed or substantially improved within the floodway fringe 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. Access to and from the critical facility shall be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to new critical facilities and to existing critical facilities to the extent possible. [ORD 4692; November 2016]

DEFINITIONS

Automotive Services, Major. [ORD 4542; June 2010] Service or repair to motorized vehicles, which affect the body or frame. This term includes: painting, bodywork, steam cleaning, tire recapping, major engine or transmission overhaul or repair involving removal of a cylinder head or crankcase, and mechanical car washes that are used by and open to the general public.

Automotive Services, Minor. [ORD 4542; June 2010] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: retail and wholesale fuel sales; tire sales or installation, glass installation, oil changes and lubrications, general engine maintenance and repair, radiator repair, detail shops, mechanical car washes solely used by on-site employees as part of retail vehicle sales, or other similar service or repair.

Awning. [ORD 4005; February 1998] A roof like structure of fabric stretched over a rigid frame projecting from the elevation of a building designed to provide continuous overhead weather protection.

Awning Sign. A sign attached to or incorporated into an awning. [ORD 4708; May 2017]

Babysitter. A person who goes to the home of a child care giver during the temporary absences of the parent or legal guardian or custodian. [ORD 3613; July 1988]

Balloon Sign. A sign consisting of a membrane that relies on internal gaseous pressure or a semi-rigid framework for maintaining its form. [ORD 4708; May 2017]

Banner. A sign made of fabric or other non-rigid material with no enclosing framework. [ORD 4708; May 2017]

Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. [ORD 3563; May 1987] [ORD 4392; July 2006]

Basement. A space wholly or partly underground, and having more than one-half (1/2) of its height, measured from the floor to its ceiling, below the average adjoining finished grade. For floodplain regulation purposes in determining building elevation requirements, this shall include any area having its floor subgrade (below ground level) on all sides. Additionally for the purposes of floodplain regulation and building construction designations, such below-grade enclosed areas that are unfinished and not suitable for active storage or human habitation but rather serve primarily for maintenance access and other incidental uses are considered as below grade crawl space. [ORD 4392; July 2006][ORD 4692; September 2016]

Base Station (Wireless Communication Facility). [ORD 4595; February 2013]

DEFINITIONS

such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.

Day Care Facility. [ORD 4584; June 2012] See “Child Care or Day Care Facility”.

Days. [ORD 4224; September 2002] Calendar days, unless specifically stated as working days.

Day, Working. [ORD 4224; September 2002] Days that the City of Beaverton Community Development Department is open for business.

Dead Tree. [ORD 4224; September 2002] A tree that is lifeless. Evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.

Decision, Effective Date of. [ORD 4224; September 2002] Unless otherwise provided, the date of the final written land use order.

Decision Making Authority. [ORD 4224; September 2002] Either the Director, the Planning Commission, or the City Council, depending on the context in which the term is used. [ORD 4584; June 2012]

Denial, Final. [ORD 4224; September 2002] The decision to deny a proposal by the appellate decision making authority.

Density, Net. [ORD 4046; June 1999] The number of dwelling units per unit of land expressed as the number of acres of land per dwelling unit. The net density for any lot is computed by dividing the net acreage of the parcel by the number of dwelling units.

De Novo. [ORD 4224; September 2002] Considering the matter anew, the same as if it had not been heard before and as if no decision previously had been rendered.

Design Plan. [ORD 4005; February 1998] A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes, but is not limited to, a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plans and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the Design Review process.

Development. The act of bringing about growth; to construct or alter a structure, to make a change in use or appearance of land, to divide land into parcels, or to create or terminate rights of access. [ORD 4111; July 2000]

DEFINITIONS

other single family attached dwelling units. A single family attached dwelling is also commonly called a rowhouse, townhouse, or a common-wall house.

Dwelling, Detached. [ORD 4224; September 2002] A dwelling that is not attached to any other dwelling, excluding accessory dwellings.

Dwelling, Live / Work. [ORD 4058; September 1999] [ORD 4542; June 2010] A dwelling unit combining Residential use types with Commercial or Limited Industrial use types. This Use Classification includes, but is not limited to: Hoffice, Live/Work Facilities or other similar uses, but is not a Home Occupation.

Dwelling Unit. One or more rooms used or intended to be used by one family containing, at a minimum, the living facilities required by the current Oregon Structural Code or applicable ordinance.

Dying Tree. [ORD 4348; May 2005] A tree with greater than 20% dead limbs during the growing season.

Eating or Drinking Establishments. [ORD 3975; March 1997] An establishment where meals or drinks (either alcoholic or non-alcoholic) are prepared and served to the public for consumption. This use includes: Restaurants, Cafes, Delicatessens, Sandwich Shops, Coffee Houses, and Taverns or Bars or other establishments primarily engaged in serving alcoholic beverages.

Eco-Roof. [ORD 4414; January 2007] A vegetated roof constructed for water quality and quantity control. Eco-Roofs are vegetated roof covers with growing media and plants taking the place of bare membrane, gravel ballast, shingles or tiles. The number of layers and the layer placement vary from system to system and roof type, but all Eco-Roofs include a single to multi-ply waterproofing layer, drainage, growing media and the plants, covering the entire roof deck surface.

Educational Institutions. [ORD 4542; June 2010] Public, private or parochial academic schools, colleges, universities, vocational and trade schools, excludes commercial schools.

Effective Impervious Area (EIA). [ORD 4414; January 2007] A subset of Total Impervious Area (TIA) that is hydrologically connected via sheet flow or discrete conveyance to a drainage system or receiving body. EIA contributes significantly to changes in hydrologic function of a watershed. EIA is determined by assessing the level of connectivity of each sublevel land use type (e.g., residential curb and gutter versus residential ditch system) and then tallying by percentage in each sub-watershed. EIA is more difficult to assess than total impervious area or mapped

DEFINITIONS

Flood or Flooding. A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
 2. The unusual and rapid accumulation of runoff of surface waters from any source. [ORD 3563; May 1987];
 3. Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood Management Area. [ORD 4155; May 2001] Pursuant to CWS Design and Construction Standards, the area of inundation that encompasses the floodplain, or the area of special flood hazard, consisting of the following: Land identified within the 100 year floodplain and floodway as shown on the Federal Emergency Management Agency Flood Insurance Rate Maps and land identified in updated flood studies or any other authoritative data documenting flood elevations, as approved by the City Engineer. Synonymous with Area of Special Flood Hazard and Floodplain. [ORD 4392; July 2006]

Floodplain. The zone along a watercourse enclosed by the outer limits of land which is subject to inundation in its natural or lower revised contours by the base flood. Synonymous with Area of Special Flood Hazard and Flood Management Area. [ORD 4392; July 2006]

Flood Surface Elevation. Those elevations to which flood waters will rise at a given location for a specified flood or base flood if not otherwise specified. These elevations are referenced to the National Geodetic Vertical Datum of 1929 or as determined by the City Engineer. [ORD 4392; July 2006]

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [ORD 3563; May 1987]

Floodway Fringe. The area of the floodplain lying outside of the floodway.

ATTACHMENT B

5.05.110 Surface Waters; Drainage.

A. No owner or person in charge of any building or structure shall cause, suffer or permit rain water, ice or snow to fall from the building or structure onto a street or public sidewalk or to allow concentrated water flow across the sidewalk.

B. The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about the building does not flow across the sidewalk. [BC 5.05.110, amended by Ordinance No. 4412, 12/4/06]

C. The owner or person in charge of property shall install and maintain in a proper state of repair all surface water conveyances so that flood carrying capacity is not diminished, flow is not diverted or concentrated, and permitted watercourse alterations or relocations are continuously preserved.

G102.2 Establishment of flood hazard areas. Flood hazard areas are established by BC 9.05.015 and the City of Beaverton Development Code, Ordinance 2050, Section 60.10.10.

SECTION G103

POWERS AND DUTIES

G103.1 Permit applications. The building official shall review all building permit applications to determine whether the development sites will be reasonably safe from flooding. If a proposed development site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall be designed and constructed with methods, practices and materials that minimize flood damage and that are in accordance with this code and ASCE 24.

G103.2 Other permits. It shall be the responsibility of the building official to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or state agencies having jurisdiction over such development.

G103.3 Determination of design flood elevations. If design flood elevations are not specified, the building official is authorized to require the applicant to:

1. Obtain, review and reasonably utilize data available from a federal, state or other source, or
2. Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a registered design professional. Studies, analyses and computations shall be submitted in sufficient detail to allow review and approval by the building official. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

G103.4 through G103.7: Not Adopted.

G103.8 Records. The building official shall maintain a permanent record of all building permits issued in flood hazard areas including copies of inspection reports and certifications required by OSSC Section 1612.

SECTION G104

PERMITS

G104.1 Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the building official and shall obtain the required permits as required in the OSSC.

G104.2 Application for permit

The applicant shall file an application in writing on a form furnished by the building official.

Such application shall:

1. Identify and describe the development to be covered by the permit.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitely locate the site.
3. Include a site plan showing the delineation of flood hazard areas, floodway boundaries, flood zones, design flood elevations, ground elevations, proposed fill and excavation and drainage patterns and facilities.
4. Include in subdivision proposals and other proposed development with more than 50 lots or larger than 5 acres (20 234 m²), base flood elevation data in accordance with Section 1612.3.1 if such data are not identified for the flood hazard areas established in Section G102.2.
5. Indicate the use and occupancy for which the proposed development is intended.
6. Be accompanied by construction documents, grading and filling plans and other information deemed appropriate by the building official.
7. State the valuation of the proposed work.
8. Be signed by the applicant or the applicant's authorized agent.
9. Applicants shall supply a comprehensive Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.
10. Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

G104.3 Validity of permit.

The issuance of a permit under this appendix shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the building official from requiring the correction of errors. The building official is authorized to prevent occupancy or use of a structure or site that is in violation of this appendix or other ordinances of this jurisdiction.

G104.5 Suspension or revocation.

The building official is authorized to suspend or revoke a permit issued under this appendix wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

SECTION G105

VARIANCES

G105.1 General. The board of appeals established pursuant to BC 8.02.030 shall hear and decide requests for variances on buildings and structures and their appurtenances regulated by this appendix. The board of appeals shall base its determinations on technical justifications, and has the right to attach such conditions to variances as it deems necessary to further the purposes and objective of this appendix and Section 1612 of the OSSC.

G105.2 Records. The building official shall maintain a permanent record of all variance actions, including justification for their issuance.

G105.3 Historic structures. A variance is authorized to be issued for the repair or rehabilitation of a historic structure upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

Exception: Within flood hazard areas, historic structures that are not:

- a. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or

8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. 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, streets and bridges.

G105.7 Conditions for issuance. Variances shall only be issued by the board of appeals upon:

1. A technical showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site renders the elevation standards inappropriate;
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and
5. Notification to the applicant in writing over the signature of the building official that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

SECTION G201

DEFINITIONS

G201.1 General. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of the OSSC for general definitions.

G201.2 Definitions.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading or unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities, and as further defined by ORS 446.003. For floodplain regulation purposes the term "manufactured home" also includes recreational vehicles, park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days if permitted to be placed on a permanent foundation, permanently connected to utilities, or anchored to the land. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

RECREATIONAL VEHICLE. A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

VARIANCE. A grant of relief from the requirements of this section from the terms of a floodplain management regulation.

VIOLATION. A development that is not fully compliant with this appendix or Section 1612, as applicable.

SECTION G301: Not Adopted

SUBDIVISIONS

SECTION G401

SITE IMPROVEMENT

G401.1 through G401.2: Not Adopted.

G401.3 Sewer facilities. All new or replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with Chapter 8, ASCE 24, to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, or impairment of the facilities and systems.

G401.4 Water facilities. All new replacement water facilities shall be designed in accordance with the provisions of Chapter 8, ASCE 24, to minimize or eliminate infiltration of floodwaters into the systems.

G401.5 Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

Section G401.6: Not Adopted.

SECTION G501

MANUFACTURED HOMES

G501.1 Elevation. All manufactured homes otherwise allowed to be placed or substantially improved within the floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is not less than one foot above the base flood elevation and the chassis of the manufactured home is at or above the base flood elevation, or be flood proofed to or above that level together with attendant utility services composed of flood resistant materials, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Beaverton Code Section 9.05. Site Development Code. All electrical crossover connections shall be elevated a minimum of two feet above the base flood elevation or be designed to they are designed and installed to prevent water from entering or accumulating within the component and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the base flood elevation.

G501.2 Foundations. All new and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on a permanent, reinforced foundation that is designed in accordance with Section 1612 of the OSSC. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings 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 be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) 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. (ii) The bottom of all openings shall be no higher than one foot above grade. (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

G501.3 Anchoring. All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage. Manufactured homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

9.05.005 Short Title.

BC 9.05.005 through 9.05.170 shall be known and may be cited as the "Site Development Ordinance" and may also be referred to herein as "this ordinance". [BC 9.05.005; Ordinance No. 4249, 4/7/03]

9.05.010 Findings and Objectives.

The Council finds and declares that it is necessary to adopt this ordinance to promote the public health, safety and general welfare by accomplishing the purposes set forth in this section, and it is intended that this ordinance be administered in accordance with those purposes. Specifically, this ordinance is intended to:

A. Insofar as practicable and in permitting reasonable development of land and minimizing fire hazard, ensure the maximum retention of ground cover and runoff to aid in protection against flooding, erosion, earth movement, siltation, and other similar hazards;

B. Protect property values by insuring the maximum preservation of the natural vegetation for wildlife and the scenic character and visual continuity of the City consistent with the reasonable economic enjoyment of property;

C. Ensure that the development of each parcel of land, as well as water courses, streets and other public lands and places, occurs in a manner harmonious with adjacent lands so as to minimize problems of flooding, drainage, erosion, earth movement and similar hazards;

D. Ensure, insofar as practicable, that site development will take place in a manner that complements the public street system and public utilities;

E. To provide a review process for development proposed in any floodplain to ensure that the development will be designed and constructed in a manner likely to minimize the danger present to life or property as a result of all development within the floodplain area;

F. Ensure that site development design and construction are of good quality and are done in conformance with proper and accepted engineering principles;

G. Ensure that site development, design and construction are accomplished with a minimum of disruption to the public. [BC 9.05.010, amended by Ordinance No. 3487, 1/14/86, Ordinance No. 4249, 4/7/03]

9.05.015 Definitions.

For the purpose of this ordinance, the following mean:

Agriculture – The term includes farming, dairying, pasturage, horticultural, floriculture, viticulture, apiaries, and animal and poultry husbandry; it does not include the operation of a feed lot or other commercial feeding of animals. [Added by Ordinance No. 4249, 4/7/03]

Area of shallow flooding – A designated AO or AH zone on the Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

[Added by Ordinance No. 3400, 9/10/84; amended by Ordinance No. 3564, 5/5/87]

Area of Special Flood Hazard – the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

[Added by Ordinance No. 3564, 5/5/87; amended by Ordinance No. 4155, 4/9/01]

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

[Amended by Ordinance No. 3564, 5/5/87]

Board – The Board of Site and Design Review as established in BC 2.03.130. The Board's jurisdiction and powers are set out in the Development Code. [Added by Ordinance No. 3440, 4/2/85]

Channelization – The process of modifying a waterway to reduce its floodway and/or floodplain by increasing the cross-sectional area of the waterway, to realign the waterway so that the centerline of the water will follow a new alignment, or for any other purpose. [Added by Ordinance No. 3440, 4/2/85]

Development – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [Amended by Ordinance No. 3487, 1/14/86; Ordinance No. 3564, 5/5/87; Ordinance No. 4249, 4/7/03]

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.

Engineer, city engineer – The city engineer of the City of Beaverton or the city engineer's designee. The city engineer has authority to interpret this ordinance pursuant to BC 9.05.016, and is the mayor's designee for this purpose throughout this ordinance. The Engineer is Beaverton's Floodplain Administrator. [Added by Ordinance No. 3487, 1/14/86]

Excavation – An act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and includes the conditions resulting from the act.

Fill – An act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled or transported, and includes the conditions resulting from the act.

FIRM – The flood insurance rate map. An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). [Added by Ordinance No. 3440, 4/2/85]

Flood Management Area – (USA) – Pursuant to USA Design and Construction Standards and the City Development Code, Chapter 60, the area equal to the floodplain. [Added by Ordinance No. 4155, 4/9/01]

Flood insurance study – An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards. [Amended by Ordinance No. 4249, 4/7/03]

Floodplain – The area along a watercourse enclosed by the outer limits of land that is subject to inundation in its natural or lower revised contours by the base flood, inclusive of the floodway and the floodway fringe, and equal to the FIRM designation of an area of special hazard. [Amended by Ordinance No. 4155, 4/9/01]

Floodplain district – The overlay zoning district as established by the Development Code or as determined by a flood study. [Amended by Ordinance No. 4249, 4/7/03]

Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [Added by Ordinance No. 3440, 4/2/85; amended by Ordinance No. 3564, 5/5/87]

Floodway Fringe – The area of the floodplain lying outside the floodway, which does not contribute appreciably to the passage of flood water, but serves as a retention area. [Added by Ordinance No. 4155, 4/9/01]

Grading – Excavation or fill or any combination of excavation or fill and includes the conditions resulting from any excavation or fill.

Grading, finish – The final grade of the site that conforms to the approved plan.

Grading, rough – The stage at which the grade approximately conforms to the approved plan.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance. [Added by Ordinance No. 3564, 5/5/87]

Manufactured home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle." A manufactured home may also be referred to as a "manufactured dwelling".

[Added by Ordinance No. 3564, 5/5/87]

Manufactured home park or subdivision – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. [Added by Ordinance No. 3564, 5/5/87]

Natural Resource Area, Important Natural Resource Area or Significant Natural Resource Area – The areas defined in the Comprehensive Plan and designated on the Plan’s Natural Resource Map as Important or Significant Natural Resource Areas. [Added by Ordinance No. 3440, 4/2/85; amended by Ordinance No. 3487, 1/14/86; Ordinance No. 4155, 4/9/01]

New construction – Structures for which the “start of construction” commenced on or after the effective date of this ordinance and includes any subsequent improvements to such structures. [Added by Ordinance No. 3564, 5/5/87]

Public utilities – Service furnished by the City or other public agency including, but not limited to, water, sanitary sewer and storm sewer service, telephone, natural gas, cable and electricity. [Amended by Ordinance No. 3487, 1/14/86]

Site – A lot or parcel of land or a series of lots or parcels of land joined together under one ownership where development occurs. The term “site” also includes a subdivision that has received preliminary plat approval. [Amended by Ordinance No. 3487, 1/14/86]

Start of construction – Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any other 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 foundation 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. [Added by Ordinance No. 3564, 5/5/87]

Structure – A walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. [Added by Ordinance No. 3564, 5/5/87]

Substantial damage - Any damage of any origin to a structure, whereby the cost of restoring the structure to its original condition would be equal to or exceed 50 percent of the assessed value of the structure before the alteration occurred.

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

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

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

[Added by Ordinance No. 3564, 5/5/87; amended by Ordinance No. 4249, 4/7/03]

Vegetative Corridor – (CWS) – pursuant to Clean Water Services District, Design and Construction Standards, a corridor adjacent to a water quality sensitive area that is preserved and maintained to protect the water quality functions of the water quality sensitive area. [Added by Ordinance No. 4155, 4/9/01; amended by Ordinance No. 4249, 4/7/03]

Water course – A channel, creek, stream, river, swale, or stone drain pipe in which a flow of water occurs for either storm runoff or intermittent or year around stream flow. [Amended by Ordinance No. 4155, 4/9/01]

Water Quality Sensitive Area or Sensitive Area – (CWS) – pursuant to Clean Water Services District, Design and Construction Standards, shall include the following:

1. Existing or created wetlands;
2. Rivers, streams, and springs with year round flow;
3. Impoundments (including natural lakes and ponds) with average water in the summer of one acre-foot or more, or with an average depth of three feet or more;

Sensitive areas shall not include: stormwater treatment ponds or swales, detention ponds, stormwater treatment wetlands, vegetative corridor adjacent to the sensitive area; off stream lake, lagoon, fire pond, reservoir, or upland ditches for the sole purpose of draining roads, lots and outfalls of storm drains. [Added by Ordinance No. 4155, 4/9/01]

Work (alone or as in "site development work" or "development work") – Any construction, alteration or the bringing about of any physical change in the use or appearance of land or improvements thereon, including demolition of structures, pavement, or other site improvements that disturb the site outside of existing building footprints, disturbance of the existing surface of the site, multiple trips by vehicles over undisturbed ground, multiple-day parking of multiple construction vehicles on undisturbed ground, clearing or stripping of vegetation, groundcover, debris or topsoil, removal of trees or shrubs, depositing debris, depositing, stockpiling or storage of soil, sand, gravel, crushed rock, demolition materials, recycled concrete, asphalt or other recycled demolition materials, construction staging, grading, excavation or filling as defined herein, pot-holing, geotechnical test drilling, exploratory excavations or well-drilling. Additionally, this shall include physical changes to any structure in an area of special flood hazard. [Added by Ordinance No. 3440, 4/2/85; amended by Ordinance No. 4249, 4/7/03]

Zoning ordinance – Ordinance No. 2050 and amendments thereto. [Added by Ordinance No. 3487, 1/14/86]

[BC, amended by Ordinance No. 4078, 11/9/99; Ordinance No. 4107, 5/1/00; Ordinance No. 4249, 4/7/03]

9.05.016 Interpretation.

A. The city engineer shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this ordinance. A person requesting such an interpretation shall do so in writing and upon forms to be provided by the city engineer.

B. If the person requesting an interpretation disagrees with the city engineer's interpretation, it may be appealed to the City Council pursuant to BC 9.05.091. [BC 9.05.016, added by Ordinance No. 3487, 1/14/86; Ordinance No. 4249, 4/7/03]

9.05.020 Permits Required.

A. Within right-of-way, easements or other real property of the City, City franchise holder, or other public agency, no person shall perform any work, development, excavation, or fill; or construct or alter streets, sidewalks, curbs, gutters, or utilities; or in any way tamper with pavement without first obtaining a permit from the city engineer.

B. No person shall cause or allow the following on private property or the public right-of-way without a current, valid permit issued under this ordinance by the city engineer.

1. Outside of a special flood hazard area, grading, excavation, fill, depositing, stockpiling or storage of soil, sand, gravel, crushed rock, demolition materials, recycled concrete, asphalt or other recycled demolition materials, or any combination thereof, in excess of 50 cubic yards in volume or over an area that exceeds 500 square feet;

2. Disturbance of the existing surface of the site, depositing debris, depositing, stockpiling or storage of materials, excavation or fill that will encroach on or alter a natural drainage channel or water course, or concentrate or accelerate drainage entering adjacent property or public right-of-way, with the exception of tilling of the soil for agricultural purposes, gardening and maintaining or upgrading existing landscaped areas that can be performed without violating any other provision of this subsection;

3. Demolition of structures, pavement and other site improvements, disturbance of the existing surface of the site, scraping the ground surface, multiple trips by vehicles over undisturbed ground, multiple-day parking of multiple construction vehicles on undisturbed ground, clearing, stripping or removal of trees, vegetation, ground cover or topsoil, grading, excavation, fill, depositing debris, depositing, stockpiling or storage of soil, sand, gravel, crushed rock, demolition materials, recycled concrete, asphalt or other recycled demolition materials, or construction staging, or any combination thereof, over an area that exceeds 500 square feet on private property, or removal of the vegetation, ground cover or any tree within the public right-of-way, with the exception of tilling of the soil for agricultural purposes, gardening and the planting, maintaining or upgrading of landscaped areas on a single family residential lot that can be performed without violating any other provision of this subsection;

4. The construction, reconstruction, alteration, repair, or installation of a structure in any water course;

5. The construction of a private driveway, private road or parking lot on a lot;

6. Site development work by a public utility, public agency, or City franchise holder in a Significant Natural Resource Area.

C. A separate permit shall be required for each separate noncontiguous site. One permit may cover both an excavation and a fill on the same site. A permit for excavation on one site does not approve the disposal on another site.

D. A permit shall be required for any construction, storage, or development in an area of special flood hazard.

E. Demolition materials from existing buildings and site improvements shall be promptly removed from the site and not stored on-site, except as provided in paragraph F immediately below.

F. The City may issue a permit under this ordinance for the stockpiling of demolition materials to be recycled that have a volume in excess of 50 cubic yards or occupy an area that exceeds 500 square feet. Such demolition materials shall not be stored in their raw or recycled form on-site for more than 60 calendar days and shall be provided with dust controls and erosion controls in accordance with this ordinance and other City requirements. [BC 9.05.020, amended by Ordinance No. 3440, 4/2/85; Ordinance No. 3487, 1/14/86; Ordinance No. 3564, 5/5/87; Ordinance No. 3887, 3/21/94; Ordinance No. 4249, 4/7/03]

9.05.025 Permit Exemptions.

The permit provided for in BC 9.05.020 shall not be required for the following:

A. Site development work in connection with a public improvement or public work for which inspection is provided by the City or other public agency as approved by the city engineer in an area other than a Significant Natural Resource Area.

A. The application required by BC 9.05.035 shall be accompanied by five copies of scale plans or drawings prepared and signed as appropriate by a registered civil engineer, architect, or landscape architect showing sufficient details and information to carry out the purposes of this ordinance. Following are examples of information which may be required:

1. Property lines of the property on which the work is to be performed;
2. Location of buildings or structures on the property where the work is to be performed, and the location of any building or structure on land of adjacent property owners that is within 15 feet of the property on which the work is to be performed;
3. Elevations, dimensions, location, extent and the slopes of all work proposed to be done, shown on a contour map, and an estimate of the quantity of excavation and fill involved. The contour map shall show the existing contours of the land and the proposed contours of the land after completion of the proposed work. Contours shall be shown at even two-foot or other intervals required by the city engineer;
4. Detailed plans of walls, cribs, drains, dams, erosion control planting or other protective devices to be constructed in connection with or as a part of the proposed work, together with a map showing the drainage area and estimated cubic feet per second runoff of the area served by any drainage facility;
5. A map or photo showing and describing the major plant materials and a map delineating riparian and wetland boundaries on the site;
6. Detailed engineering plans showing construction details for streets, sidewalks, curbs, gutters, water, sewer, storm drains, parking lots and utilities;
7. Any other applicable plans or drawings the city engineer may require in order to carry out the purposes of this ordinance including, on sites in excess of one-half acre, work on streets or utilities that will become part of the public street.

B. The city engineer may waive the requirement for scale drawings if the city engineer finds that the information on the application is sufficient to show that the work will conform to the requirements of this ordinance.

C. The city engineer shall review the plans in accordance with generally accepted engineering standards, methods, and specifications and may make such requirements as are necessary to ensure that the plans submitted and the development, design or construction comply therewith. [BC 9.05.040, amended by Ordinance No. 3440, 4/2/85; Ordinance No. 3487, 1/14/86; Ordinance No. 4249, 4/7/03]

9.05.045 Technical Standards.

A. The city engineer may formulate those technical standards the city engineer finds necessary or convenient to implement this ordinance, provided such standards are not inconsistent with law.

B. Before the technical standards formulated by the city engineer may take effect, the city shall adopt the standards by ordinance or resolution. The city shall adopt the standards by ordinance if legally required, but otherwise the city may choose the manner of adoption the city deems most appropriate.

9.05.055 Permit Issuance or Denial by City Engineer.

A. Grounds For Denial. The permit shall be denied when, in the judgment of the city engineer, the proposed work would:

1. directly or indirectly create a hazard to human life, or a substantial risk of hazard to human life, or;
2. directly or indirectly harm real or personal property or create a substantial risk of harm to real or personal property;
3. cause damage or substantial risk of damage to any public sewer, storm drain, watercourse, street, street improvement or any other public real or personal property, or
4. cause irreparable or unreasonable harm or create substantial risk of harm to a Significant Natural Resource Area.

B. If, in the opinion of the city engineer, conditions contained in BC 9.05.055, subsection A can be eliminated or mitigated by imposing conditions or by a specified method of performing the work, or through redevelopment or rehabilitation of the site, the city engineer may grant the permit on the condition that the specified protection and precautionary work or mitigation shall be done to the city engineer's satisfaction or on the condition that a specified method of performing the work shall be used.

C. Conditions on Issuance. In granting a permit under this ordinance, the city engineer may attach conditions to ensure conformity with the provisions of BC 9.05.055, subsection A. No person shall violate any conditions imposed by the city engineer. In addition to conditions which address BC 9.05.055, subsection A, the city engineer may impose additional conditions which may include, but shall not be limited to:

1. Limitations on the hours of operation or the period of year in which work may be performed;
2. Restrictions on the size and type of equipment;
3. Designation of routes on which materials may be transported;
4. The completion date for the permit;
5. Requirements as to the laying of dust and tracking of dirt, the prevention of noises and other results offensive or injurious to the neighborhood, the general public or any portion of the public or the neighborhood;
6. Manner of use of public streets and places in the course of the work;
7. Requirements to protect the environment and natural resources, on or off site.

D. The effective date of the permit is governed by BC 9.05.085. [BC 9.05.055, amended by Ordinance No. 3440, 4/2/85; Ordinance No. 3487, 1/14/86; Ordinance No. 4249, 4/7/03]

9.05.060 Permit Issuance or Denial – Floodplain District.

A. Floodways. Located within areas of special flood hazard established in the FIRM are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

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

3. For property within the floodway fringe of Beaverton Creek (main stem) from Murray Boulevard upstream to State Highway 8 (Canyon Road), fill that facilitates development may be placed without regard for the holding capacity of the property in question provided that the fill is shown not to raise the base flood elevation or create additional flooding inside and outside the established flood hazard area of tributaries to Beaverton Creek that cross the floodway fringe and converge with Beaverton Creek within those boundaries.

B. Grounds for Denial.

1. In addition to the grounds for denial contained in BC 9.05.055, the city engineer shall also deny a permit for development in an area of special flood hazard if the city engineer finds that any of the following circumstances exist:

a. The proposed development will diminish the flood carrying capacity of the watercourse;

b. The proposed development does not maintain the holding capacity of the site;

c. The proposed development will significantly raise the flood surface elevations up or down stream from or adjacent to the site;

d. The proposed development will endanger life or property on or off the site;

e. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, proposed construction will not be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

f. All necessary permits have not been obtained from those federal, State or local governmental agencies from which prior approval is required.

2. In lieu of denial, the city engineer may grant the permit with any conditions necessary to assure that the provisions of this section will be met.

C. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

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

b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring

methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials and Methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. 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.

3. Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals.

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, and the city engineer determines base flood elevation data to be necessary to properly administer regulations within an area of special flood hazard, base flood elevation data shall be generated.

5. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, highwater marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

D. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in the Flood Insurance Rate Map (FIRM), the following provisions are required:

1. Residential Construction.

a. In new construction or the substantial improvement of any residential structure the lowest floor, including the basement, shall be elevated to not less than one foot above the base flood elevation. If within the special flood hazard area of Beaverton Creek (main stem) from Murray Boulevard upstream to State Highway 8 (Canyon Road), the lowest floor, including the basement, shall be elevated to not less than two feet above the base flood elevation.

b. 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:

1) 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;

2) the bottom of all openings shall be no higher than one foot above grade;

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

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the level of the base flood elevation and, if within the special flood hazard area of Beaverton Creek (main stem) from Murray Boulevard upstream to State Highway 8 (Canyon Road), be elevated to not less than two feet above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. be floodproofed to an elevation one foot above the base flood level and, if within the special flood hazard area of Beaverton Creek (main stem) between Murray Boulevard upstream to State Highway 8 (Canyon Road), be floodproofed two feet above the base flood elevation so that the structure is watertight and with walls substantially impermeable to the passage of water;

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

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official as set forth in BC 9.05.035, subsection F;

d. nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in BC 9.05.060, subsection D1;

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

3. Manufactured Homes.

a. All manufactured homes to be placed or substantially improved within Zones AI-30, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of BC 9.05.060, subsection C1;

b. for new manufactured home parks and subdivisions; for expansions to existing manufactured home parks and subdivisions; for existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the street, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or subdivision, it is required that:

1) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;

2) adequate surface drainage and access for a hauler are provided; and

3) in the instance of elevation on pilings, that

a) lots are large enough to permit steps,

b) piling foundations are placed in stable soil no more than ten feet apart, and

c) reinforcement is provided for pilings more than six feet above the ground level.

4. Floodways. Located within areas of special flood hazard established in the FIRM are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b. if the requirements of subsection a, above, are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of BC 9.05.060, subsection C. [BC 9.05.060, amended by Ordinance No. 3400, 9/10/84; Ordinance No. 3487, 1/14/86; Ordinance No. 3564, 5/5/87; Ordinance No. 3887, 3/21/94; Ordinance No. 3984, 6/10/97; Ordinance No. 4078, 11/9/99; Ordinance No. 4107, 5/1/00; Ordinance No. 4249, 4/7/03]

9.05.065 Designation of Routes.

notification for a permit reviewed by the Director of Community Development under BC 9.05.050, but not the Commission or Board;

3. the time to petition for review as set out in BC 9.05.091 has elapsed; and

4. any review proceeding initiated under BC 9.05.091 has been completed.

C. Permits in the floodplain district shall not become effective until:

1. the provisions of BC 9.05.083 have been met for a permit subject to Commission or Board approval under BC 9.05.050; and

2. notice 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; and

3. the city engineer has delivered written notice of the decision to grant the permit by certified mail or personal delivery to those persons on a list provided by the permit applicant, certified to be accurate, of the names and addresses of all property owners within an area enclosed by lines parallel to and 500 feet from the boundary of the property on which the work is to be performed. The city engineer shall also cause notice to be published in a newspaper of general circulation in the City. If a subdivision or a design review application, with public notice, has previously been processed by the Director of Community Development for the proposed work in a floodplain district, certified mailing to property owners as described above is not required.

4. the time to petition for review as set out in BC 9.05.091 has elapsed; and

5. any review proceeding initiated under BC 9.05.091 has been completed. [BC 9.05.085, amended by Ordinance No. 3400, 9/10/84; Ordinance No. 3440, 4/2/85; Ordinance No. 3487, 1/14/86; Ordinance No. 4078, 11/9/99; Ordinance No. 4107, 5/1/00; Ordinance No. 4249, 4/7/03]

9.05.090 Appeal by Affected Person.

[BC 9.05.090, repealed by Ordinance No. 3487, 1/14/86]

9.05.091 Appeal Authorized.

A. An applicant for a permit, a permittee or any person, aggrieved by any action, decision or interpretation of the city engineer may appeal to the Council by filing with the city recorder the following:

1. A written notice of appeal, specifying the basis of the appeal; specific legal and factual bases for appeal; the specific reasons why the appellant contends that the city engineer's action, decision or interpretation is incorrect or is not in conformance with the applicable requirements; and specific facts showing the appellant has a substantial interest in the action, decision or interpretation and that the Council's decision will have a practical effect on the appellant, and

10.10.4.

- A. To promote coordinated, sound development, taking into consideration the City's natural environment, amenities, views, and the appearance of its buildings and open spaces.
 - B. To achieve a balanced and efficient land use pattern, to protect and enhance real property values, to promote safe and uncongested traffic movement and to avoid uses and development which might be detrimental to the stability and livability of the City.
 - C. To encourage innovations in residential development and renewal so that the demand for housing may be met by a greater variety in the type and design of dwellings and by the conservation and more efficient and attractive use of open space.
 - D. To safeguard and enhance the appearance of the City through advancement of effective land use, architectural design and site planning which reflect improvements in the technology of urban development.
 - E. To provide an orderly, efficient and speedy process of reviewing applications for development activities and to avoid increased development costs borne by citizens and consumers as a result of unnecessary delay.
 - F. [ORD 4224; September 2002] To enable interested and affected persons to provide input in the development process.
5. Unless specifically indicated in the Comprehensive Plan, the provisions contained in this Code shall not apply to any application for Comprehensive Plan Amendment. Unless specifically indicated in this Code, the provisions contained in the Comprehensive Plan policies shall not apply to any applications regulated by this Code. [ORD 4224; August 2002]
6. All use or development of land or structures in Beaverton shall comply with the Beaverton Comprehensive Plan, the City of Beaverton Charter, and applicable regional, state, federal and local laws. Determination of

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compliance with regional, state, federal or local laws shall be made by the applicable regional, state, federal or local authority responsible for administering these laws. A determination of compliance with any such law shall not be a standard or condition of approval, except that proof that mandatory permits have been obtained may be required by specific standards of this Code or as a condition of approval imposed by the decision making authority. Nothing in this Code shall relieve a use or development from compliance with other applicable laws except as provided herein.