



Planning Commission Meeting Agenda Tuesday, November 17, 2020, 7:00 PM REMOTE PARTICIPATION

NOTE: The City welcomes public meeting citizen participation. TTY Relay Service: 711. In compliance with the ADA, if you need special assistance to participate in a meeting, contact the City Clerk's office at (360) 834-6864, 72 hours prior to the meeting to enable the City to make reasonable accommodations to ensure accessibility (28 CFR 35.102-35.104 ADA Title 1.).

Participate in this virtual Meeting with the online ZOOM application and/or by phone.

OPTION 1 -- Join the virtual meeting from any device:

1. First-time ZOOM users, go to <https://www.zoom.us/>
 - To download the free ZOOM Cloud Meetings app for your device
 - Or, click the Join Meeting link in the top right corner and paste – <https://zoom.us/j/99458558243>
2. From any device click the meeting link
3. Enter your email and name, and then join webinar.
4. Wait for host to start the meeting.

OPTION 2 -- Join the virtual meeting from your phone (audio only):

1. Dial 877-853-5257
2. When prompted, enter meeting ID 99458558243#, and then ###

During Public Comment periods:

1. Attendees may click the **raise hand icon** in the app and you will be called upon to comment for up to 3 minutes.
 - If listening by phone, hit *9 to "raise your hand" and you will be called upon to comment for up to 3 minutes.
2. Residents can send public comments to (limit to 300 words).
These will be entered into the meeting record. Emails received by one hour before the start of the meeting will be emailed to the Meeting Body prior to the meeting start time. During the meeting, the clerk will read aloud the submitter's name, the subject, and the date/time it was received. Emails will be accepted until 1 hour received after the meeting and will be emailed to the Meeting Body no later than the end of the next business day.

CALL TO ORDER

ROLL CALL

MINUTES

1. Approval of the Minutes from the October 20, 2020 Planning Commission Meeting

MEETING ITEMS

2. Public Hearing for Staff Minor Code Amendments (MC20-01)
Presenter: Madeline Sutherland, Assistant Planner and Sarah Fox, Senior Planner
3. Flood Hazard Regulations Update (MC20-04)
Presenter: Lauren Hollenbeck, Senior Planner

MISCELLANEOUS UPDATES

NEXT MEETING DATE

The next Planning Commission Meeting is scheduled for December 22, 2020.

ADJOURNMENT



Planning Commission Meeting Minutes
Tuesday, October 20, 2020, 7:00 PM
REMOTE PARTICIPATION

CALL TO ORDER

Commissioner Hein called the meeting to order at 7:01 p.m.

ROLL CALL

Commissioners Present: Jim Short, Tim Hein, Mahsa Eshghi, Troy Hull, Warren Montgomery, and Shawn High

Commissioners Excused: Geoerl Niles

Staff Present: Robert Maul, Sarah Fox, David Schultz, and Madeline Sutherland

MINUTES

Approval of Minutes from the September 15, 2020 Planning Commission Meeting

It was moved by Commissioner High and seconded by Commissioner Eshghi, to approve the minutes of the September 15, 2020 Planning Commission Meeting. The motion passed unanimously.

MEETING ITEMS

Amendments to the Camas Municipal Code (CMC)

Presenters: Madeline Sutherland, Assistant Planner
Sarah Fox, Senior Planner

Madeline Sutherland reviewed the Staff Code Amendments (MC20-01) and responded to the Commission's questions.

Sarah Fox reviewed the Session Code Amendment (MC20-03) and the Village at Camas Meadows Code Amendment (MC20-04) and responded to the Commission's questions.

MISCELLANEOUS UPDATES

Sarah Fox gave a presentation on the Housing Action Plan.

NEXT MEETING DATE

The next Planning Commission Meeting is scheduled for November 17, 2020 at 7:00 p.m.

ADJOURNMENT

The meeting adjourned at 8:50 p.m.

STAFF REPORT

Minor Amendments to Camas Municipal Code (CMC)

File No. MC20-01

TO	Tim Hein, Chair Planning Commission	
FROM	Madeline Sutherland, Assistant Planner Sarah Fox, Senior Planner	
DATE	November 17, 2020	
Compliance with State Agencies	Commerce 60-day notice of intent to adopt was sent on October 13, 2020.	The city issued a State Environmental Policy Act (SEPA) determination of Non-Significance Non-Project Action on November 12, 2020.

Summary

As part of the city's annual code improvement project, the staff amendments include corrections to typos, citations or punctuation, and to clarify sections of the Camas Municipal Code (CMC) that were challenging to administer over the past review cycle. Staff's proposed amendments are captured in Exhibit 1. This report includes an evaluation of each proposal in accordance with the review criteria at CMC Section 18.51.030.

Staff Code Amendments (File #MC20-01)

The following is a list of proposed amendments to sections of the CMC in numerical order and includes a brief description of the changes.

- 3.86.020 – Definitions for multi-family housing tax exemption
Required by state law, E2SHB 1923. Update to the affordable housing definition.
- 12.32.020.D.9.1
Becomes illegal to use fireworks at city parks. We have had fires at city parks and this amendment will make it illegal without a permit from the Fire Marshal's Office.
- 12.36.010.A – Purpose of provisions
During an emergency every second is critical and the delay caused by accessing a home or building with a locked security gate may be costly, not only to property but to lives as well.
- 12.36.050 – Permit-Required when-Application
Adds commercial property to the provision.

- Title 14 Offenses and Miscellaneous Provisions

The current title description does not reflect or accurately describe the contents of the chapters included in this title; e.g. 14.02 Stormwater Control; 14.04 Illicit Discharges, Dumping and Illicit Connections; 14.06 Erosion and Sediment Control. The proposed update to the title will coordinate with the chapters within the title.

- 15.04.010 – Adoption of referenced codes

Adoption of Appendices, Washington State renamed the fire sprinkler appendices.

- 15.04.030.D.9 – International Fire Code

Provides clarification on the number of alarm devices required in buildings with fire alarm systems that over 5000 square feet and without a fire sprinkler system.

- 15.17.050 – Automatic for sprinkler system required

Requires fire sprinklers in detached ADU's. ADU's are residential units and should be sprinklered. The reason for only detached and not attached is the difficulty in installing fire sprinklers in an existing structure.

- 17.01.050 – Survey content

Currently this section is only applicable to preliminary plats, when it should be applicable to both preliminary and final plats.

- 17.09.030(B)(5)(p) – Preliminary short plat approval

Changed to reference correct section.

- 17.09.030(B)(7&10) – Preliminary short plat approval

Additional clarification about the preliminary stormwater plan and report.

- 17.11.030(B)(8&14) – Preliminary subdivision plat approval

Additional clarification about the preliminary stormwater plan and report.

- 17.15.030(B)(8) – Preliminary binding site plan approval

Additional clarification about the preliminary stormwater plan and report.

- 17.19.030(D)(6)(b) – Design and improvement standards

As currently written this allows for either the 'indent' or the 'column', which is contrary to our Gateway Standards for Collector and Arterial Fence and CMU Column Detail within the Camas Design Standards Manual at STS4.

- 17.19.040.C.2.b.

Clarification on the number of sewer services for duplexes and townhomes

- 18.03.030 – Definitions for land uses

Updates are required by 2019 state law, E2SHB 1923 and amended in 2020 by SHB 2343, and by ESHB 1023 in effect June 2020.

Cities must include a definition for "tiny house"; "tiny house with wheels"; and "tiny house communities", and not prohibit them per state law, ESSB 5383.

- 18.03.040 – Definitions for development terms

There are multiple interpretations of what specific areas count towards developable net acreage. The proposed definition adds clarification.

- 18.07.040 Table 2 – Residential and multi-family land uses

Required by state law, E2SHB 1923 to include a definition for permanent supportive housing. Staff included a change to the classification of "Retirement home". It is recommended that it be combined with "assisted living" for consistency with the definition. The table combines "retirement home" with nursing, rest and convalescent, yet the definition of assisted living includes retirement residences.

- 18.09.040 Table 1 - Density and dimensions – Single-family residential zones

Minimum lot depth and width should calculate to the minimum lot size permitted in the zone. The proposed changes fixes this.

- 18.09.060(C&D) – Density transfers
Clarification to the process for “negotiated flexibility”.
- 18.09.080– Lot sizes
Required by state law SHB 1377, cities must provide a bonus density for affordable housing on property owned or controlled by a religious organization.
- 18.13.050 – Standards for landscape, tree and vegetation plans.
Clarification to the clearance height for pruned trees over right-of-ways.
- 18.17.030 – Vision Clearance Area
Clarification to the code language and Figure 18.17.030-1.
- 18.17.060 – Retaining Walls
The intent behind these updates are to prevent retaining walls over six feet. The proposal will eliminate the need for variances as the standard will be to provide tiers.
- 18.18.040 - Submittal and contents of a complete application
 - F. Need to clarify that a preliminary stormwater report (TIR) is to be submitted along with the preliminary drainage and stormwater plan.
 - J. Remove the required submittal at time of application, since they’ll need to resubmit later based on the approved plans.
- 18.26.060 – Application requirements for flexible developments
Clarification regarding the preliminary stormwater plan and report.
- 18.29.070 – Manufactured home and space standards
Deleted definition for trailers and RV’s as there are new definitions for tiny homes.
- 18.55.030 Table 1 – Summary of decision making process
Sensitive areas are the same as critical areas. The term critical area is used instead of sensitive areas, therefore it is proposed to be deleted.
- 18.55.110 – Application – Required Information
Require a title report as a Technically Complete item. Staff has found that there have been unknown easements, etc. that can interfere with a land use decision.
- 18.55.200 – Appeals – Generally
Change to use proper pronoun.
- 18.55.355 – Code Conflicts
Language added for a code interpretation process.

CRITERIA OF APPROVAL – CMC 18.51.030

Finding

CRITERIA OF APPROVAL – CMC 18.51.030	Finding
A. Impact upon the city of Camas comprehensive plan and zoning code;	The proposed changes are minor and consist of edits to typos or add clarity to the zoning code. No substantive changes are proposed at this time.
B. Impact upon surrounding properties, if applicable;	The proposed changes will have minor impacts to future development city wide.
C. Alternatives to the proposed amendment; and	No alternatives proposed at this time.
D. Relevant code citations and other adopted documents that may be affected by the proposed change.	No citations or documents will be affected beyond what has been provided within Exhibit 1.

Recommendation

Staff recommends that the Commission discuss proposed amendments, conduct a public hearing and forward a recommendation to City Council.

Minor Code Amendments (MC20-01)

3.86.020 – Definitions for multi-family housing tax exemption

"Affordable housing means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. ~~For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households".~~

- A. ~~For rental housing: 60 percent of the median family income adjusted for family size, for Clark County, as reported by the United States Department of Housing and Urban Development (HUD); and~~
- B. ~~For owner-occupied housing: 80 percent, of the median family income adjusted for family size, for Clark County, as reported by HUD;~~

~~"Extremely low-income household" means a single person, family, or unrelated persons living together, whose adjusted income is at or below 30 percent of the median family income adjusted for family size, for Clark County, as reported by HUD;~~

"Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development. For cities located in high-cost areas, "low-income household" means a household that has an income at or below ~~one hundred-fifty~~ percent of the median family income adjusted for family size, for the county where the project is located ~~as reported by HUD.~~

12.32.020

~~D. No person shall ignite any consumer firework in any city park at any time of the year without a permit from the Fire Marshal's Office~~

12.36.010 – Purpose of provisions

A. From time to time the owners of real property served by private streets ~~and~~, driveways ~~or commercial property~~ desire to erect gates or other barriers restricting vehicular access on such private streets and driveways.

12.36.050 – Permit-Required when-Application

~~C. Electric gates serving less than three homes or in a commercial application shall have an approved lockbox with toggle or key switch on the main gate~~

Title 14 – ~~OFFENSES AND MISCELLANEOUS PROVISIONS~~ STORMWATER PROVISIONS

15.04.010(B) – Adoption of referenced codes

- 5. Appendix ~~R Q~~, Dwelling Unit Fire Sprinkler Systems;
- 6. Appendix ~~S V~~, Fire Sprinklers.

15.04.030(D) – International Fire Code

9.1. International Fire Code Alarm and Detection Systems In addition to the requirements of IFC 907.2, an automatic fire alarm system shall be installed in every building in excess of five thousand square feet hereinafter constructed, except those portions of Group A Division 5 occupancies that are open to the air, Group S Division 2 open car garages, Group R Division 3, and Group U occupancies. Where the building is provided with an approved automatic fire extinguishing system in accordance with Section 903, the requirements of this subsection may be omitted. . The fire alarm system shall be a modification of a true NFPA 72 system with only initiation devices as well as a single interior and one exterior notification devices. All buildings required to have a fire alarm system by this code shall be:

15.17.050 – Automatic fire sprinkler system required

~~Any new single-family residence or new duplex intended to be used as a model home or as a home sales office shall have an automatic fire sprinkler system installed. In addition to any other penalties, failure to have such an automatic fire sprinkler system installed shall be grounds for denial or revocation of a conditional use permit for a home sales office.~~

The following appendices of the State Building Code adoption and amendment of the 2015 edition of the International Residential Code (Chapter 51-151 WAC) are hereby together with all future amendments:

1. Appendix Q, Dwelling Unit Fire Sprinkler Systems (WAC 51-51-601015)

2. Appendix V, Fire Sprinklers (WAC 51-51-60107)

3. The requirements of this section shall further apply to any new accessory detached dwelling unit or dwelling undergoing a “substantial” remodel. Provided, however this section does not require the installation of an approved fire sprinkler system in any mobile or manufactured home. This exception is limited to this section and nothing herein exempts, a mobile home or manufactured home from any other requirement to install an approved automatic fire sprinkler system under any section or subsection of this code or of any International code adopted by the city.

17.01.050 – Survey content

B. Preliminary and final plats ~~and preliminary short plats~~ shall also include the following:

17.09.030(B)(5) – Preliminary short plat approval

p. A survey of existing significant trees as required under CMC Section ~~18.31.080~~ 18.13.045; and

17.09.030(B)– Preliminary short plat approval

7. Preliminary stormwater plan and preliminary stormwater technical information report (TIR). The preliminary stormwater TIR is to be prepared in accordance with Ecology’s latest edition Stormwater Management Manual for Western Washington (SWMMWW);

10. An engineering estimate of costs for site improvements, both public and private.

17.11.030(B) – Preliminary subdivision plat approval

8. Preliminary stormwater plan and preliminary stormwater technical information report (TIR). The preliminary stormwater TIR is to be prepared in accordance with Ecology’s latest edition Stormwater Management Manual for Western Washington (SWMMWW);

14. An engineering estimate of costs for site improvements, both public and private.

17.15.030(B) – Preliminary binding site plan approval

8. Preliminary stormwater plan and preliminary stormwater technical information report (TIR). The preliminary stormwater TIR is to be prepared in accordance with Ecology’s latest edition Stormwater Management Manual for Western Washington (SWMMWW);

17.19.030(D)(6)(b) – Design and improvement standards

ii. The fence ~~or wall~~ shall include columns ~~or physical indentations in the fence or wall~~ at least every fifty lineal feet and the wall shall include physical indentations every fifty lineal feet to reduce the massing effect of the fencing material. Fence columns and wall indents shall not exceed a spacing of 96 lineal feet. Fences and walls located along the City’s Gateway Corridor shall be constructed in accordance with the City’s ‘Gateway Standards’, per the Design Standards Manual.

17.19.040.C. - Utilities

2.b. Duplex ~~and townhome~~ units may have up to two sewer services at the discretion of the engineering and public works departments.

4.b. Each unit of a duplex ~~and townhome~~ unit shall have its own water service.

18.03.030 – Definitions for land uses

- “Permanent Supportive Housing” means subsidized, leased housing with no limit on of stay, that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.
- "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one, but not more than ~~six~~ eight adults who are not related by blood or marriage to the person or persons providing the services. Adult family homes are a permitted use in all areas zoned for residential use.
- “Tiny House” and “Tiny house with wheels” means a dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with state building code.

- “Tiny House Communities” means real property rented or held out for rent to others for the placement of tiny houses with wheels or tiny houses as approved through Site Plan Review (Chapter 18.18).

18.03.040 – Definitions for development terms

- "Developed/net acreage" means the total acreage of a land use development exclusive of open space and critical areas. ~~Developed/net acreage includes infrastructure, storm drainage facilities and lots and access easements.~~

18.07.030 Table 1 – Commercial and industrial land uses

Residential Uses	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Adult family home	C	P	P	X	P	X	X	X	X
Assisted living	C	P	P	X/P ¹⁰	P	X	X	X	X
Bed and breakfast	P	P	P	X	P	X	X	X	X
Designated manufactured home	X	X	X	X	P	X	X	X	X
Duplex or two-family dwelling	X	C/P ⁷	X	X	P	X	X	X	X
Group home	C	P	P	X	P	X	X	X	X
Home occupation	P	P	P	X/P ¹⁰	P	X	X	X	X
Housing for the disabled	P	P	P	X/P ¹⁰	P	X	X	X	X
Apartment, multifamily development, row houses	X	C/P ⁷	X/P ¹⁰	X/P ¹⁰	C	X	X	X	X
<u>Permanent Supportive Housing</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Residence accessory to and connected with a business	P	P	P	X/P ¹⁰	P	X	X	X	X
Single-family dwelling	X	X	X	X	P	X	X	X	X

18.07.040 Table 2 – Residential and multi-family land uses

Residential Uses	R	MF
Assisted living ¹ , <u>retirement home¹</u>	C	P
Nursing, rest, convalescent home <u>retirement home¹</u>	C	P
<u>Permanent Supportive Housing</u>	<u>C</u>	<u>P</u>

18.09.040 Table 1- Density and dimensions – Single-family residential zones

	R-6	R-7.5	R-10	R-12	R-15
A. Standard New Lots					
Minimum lot size (square feet)	4,800	6,000	8,000	9,600	12,000
Minimum lot width (feet)	60	70	80	90	100
Minimum lot depth (feet)	90 <u>80</u>	90	100	100	100

18.09.060 – Density transfers

- C. Where a land division proposes to set aside a tract for the protection of a critical area, natural open space network, or network connector (identified in the City of Camas parks plan), or approved as a recreational area, lots proposed within the development may utilize the density transfer standards under CMC Section 18.09.040. B Table-2 Table-1.
- D. Where a tract under “C” above, includes one-half acre or more of contiguous area, the city may provide additional or negotiated flexibility to the lot size, lot width, lot depth, building setback standards, or lot coverage standards under CMC Section 18.09.040 Table 1 and 2. In no case shall the maximum density of the overall site be exceeded. A letter explaining the request for negotiated flexibility shall be submitted to the Director for consideration. The city may also provide the landowner with:

18.09.080– Lot sizes

- C. For residentially zoned parcels owned or controlled by a religious organization, a twenty percent density bonus to the dwelling unit maximum (Refer to Sections 18.09.040 and 18.09.050) is permitted for the development of affordable housing, when the following criteria are met:

1. Affordable housing is for low-income households. "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income, adjusted for household size for Clark County;
2. A lease or other binding obligation shall require development to be used exclusively for affordable housing purposes for at least 50 years, even if the religious organization no longer owns the property; and
3. Does not discriminate against any person who qualifies as a member of a low-income household.

18.13.050 – Standards for landscape, tree and vegetation plans.

I. Required trees, as they grow, shall be pruned in accordance with the International Society of Arboriculture. The pruned tree will provide at least ~~eight ten~~ feet of clearance above sidewalks and ~~twelve fourteen~~ feet above street roadway surfaces.

18.17.030 – Corner Lot Vision Clearance Area

- A. On all corner lots no vehicle, fence, wall, hedge, or other obstructive structure or planting shall impede visibility between a height of forty-two inches and ten-feet above the sidewalk or ~~fourteen twelve~~-feet above the street.
- B. The vision clearance triangular area shall be formed by measuring fifteen feet along ~~both street~~ property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the end points of the first two sides of the triangle. See Figures ~~18.17.030-1 and 18.17.030-2~~.

18.17.060 - Retaining walls.

- A. Permits Required. Building permits are required for retaining walls over four feet zero inches in height, and for retaining walls that support additional weight (e.g., steep slopes, buildings, parking areas). Retaining walls are measured from the bottom of the footing to the top of the wall.
- B. Height. Retaining walls shall not exceed six feet, unless otherwise approved by the Director.
- ~~C.B.~~ Drainage [is] required behind retaining wall to relieve buildup of water pressure.
- ~~D.C.~~ [Exterior Facing Retaining Walls.] Exterior facing retaining walls are those walls that are supporting fill. The exposed side is facing the neighboring property or right-of-way and the fill side is within the subject property. (Refer to Figure 18.17.060-1 Exterior Facing Retaining Walls.)
 1. When fence is atop the retaining wall, then the total height of wall and fence shall not exceed forty-two inches (front yard) or six feet zero inches (side and rear yards), or set back a distance of one foot for every foot in height of fence in excess of allowed height.
 2. When retaining wall is over thirty inches above grade, then guards are required if on the property line.
 3. If approved, retaining walls over six feet zero inches in height shall include landscaping to minimize bulky appearance, as approved by the Director. ~~will be subject to design review approval.~~

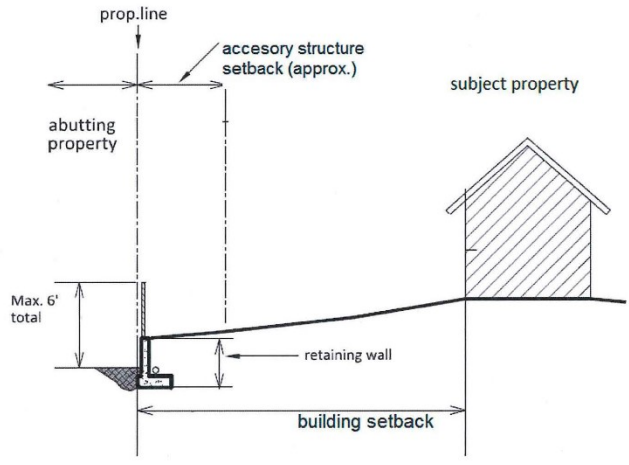


Figure 18.17.060-1
Exterior Facing Retaining Wall

- D. [Interior Facing Retaining Walls.] Interior facing retaining walls are those walls that are supporting cuts. The fill side of the retaining wall is facing the neighboring property and the exposed side is facing the subject property. (Refer to Figure 18.17.060-2 Interior Facing Retaining Walls.)
1. When fence is atop the retaining wall, then the total height of fence shall not exceed forty-two inches (front) or six feet zero inches (side and rear) depending on location, unless fence meets setbacks.
 2. When retaining wall is over thirty inches above grade, then guards are required if on the property line.

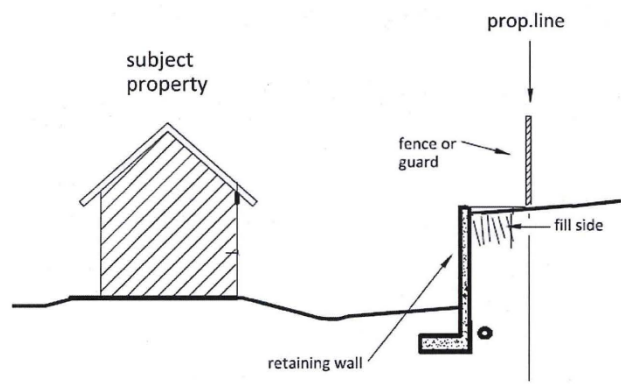


Figure 18.17.060-2
Interior Facing Retaining Wall

(Ord. 2515 § 1 (Exh. A (part)), 2008; Ord. 2443 § 3 (Exh. A (part)), 2006; [Ord. No. 17-013](#), § I(Exh. A), 10-2-2017)

18.18.040 - Submittal and contents of a complete application

- C. A preliminary stormwater technical information report (TIR) supporting the preliminary stormwater drainage and stormwater runoff plan. The preliminary stormwater TIR is to be prepared in accordance with Ecology’s latest edition Stormwater Management Manual for Western Washington (SWMMWW);
- J. ~~Reserved. An engineer estimate of costs for site improvements, both public and private.~~

18.26.060 – Application requirements for flexible developments

- D. Preliminary stormwater plan and preliminary stormwater technical information report (TIR). The preliminary stormwater TIR is to be prepared in accordance with Ecology’s latest edition Stormwater Management Manual for Western Washington (SWMMWW); . If proposed, rain gardens ~~are exempt from the thirty foot setback shall meet the~~ standards of CMC Section 17.19.030.F.6 Storm Drainage Facilities;

18.29.070 – Manufactured home and space standards

- E. ~~Trailers and Recreational Vehicles. No travel trailer or recreational vehicle shall be utilized, except as temporary living quarters, and accessory to an existing manufactured home, which use shall not exceed a maximum of ten days per year.~~

18.55.030 Table 1 – Summary of decision making process

Approval Process							
Permit Type	I	II	III	Shore	SEPA	BOA	IV
Critical areas/OS		X	X				
Sensitive areas/OS		X	X				

18.55.110 – Application – Required Information

- I. A copy of a full title report.
- J. An engineering estimate of costs for site improvements, both public and private.

18.55.200 – Appeals - Generally

- 2. Appellant’s statement describing their his or other standing appeal;

18.55.355 – Code Conflicts

Code Interpretation:

- A. Purpose. The purpose of this Chapter to provide a process for interpreting and applying the provisions of Title 16, 17 and 18.
- B. Responsibility. It shall be the responsibility of the Planning Official to review and resolve any questions regarding the proper interpretation or application of the provisions of Title 16, 17 and

18 pursuant to the procedures set forth in this Chapter. The Planning Official's decision shall be in keeping with the spirit and intent of this title and of the Comprehensive Plan. The Planning Official's decision shall be in writing and kept on permanent file.

Procedure-

- A. Application. Any person may request in writing the Planning Official's interpretation of a code provision of Title 16, 17 or 18 when it pertains to a specific property or project by means of a Type I application pursuant to Section 18.55.030. The Planning Official may independently initiate an interpretation of any conflicting or unclear provisions of this Title.
- B. Multiple applications. If an application for an interpretation is associated with any land use application(s) subject to Title 16, 17, or 18, then the application for the interpretation may be combined with the associated application(s) and is subject to the highest level of procedure that applies to any of the applications, Section 18.55.030.
- C. Codification. To ensure that Planning Official interpretations are applied consistently over time, the Planning Official shall on an annual basis initiate a Type IV text amendment to this Code for the purpose of codifying interpretations pursuant to Chapter 18.55. The codified interpretations shall be located in Chapter 18.55.355 – Code Conflicts, or in the Chapter of the Code governing the subject matter of the interpretation, whichever may be more appropriate.
- D. Appeals. Any official interpretation of the provisions of Title 16, 17, and 18 may be appealed by any aggrieved party, pursuant to the appeal procedures set forth in Chapter 18.55.

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1377

Chapter 218, Laws of 2019

66th Legislature
2019 Regular Session

AFFORDABLE HOUSING DEVELOPMENT ON RELIGIOUS ORGANIZATION PROPERTY

EFFECTIVE DATE: July 28, 2019

Passed by the House April 18, 2019
Yeas 85 Nays 9

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2019
Yeas 42 Nays 3

CYRUS HABIB

President of the Senate

Approved April 30, 2019 2:43 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1377** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 1, 2019

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1377

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Housing, Community Development & Veterans (originally sponsored by Representatives Walen, Barkis, Jenkin, Harris, Springer, Macri, Wylie, Ryu, Reeves, Robinson, Griffey, Appleton, Bergquist, Jinkins, Tharinger, Slatter, Kloba, Doglio, Goodman, Leavitt, Ormsby, and Santos)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to affordable housing development on religious
2 organization property; adding a new section to chapter 35.63 RCW;
3 adding a new section to chapter 35A.63 RCW; adding a new section to
4 chapter 36.70A RCW; and adding a new section to chapter 44.28 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.63
7 RCW to read as follows:

8 (1) A city planning under this chapter must allow an increased
9 density bonus consistent with local needs for any affordable housing
10 development of any single-family or multifamily residence located on
11 real property owned or controlled by a religious organization
12 provided that:

13 (a) The affordable housing development is set aside for or
14 occupied exclusively by low-income households;

15 (b) The affordable housing development is part of a lease or
16 other binding obligation that requires the development to be used
17 exclusively for affordable housing purposes for at least fifty years,
18 even if the religious organization no longer owns the property; and

19 (c) The affordable housing development does not discriminate
20 against any person who qualifies as a member of a low-income
21 household based on race, creed, color, national origin, sex, veteran

1 or military status, sexual orientation, or mental or physical
2 disability; or otherwise act in violation of the federal fair housing
3 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

4 (2) A city may develop policies to implement this section if it
5 receives a request from a religious organization for an increased
6 density bonus for an affordable housing development.

7 (3) The religious organization developing the affordable housing
8 development must pay all fees, mitigation costs, and other charges
9 required through the development of the affordable housing
10 development.

11 (4) If applicable, the religious organization developing the
12 affordable housing development should work with the local transit
13 agency to ensure appropriate transit services are provided to the
14 affordable housing development.

15 (5) This section applies to any religious organization
16 rehabilitating an existing affordable housing development.

17 (6) For purposes of this section:

18 (a) "Affordable housing development" means a proposed or existing
19 structure in which one hundred percent of all single-family or
20 multifamily residential dwelling units within the development are set
21 aside for or are occupied by low-income households at a sales price
22 or rent amount that may not exceed thirty percent of the income limit
23 for the low-income housing unit;

24 (b) "Low-income household" means a single person, family, or
25 unrelated persons living together whose adjusted income is less than
26 eighty percent of the median family income, adjusted for household
27 size, for the county where the affordable housing development is
28 located; and

29 (c) "Religious organization" has the same meaning as in RCW
30 35.21.915.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 35A.63
32 RCW to read as follows:

33 (1) A city planning under this chapter must allow an increased
34 density bonus consistent with local needs for any affordable housing
35 development of any single-family or multifamily residence located on
36 real property owned or controlled by a religious organization
37 provided that:

38 (a) The affordable housing development is set aside for or
39 occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(4) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(5) This section applies to any religious organization rehabilitating an existing affordable housing development.

(6) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 35A.21.360.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

1 (1) Any city or county fully planning under this chapter m
2 allow an increased density bonus consistent with local needs for any
3 affordable housing development of any single-family or multifamily
4 residence located on real property owned or controlled by a religious
5 organization provided that:

6 (a) The affordable housing development is set aside for or
7 occupied exclusively by low-income households;

8 (b) The affordable housing development is part of a lease or
9 other binding obligation that requires the development to be used
10 exclusively for affordable housing purposes for at least fifty years,
11 even if the religious organization no longer owns the property; and

12 (c) The affordable housing development does not discriminate
13 against any person who qualifies as a member of a low-income
14 household based on race, creed, color, national origin, sex, veteran
15 or military status, sexual orientation, or mental or physical
16 disability; or otherwise act in violation of the federal fair housing
17 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

18 (2) A city or county may develop policies to implement this
19 section if it receives a request from a religious organization for an
20 increased density bonus for an affordable housing development.

21 (3) An affordable housing development created by a religious
22 institution within a city or county fully planning under RCW
23 36.70A.040 must be located within an urban growth area as defined in
24 RCW 36.70A.110.

25 (4) The religious organization developing the affordable housing
26 development must pay all fees, mitigation costs, and other charges
27 required through the development of the affordable housing
28 development.

29 (5) If applicable, the religious organization developing the
30 affordable housing development should work with the local transit
31 agency to ensure appropriate transit services are provided to the
32 affordable housing development.

33 (6) This section applies to any religious organization
34 rehabilitating an existing affordable housing development.

35 (7) For purposes of this section:

36 (a) "Affordable housing development" means a proposed or existing
37 structure in which one hundred percent of all single-family or
38 multifamily residential dwelling units within the development are set
39 aside for or are occupied by low-income households at a sales price

1 or rent amount that may not exceed thirty percent of the income li
2 for the low-income housing unit;

3 (b) "Low-income household" means a single person, family, or
4 unrelated persons living together whose adjusted income is less than
5 eighty percent of the median family income, adjusted for household
6 size, for the county where the affordable housing development is
7 located; and

8 (c) "Religious organization" has the same meaning as in RCW
9 36.01.290.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.28
11 RCW to read as follows:

12 The joint committee must review the efficacy of the increased
13 density bonus incentive for affordable housing development located on
14 property owned by a religious organization pursuant to this act and
15 report its findings to the appropriate committees of the legislature
16 by December 1, 2030. The review must include a recommendation on
17 whether this incentive should be continued without change or should
18 be amended or repealed.

Passed by the House April 18, 2019.
Passed by the Senate April 12, 2019.
Approved by the Governor April 30, 2019.
Filed in Office of Secretary of State May 1, 2019.

--- END ---

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5383

Chapter 352, Laws of 2019

66th Legislature
2019 Regular Session

TINY HOUSES

EFFECTIVE DATE: July 28, 2019

Passed by the Senate April 22, 2019
Yeas 41 Nays 1

CYRUS HABIB

President of the Senate

Passed by the House April 10, 2019
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 9, 2019 3:26 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5383** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 13, 2019

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5383

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Housing Stability & Affordability (originally sponsored by Senators Zeiger, Palumbo, Nguyen, Short, Van De Wege, Wilson, C., and Wilson, L.)

READ FIRST TIME 02/14/19.

1 AN ACT Relating to tiny houses; amending RCW 58.17.040,
2 35.21.684, 43.22.450, 19.27.035, and 35.21.278; adding a new section
3 to chapter 35.21 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Tiny houses have become a trend across the
6 nation to address the shortage of affordable housing. As tiny houses
7 become more acceptable, the legislature finds that it is important to
8 create space in the code for the regulation of tiny house siting.
9 Individual cities and counties may allow tiny houses with wheels to
10 be collected together as tiny house villages using the binding site
11 plan method articulated in chapter 58.17 RCW.

12 The legislature recognizes that the International Code Council in
13 2018 has issued tiny house building code standards in Appendix Q of
14 the International Residential Code, which can provide a basis for the
15 standards requested within this act.

16 **Sec. 2.** RCW 58.17.040 and 2004 c 239 s 1 are each amended to
17 read as follows:

18 The provisions of this chapter shall not apply to:

- 19 (1) Cemeteries and other burial plots while used for that
20 purpose;

1 (2) Divisions of land into lots or tracts each of which is o
2 one hundred twenty-eighth of a section of land or larger, or five
3 acres or larger if the land is not capable of description as a
4 fraction of a section of land, unless the governing authority of the
5 city, town, or county in which the land is situated shall have
6 adopted a subdivision ordinance requiring plat approval of such
7 divisions: PROVIDED, That for purposes of computing the size of any
8 lot under this item which borders on a street or road, the lot size
9 shall be expanded to include that area which would be bounded by the
10 center line of the road or street and the side lot lines of the lot
11 running perpendicular to such center line;

12 (3) Divisions made by testamentary provisions, or the laws of
13 descent;

14 (4) Divisions of land into lots or tracts classified for
15 industrial or commercial use when the city, town, or county has
16 approved a binding site plan for the use of the land in accordance
17 with local regulations;

18 (5) A division for the purpose of lease when no residential
19 structure other than mobile homes, tiny houses or tiny houses with
20 wheels as defined in section 5 of this act, or travel trailers are
21 permitted to be placed upon the land when the city, town, or county
22 has approved a binding site plan for the use of the land in
23 accordance with local regulations;

24 (6) A division made for the purpose of alteration by adjusting
25 boundary lines, between platted or unplatted lots or both, which does
26 not create any additional lot, tract, parcel, site, or division nor
27 create any lot, tract, parcel, site, or division which contains
28 insufficient area and dimension to meet minimum requirements for
29 width and area for a building site;

30 (7) Divisions of land into lots or tracts if: (a) Such division
31 is the result of subjecting a portion of a parcel or tract of land to
32 either chapter 64.32 or 64.34 RCW subsequent to the recording of a
33 binding site plan for all such land; (b) the improvements constructed
34 or to be constructed thereon are required by the provisions of the
35 binding site plan to be included in one or more condominiums or owned
36 by an association or other legal entity in which the owners of units
37 therein or their owners' associations have a membership or other
38 legal or beneficial interest; (c) a city, town, or county has
39 approved the binding site plan for all such land; (d) such approved
40 binding site plan is recorded in the county or counties in which such

1 land is located; and (e) the binding site plan contains thereon
 2 following statement: "All development and use of the land described
 3 herein shall be in accordance with this binding site plan, as it may
 4 be amended with the approval of the city, town, or county having
 5 jurisdiction over the development of such land, and in accordance
 6 with such other governmental permits, approvals, regulations,
 7 requirements, and restrictions that may be imposed upon such land and
 8 the development and use thereof. Upon completion, the improvements on
 9 the land shall be included in one or more condominiums or owned by an
 10 association or other legal entity in which the owners of units
 11 therein or their owners' associations have a membership or other
 12 legal or beneficial interest. This binding site plan shall be binding
 13 upon all now or hereafter having any interest in the land described
 14 herein." The binding site plan may, but need not, depict or describe
 15 the boundaries of the lots or tracts resulting from subjecting a
 16 portion of the land to either chapter 64.32 or 64.34 RCW. A site plan
 17 shall be deemed to have been approved if the site plan was approved
 18 by a city, town, or county: (i) In connection with the final approval
 19 of a subdivision plat or planned unit development with respect to all
 20 of such land; or (ii) in connection with the issuance of building
 21 permits or final certificates of occupancy with respect to all of
 22 such land; or (iii) if not approved pursuant to (i) and (ii) of this
 23 subsection (7)(e), then pursuant to such other procedures as such
 24 city, town, or county may have established for the approval of a
 25 binding site plan;

26 (8) A division for the purpose of leasing land for facilities
 27 providing personal wireless services while used for that purpose.
 28 "Personal wireless services" means any federally licensed personal
 29 wireless service. "Facilities" means unstaffed facilities that are
 30 used for the transmission or reception, or both, of wireless
 31 communication services including, but not necessarily limited to,
 32 antenna arrays, transmission cables, equipment shelters, and support
 33 structures; and

34 (9) A division of land into lots or tracts of less than three
 35 acres that is recorded in accordance with chapter 58.09 RCW and is
 36 used or to be used for the purpose of establishing a site for
 37 construction and operation of consumer-owned or investor-owned
 38 electric utility facilities. For purposes of this subsection,
 39 "electric utility facilities" means unstaffed facilities, except for
 40 the presence of security personnel, that are used for or i

1 connection with or to facilitate the transmission, distribution,
2 sale, or furnishing of electricity including, but not limited to,
3 electric power substations. This subsection does not exempt a
4 division of land from the zoning and permitting laws and regulations
5 of cities, towns, counties, and municipal corporations. Furthermore,
6 this subsection only applies to electric utility facilities that will
7 be placed into service to meet the electrical needs of a utility's
8 existing and new customers. New customers are defined as electric
9 service locations not already in existence as of the date that
10 electric utility facilities subject to the provisions of this
11 subsection are planned and constructed.

12 **Sec. 3.** RCW 35.21.684 and 2009 c 79 s 1 are each amended to read
13 as follows:

14 (1) A city or town may not adopt an ordinance that has the
15 effect, directly or indirectly, of discriminating against consumers'
16 choices in the placement or use of a home in such a manner that is
17 not equally applicable to all homes. Homes built to 42 U.S.C. Sec.
18 5401-5403 standards (as amended in 2000) must be regulated for the
19 purposes of siting in the same manner as site built homes, factory
20 built homes, or homes built to any other state construction or local
21 design standard. However, except as provided in subsection (2) of
22 this section, any city or town may require that:

- 23 (a) A manufactured home be a new manufactured home;
- 24 (b) The manufactured home be set upon a permanent foundation, as
25 specified by the manufacturer, and that the space from the bottom of
26 the home to the ground be enclosed by concrete or an approved
27 concrete product which can be either load bearing or decorative;
- 28 (c) The manufactured home comply with all local design standards
29 applicable to all other homes within the neighborhood in which the
30 manufactured home is to be located;
- 31 (d) The home is thermally equivalent to the state energy code;
32 and
- 33 (e) The manufactured home otherwise meets all other requirements
34 for a designated manufactured home as defined in RCW 35.63.160.

35 A city with a population of one hundred thirty-five thousand or
36 more may choose to designate its building official as the person
37 responsible for issuing all permits, including department of labor
38 and industries permits issued under chapter 43.22 RCW in accordance
39 with an interlocal agreement under chapter 39.34 RCW, fo

1 alterations, remodeling, or expansion of manufactured housing loca
2 within the city limits under this section.

3 (2) A city or town may not adopt an ordinance that has the
4 effect, directly or indirectly, of restricting the location of
5 manufactured/mobile homes in manufactured/mobile home communities
6 that were legally in existence before June 12, 2008, based
7 exclusively on the age or dimensions of the manufactured/mobile home.
8 This does not preclude a city or town from restricting the location
9 of a manufactured/mobile home in manufactured/mobile home communities
10 for any other reason including, but not limited to, failure to comply
11 with fire, safety, or other local ordinances or state laws related to
12 manufactured/mobile homes.

13 (3) Except as provided under subsection (4) of this section, a
14 city or town may not adopt an ordinance that has the effect, directly
15 or indirectly, of preventing the entry or requiring the removal of a
16 recreational vehicle or tiny house with wheels as defined in section
17 5 of this act used as a primary residence in manufactured/mobile home
18 communities.

19 (4) Subsection (3) of this section does not apply to any local
20 ordinance or state law that:

21 (a) Imposes fire, safety, or other regulations related to
22 recreational vehicles;

23 (b) Requires utility hookups in manufactured/mobile home
24 communities to meet state or federal building code standards for
25 manufactured/mobile home communities; or

26 (c) Includes both of the following provisions:

27 (i) A recreational vehicle or tiny house with wheels as defined
28 in section 5 of this act must contain at least one internal toilet
29 and at least one internal shower; and

30 (ii) If the requirement in (c)(i) of this subsection is not met,
31 a manufactured/mobile home community must provide toilets and
32 showers.

33 (5) For the purposes of this section, "manufactured/mobile home
34 community" has the same meaning as in RCW 59.20.030.

35 (6) This section does not override any legally recorded covenants
36 or deed restrictions of record.

37 (7) This section does not affect the authority granted under
38 chapter 43.22 RCW.

1 **Sec. 4.** RCW 43.22.450 and 2001 c 335 s 8 are each amended
2 read as follows:

3 Whenever used in RCW 43.22.450 through 43.22.490:

4 (1) "Department" means the Washington state department of labor
5 and industries;

6 (2) "Approved" means approved by the department;

7 (3) "Factory built housing" means any structure, including a
8 factory built tiny house with or without a chassis (wheels), designed
9 primarily for human occupancy other than a manufactured or mobile
10 home the structure or any room of which is either entirely or
11 substantially prefabricated or assembled at a place other than a
12 building site;

13 (4) "Install" means the assembly of factory built housing or
14 factory built commercial structures at a building site;

15 (5) "Building site" means any tract, parcel or subdivision of
16 land upon which factory built housing or a factory built commercial
17 structure is installed or is to be installed;

18 (6) "Local enforcement agency" means any agency of the governing
19 body of any city or county which enforces laws or ordinances
20 governing the construction of buildings;

21 (7) "Commercial structure" means a structure designed or used for
22 human habitation, or human occupancy for industrial, educational,
23 assembly, professional or commercial purposes.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.21
25 RCW to read as follows:

26 (1) A city or town may adopt an ordinance to regulate the
27 creation of tiny house communities.

28 (2) The owner of the land upon which the community is built shall
29 make reasonable accommodation for utility hookups for the provision
30 of water, power, and sewerage services and comply with all other
31 duties in chapter 59.20 RCW.

32 (3) Tenants of tiny house communities are entitled to all rights
33 and subject to all duties and penalties required under chapter 59.20
34 RCW.

35 (4) For purposes of this section:

36 (a) "Tiny house" and "tiny house with wheels" means a dwelling to
37 be used as permanent housing with permanent provisions for living,
38 sleeping, eating, cooking, and sanitation built in accordance with
39 the state building code.

1 (b) "Tiny house communities" means real property rented or h
2 out for rent to others for the placement of tiny houses with wheels
3 or tiny houses utilizing the binding site plan process in RCW
4 58.17.035.

5 **Sec. 6.** RCW 19.27.035 and 2018 c 207 s 2 are each amended to
6 read as follows:

7 The building code council shall:

8 (1) (a) By July 1, 2019, adopt a revised process for the review of
9 proposed statewide amendments to the codes enumerated in RCW
10 19.27.031; and

11 ~~((2))~~ (b) Adopt a process for the review of proposed or enacted
12 local amendments to the codes enumerated in RCW 19.27.031 as amended
13 and adopted by the state building code council.

14 (2) By December 31, 2019, adopt building code standards specific
15 for tiny houses.

16 **Sec. 7.** RCW 35.21.278 and 2012 c 218 s 1 are each amended to
17 read as follows:

18 (1) Without regard to competitive bidding laws for public works,
19 a county, city, town, school district, metropolitan park district,
20 park and recreation district, port district, or park and recreation
21 service area may contract with a chamber of commerce, a service
22 organization, a community, youth, or athletic association, or other
23 similar association located and providing service in the immediate
24 neighborhood, for drawing design plans, making improvements to a
25 park, school playground, public square, or port habitat site,
26 installing equipment or artworks, or providing maintenance services
27 for a facility or facilities as a community or neighborhood project,
28 or environmental stewardship project, and may reimburse the
29 contracting association its expense. The contracting association may
30 use volunteers in the project and provide the volunteers with
31 clothing or tools; meals or refreshments; accident/injury insurance
32 coverage; and reimbursement of their expenses. The consideration to
33 be received by the public entity through the value of the
34 improvements, artworks, equipment, or maintenance shall have a value
35 at least equal to three times that of the payment to the contracting
36 association. All payments made by a public entity under the authority
37 of this section for all such contracts in any one year shall not

1 exceed twenty-five thousand dollars or two dollars per resid
2 within the boundaries of the public entity, whichever is greater.

3 (2) A county, city, town, school district, metropolitan park
4 district, park and recreation district, or park and recreation
5 service area may ratify an agreement, which qualifies under
6 subsection (1) of this section and was made before June 9, 1988.

7 (3) Without regard to competitive bidding laws for public works,
8 a school district, institution of higher education, or other
9 governmental entity that includes training programs for students may
10 contract with a community service organization, nonprofit
11 organization, or other similar entity, to build tiny houses for low-
12 income housing, if the students participating in the building of the
13 tiny houses are in:

- 14 (a) Training in a community and technical college construction or
- 15 construction management program;
- 16 (b) A career and technical education program;
- 17 (c) A state recognized apprenticeship preparation program; or
- 18 (d) Training under a construction career exploration program for
- 19 high school students administered by a nonprofit organization.

Passed by the Senate April 22, 2019.
Passed by the House April 10, 2019.
Approved by the Governor May 9, 2019.
Filed in Office of Secretary of State May 13, 2019.

--- END ---

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1923

Chapter 348, Laws of 2019

66th Legislature
2019 Regular Session

URBAN RESIDENTIAL BUILDING CAPACITY

EFFECTIVE DATE: July 28, 2019—Except for section 11, which becomes effective July 1, 2019.

Passed by the House April 24, 2019
Yeas 75 Nays 19

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 22, 2019
Yeas 33 Nays 16

CYRUS HABIB

President of the Senate

Approved May 9, 2019 3:12 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1923** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 13, 2019

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1923

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Macri, Appleton, Doglio, Dolan, Santos, and Frame)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to increasing urban residential building
2 capacity; amending RCW 36.70A.030, 43.21C.420, and 36.70A.490; adding
3 new sections to chapter 36.70A RCW; adding new sections to chapter
4 43.21C RCW; adding a new section to chapter 35.21 RCW; adding a new
5 section to chapter 35A.21 RCW; adding a new section to chapter 36.22
6 RCW; providing an effective date; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. Sec. 1. A new section is added to chapter 36.70A
9 RCW to read as follows:

10 (1) A city planning pursuant to RCW 36.70A.040 is encouraged to
11 take the following actions in order to increase its residential
12 building capacity:

13 (a) Authorize development in one or more areas of not fewer than
14 five hundred acres that include at least one train station served by
15 commuter rail or light rail with an average of at least fifty
16 residential units per acre that require no more than an average of
17 one on-site parking space per two bedrooms in the portions of
18 multifamily zones that are located within the areas;

19 (b) Authorize development in one or more areas of not fewer than
20 five hundred acres in cities with a population greater than forty
21 thousand or not fewer than two hundred fifty acres in cities with a

1 population less than forty thousand that include at least one
2 stop served by scheduled bus service of at least four times per hour
3 for twelve or more hours per day with an average of at least twenty-
4 five residential units per acre that require no more than an average
5 of one on-site parking space per two bedrooms in portions of the
6 multifamily zones that are located within the areas;

7 (c) Authorize at least one duplex, triplex, or courtyard
8 apartment on each parcel in one or more zoning districts that permit
9 single-family residences unless a city documents a specific
10 infrastructure of physical constraint that would make this
11 requirement unfeasible for a particular parcel;

12 (d) Authorize cluster zoning or lot size averaging in all zoning
13 districts that permit single-family residences;

14 (e) Authorize attached accessory dwelling units on all parcels
15 containing single-family homes where the lot is at least three
16 thousand two hundred square feet in size, and permit both attached
17 and detached accessory dwelling units on all parcels containing
18 single-family homes, provided lots are at least four thousand three
19 hundred fifty-six square feet in size. Qualifying city ordinances or
20 regulations may not provide for on-site parking requirements, owner
21 occupancy requirements, or square footage limitations below one
22 thousand square feet for the accessory dwelling unit, and must not
23 prohibit the separate rental or sale of accessory dwelling units and
24 the primary residence. Cities must set applicable impact fees at no
25 more than the projected impact of the accessory dwelling unit. To
26 allow local flexibility, other than these factors, accessory dwelling
27 units may be subject to such regulations, conditions, procedures, and
28 limitations as determined by the local legislative authority, and
29 must follow all applicable state and federal laws and local
30 ordinances;

31 (f) Adopt a subarea plan pursuant to RCW 43.21C.420;

32 (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii),
33 except that an environmental impact statement pursuant to RCW
34 43.21C.030 is not required for such an action;

35 (h) Adopt increases in categorical exemptions pursuant to RCW
36 43.21C.229 for residential or mixed-use development;

37 (i) Adopt a form-based code in one or more zoning districts that
38 permit residential uses. "Form-based code" means a land development
39 regulation that uses physical form, rather than separation of use, as
40 the organizing principle for the code;

1 (j) Authorize a duplex on each corner lot within all zoning districts that permit single-family residences;

3 (k) Allow for the division or redivision of land into the maximum
4 number of lots through the short subdivision process provided in
5 chapter 58.17 RCW; and

6 (l) Authorize a minimum net density of six dwelling units per
7 acre in all residential zones, where the residential development
8 capacity will increase within the city.

9 (2) A city planning pursuant to RCW 36.70A.040 may adopt a
10 housing action plan as described in this subsection. The goal of any
11 such housing plan must be to encourage construction of additional
12 affordable and market rate housing in a greater variety of housing
13 types and at prices that are accessible to a greater variety of
14 incomes, including strategies aimed at the for-profit single-family
15 home market. A housing action plan may utilize data compiled pursuant
16 to section 3 of this act. The housing action plan should:

17 (a) Quantify existing and projected housing needs for all income
18 levels, including extremely low-income households, with documentation
19 of housing and household characteristics, and cost-burdened
20 households;

21 (b) Develop strategies to increase the supply of housing, and
22 variety of housing types, needed to serve the housing needs
23 identified in (a) of this subsection;

24 (c) Analyze population and employment trends, with documentation
25 of projections;

26 (d) Consider strategies to minimize displacement of low-income
27 residents resulting from redevelopment;

28 (e) Review and evaluate the current housing element adopted
29 pursuant to RCW 36.70A.070, including an evaluation of success in
30 attaining planned housing types and units, achievement of goals and
31 policies, and implementation of the schedule of programs and actions;

32 (f) Provide for participation and input from community members,
33 community groups, local builders, local realtors, nonprofit housing
34 advocates, and local religious groups; and

35 (g) Include a schedule of programs and actions to implement the
36 recommendations of the housing action plan.

37 (3) If adopted by April 1, 2021, ordinances, amendments to
38 development regulations, and other nonproject actions taken by a city
39 to implement the actions specified in subsection (1) of this section,
40 with the exception of the action specified in subsection (1)(f) of

1 this section, are not subject to administrative or judicial app
2 under chapter 43.21C RCW.

3 (4) Any action taken by a city prior to April 1, 2021, to amend
4 their comprehensive plan, or adopt or amend ordinances or development
5 regulations, solely to enact provisions under subsection (1) of this
6 section is not subject to legal challenge under this chapter.

7 (5) In taking action under subsection (1) of this section, cities
8 are encouraged to utilize strategies that increase residential
9 building capacity in areas with frequent transit service and with the
10 transportation and utility infrastructure that supports the
11 additional residential building capacity.

12 (6) A city with a population over twenty thousand that is
13 planning to take at least two actions under subsection (1) of this
14 section, and that action will occur between the effective date of
15 this section and April 1, 2021, is eligible to apply to the
16 department for planning grant assistance of up to one hundred
17 thousand dollars, subject to the availability of funds appropriated
18 for that purpose. The department shall develop grant criteria to
19 ensure that grant funds awarded are proportionate to the level of
20 effort proposed by a city, and the potential increase in housing
21 supply or regulatory streamlining that could be achieved. Funding may
22 be provided in advance of, and to support, adoption of policies or
23 ordinances consistent with this section. A city can request, and the
24 department may award, more than one hundred thousand dollars for
25 applications that demonstrate extraordinary potential to increase
26 housing supply or regulatory streamlining.

27 (7) A city seeking to develop a housing action plan under
28 subsection (2) of this section is eligible to apply to the department
29 for up to one hundred thousand dollars.

30 (8) The department shall establish grant award amounts under
31 subsections (6) and (7) of this section based on the expected number
32 of cities that will seek grant assistance, to ensure that all cities
33 can receive some level of grant support. If funding capacity allows,
34 the department may consider accepting and funding applications from
35 cities with a population of less than twenty thousand if the actions
36 proposed in the application will create a significant amount of
37 housing capacity or regulatory streamlining and are consistent with
38 the actions in this section.

39 (9) In implementing this act, cities are encouraged to prioritize
40 the creation of affordable, inclusive neighborhoods and to consider

1 the risk of residential displacement, particularly in neighborho
2 with communities at high risk of displacement.

3 **Sec. 2.** RCW 36.70A.030 and 2017 3rd sp.s. c 18 s 2 are each
4 amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Adopt a comprehensive land use plan" means to enact a new
8 comprehensive land use plan or to update an existing comprehensive
9 land use plan.

10 (2) "Agricultural land" means land primarily devoted to the
11 commercial production of horticultural, viticultural, floricultural,
12 dairy, apiary, vegetable, or animal products or of berries, grain,
13 hay, straw, turf, seed, Christmas trees not subject to the excise tax
14 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
15 hatcheries, or livestock, and that has long-term commercial
16 significance for agricultural production.

17 (3) "City" means any city or town, including a code city.

18 (4) "Comprehensive land use plan," "comprehensive plan," or
19 "plan" means a generalized coordinated land use policy statement of
20 the governing body of a county or city that is adopted pursuant to
21 this chapter.

22 (5) "Critical areas" include the following areas and ecosystems:

- 23 (a) Wetlands;
- 24 (b) areas with a critical recharging effect on aquifers
- 25 used for potable water;
- 26 (c) fish and wildlife habitat conservation
- 27 areas;
- 28 (d) frequently flooded areas;
- 29 and (e) geologically hazardous
- 30 areas. "Fish and wildlife habitat conservation areas" does not
- 31 include such artificial features or constructs as irrigation delivery
- 32 systems, irrigation infrastructure, irrigation canals, or drainage
- 33 ditches that lie within the boundaries of and are maintained by a
- 34 port district or an irrigation district or company.

35 (6) "Department" means the department of commerce.

36 (7) "Development regulations" or "regulation" means the controls
37 placed on development or land use activities by a county or city,
38 including, but not limited to, zoning ordinances, critical areas
39 ordinances, shoreline master programs, official controls, planned
unit development ordinances, subdivision ordinances, and binding site
plan ordinances together with any amendments thereto. A development
regulation does not include a decision to approve a project permit
application, as defined in RCW 36.70B.020, even though the decisio

1 may be expressed in a resolution or ordinance of the legislative b
2 of the county or city.

3 (8) "Forestland" means land primarily devoted to growing trees
4 for long-term commercial timber production on land that can be
5 economically and practically managed for such production, including
6 Christmas trees subject to the excise tax imposed under RCW 84.33.100
7 through 84.33.140, and that has long-term commercial significance. In
8 determining whether forestland is primarily devoted to growing trees
9 for long-term commercial timber production on land that can be
10 economically and practically managed for such production, the
11 following factors shall be considered: (a) The proximity of the land
12 to urban, suburban, and rural settlements; (b) surrounding parcel
13 size and the compatibility and intensity of adjacent and nearby land
14 uses; (c) long-term local economic conditions that affect the ability
15 to manage for timber production; and (d) the availability of public
16 facilities and services conducive to conversion of forestland to
17 other uses.

18 (9) "Freight rail dependent uses" means buildings and other
19 infrastructure that are used in the fabrication, processing, storage,
20 and transport of goods where the use is dependent on and makes use of
21 an adjacent short line railroad. Such facilities are both urban and
22 rural development for purposes of this chapter. "Freight rail
23 dependent uses" does not include buildings and other infrastructure
24 that are used in the fabrication, processing, storage, and transport
25 of coal, liquefied natural gas, or "crude oil" as defined in RCW
26 90.56.010.

27 (10) "Geologically hazardous areas" means areas that because of
28 their susceptibility to erosion, sliding, earthquake, or other
29 geological events, are not suited to the siting of commercial,
30 residential, or industrial development consistent with public health
31 or safety concerns.

32 (11) "Long-term commercial significance" includes the growing
33 capacity, productivity, and soil composition of the land for long-
34 term commercial production, in consideration with the land's
35 proximity to population areas, and the possibility of more intense
36 uses of the land.

37 (12) "Minerals" include gravel, sand, and valuable metallic
38 substances.

39 (13) "Public facilities" include streets, roads, highways,
40 sidewalks, street and road lighting systems, traffic signals

1 domestic water systems, storm and sanitary sewer systems, parks
2 recreational facilities, and schools.

3 (14) "Public services" include fire protection and suppression,
4 law enforcement, public health, education, recreation, environmental
5 protection, and other governmental services.

6 (15) "Recreational land" means land so designated under RCW
7 36.70A.1701 and that, immediately prior to this designation, was
8 designated as agricultural land of long-term commercial significance
9 under RCW 36.70A.170. Recreational land must have playing fields and
10 supporting facilities existing before July 1, 2004, for sports played
11 on grass playing fields.

12 (16) "Rural character" refers to the patterns of land use and
13 development established by a county in the rural element of its
14 comprehensive plan:

15 (a) In which open space, the natural landscape, and vegetation
16 predominate over the built environment;

17 (b) That foster traditional rural lifestyles, rural-based
18 economies, and opportunities to both live and work in rural areas;

19 (c) That provide visual landscapes that are traditionally found
20 in rural areas and communities;

21 (d) That are compatible with the use of the land by wildlife and
22 for fish and wildlife habitat;

23 (e) That reduce the inappropriate conversion of undeveloped land
24 into sprawling, low-density development;

25 (f) That generally do not require the extension of urban
26 governmental services; and

27 (g) That are consistent with the protection of natural surface
28 water flows and groundwater and surface water recharge and discharge
29 areas.

30 (17) "Rural development" refers to development outside the urban
31 growth area and outside agricultural, forest, and mineral resource
32 lands designated pursuant to RCW 36.70A.170. Rural development can
33 consist of a variety of uses and residential densities, including
34 clustered residential development, at levels that are consistent with
35 the preservation of rural character and the requirements of the rural
36 element. Rural development does not refer to agriculture or forestry
37 activities that may be conducted in rural areas.

38 (18) "Rural governmental services" or "rural services" include
39 those public services and public facilities historically and
40 typically delivered at an intensity usually found in rural areas, and

1 may include domestic water systems, fire and police protect
2 services, transportation and public transit services, and other
3 public utilities associated with rural development and normally not
4 associated with urban areas. Rural services do not include storm or
5 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

6 (19) "Short line railroad" means those railroad lines designated
7 class II or class III by the United States surface transportation
8 board.

9 (20) "Urban governmental services" or "urban services" include
10 those public services and public facilities at an intensity
11 historically and typically provided in cities, specifically including
12 storm and sanitary sewer systems, domestic water systems, street
13 cleaning services, fire and police protection services, public
14 transit services, and other public utilities associated with urban
15 areas and normally not associated with rural areas.

16 (21) "Urban growth" refers to growth that makes intensive use of
17 land for the location of buildings, structures, and impermeable
18 surfaces to such a degree as to be incompatible with the primary use
19 of land for the production of food, other agricultural products, or
20 fiber, or the extraction of mineral resources, rural uses, rural
21 development, and natural resource lands designated pursuant to RCW
22 36.70A.170. A pattern of more intensive rural development, as
23 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed
24 to spread over wide areas, urban growth typically requires urban
25 governmental services. "Characterized by urban growth" refers to land
26 having urban growth located on it, or to land located in relationship
27 to an area with urban growth on it as to be appropriate for urban
28 growth.

29 (22) "Urban growth areas" means those areas designated by a
30 county pursuant to RCW 36.70A.110.

31 (23) "Wetland" or "wetlands" means areas that are inundated or
32 saturated by surface water or groundwater at a frequency and duration
33 sufficient to support, and that under normal circumstances do
34 support, a prevalence of vegetation typically adapted for life in
35 saturated soil conditions. Wetlands generally include swamps,
36 marshes, bogs, and similar areas. Wetlands do not include those
37 artificial wetlands intentionally created from nonwetland sites,
38 including, but not limited to, irrigation and drainage ditches,
39 grass-lined swales, canals, detention facilities, wastewater
40 treatment facilities, farm ponds, and landscape amenities, or thos

1 wetlands created after July 1, 1990, that were unintentional
2 created as a result of the construction of a road, street, or
3 highway. Wetlands may include those artificial wetlands intentionally
4 created from nonwetland areas created to mitigate conversion of
5 wetlands.

6 (24) "Affordable housing" means, unless the context clearly
7 indicates otherwise, residential housing whose monthly costs,
8 including utilities other than telephone, do not exceed thirty
9 percent of the monthly income of a household whose income is:

10 (a) For rental housing, sixty percent of the median household
11 income adjusted for household size, for the county where the
12 household is located, as reported by the United States department of
13 housing and urban development; or

14 (b) For owner-occupied housing, eighty percent of the median
15 household income adjusted for household size, for the county where
16 the household is located, as reported by the United States department
17 of housing and urban development.

18 (25) "Extremely low-income household" means a single person,
19 family, or unrelated persons living together whose adjusted income is
20 at or below thirty percent of the median household income adjusted
21 for household size, for the county where the household is located, as
22 reported by the United States department of housing and urban
23 development.

24 (26) "Low-income household" means a single person, family, or
25 unrelated persons living together whose adjusted income is at or
26 below eighty percent of the median household income adjusted for
27 household size, for the county where the household is located, as
28 reported by the United States department of housing and urban
29 development.

30 (27) "Permanent supportive housing" is subsidized, leased housing
31 with no limit on length of stay, paired with on-site or off-site
32 voluntary services designed to support a person living with a
33 disability to be a successful tenant in a housing arrangement,
34 improve the resident's health status, and connect residents of the
35 housing with community-based health care, treatment, and employment
36 services.

37 (28) "Very low-income household" means a single person, family,
38 or unrelated persons living together whose adjusted income is at or
39 below fifty percent of the median household income adjusted for
40 household size, for the county where the household is located, a

1 reported by the United States department of housing and ur
2 development.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
4 RCW to read as follows:

5 The Washington center for real estate research at the University
6 of Washington shall produce a report every two years that compiles
7 housing supply and affordability metrics for each city planning under
8 RCW 36.70A.040 with a population of ten thousand or more. The initial
9 report, completed by October 15, 2020, must be a compilation of
10 objective criteria relating to development regulations, zoning,
11 income, housing and rental prices, housing affordability programs,
12 and other metrics relevant to assessing housing supply and
13 affordability for all income segments, including the percentage of
14 cost-burdened households, of each city subject to the report required
15 by this section. The report completed by October 15, 2022, must also
16 include data relating to actions taken by cities under this act. The
17 report completed by October 15, 2024, must also include relevant data
18 relating to buildable lands reports prepared under RCW 36.70A.215,
19 where applicable, and updates to comprehensive plans under this
20 chapter. The Washington center for real estate research shall
21 collaborate with the Washington housing finance commission and the
22 office of financial management to develop the metrics compiled in the
23 report. The report must be submitted, consistent with RCW 43.01.036,
24 to the standing committees of the legislature with jurisdiction over
25 housing issues and this chapter.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C
27 RCW to read as follows:

28 If adopted by April 1, 2021, amendments to development
29 regulations and other nonproject actions taken by a city to implement
30 section 1 (1) or (4) of this act, with the exception of the action
31 specified in section 1(1)(f) of this act, are not subject to
32 administrative or judicial appeals under this chapter.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
34 RCW to read as follows:

35 In counties and cities planning under RCW 36.70A.040, minimum
36 residential parking requirements mandated by municipal zoning

1 ordinances for housing units constructed after July 1, 2019,
2 subject to the following requirements:

3 (1) For housing units that are affordable to very low-income or
4 extremely low-income individuals and that are located within one-
5 quarter mile of a transit stop that receives transit service at least
6 four times per hour for twelve or more hours per day, minimum
7 residential parking requirements may be no greater than one parking
8 space per bedroom or .75 space per unit. A city may require a
9 developer to record a covenant that prohibits the rental of a unit
10 subject to this parking restriction for any purpose other than
11 providing for housing for very low-income or extremely low-income
12 individuals. The covenant must address price restrictions and
13 household income limits and policies if the property is converted to
14 a use other than for low-income housing. A city may establish a
15 requirement for the provision of more than one parking space per
16 bedroom or .75 space per unit if the jurisdiction has determined a
17 particular housing unit to be in an area with a lack of access to
18 street parking capacity, physical space impediments, or other reasons
19 supported by evidence that would make on-street parking infeasible
20 for the unit.

21 (2) For housing units that are specifically for seniors or people
22 with disabilities, that are located within one-quarter mile of a
23 transit stop that receives transit service at least four times per
24 hour for twelve or more hours per day, a city may not impose minimum
25 residential parking requirements for the residents of such housing
26 units, subject to the exceptions provided in this subsection. A city
27 may establish parking requirements for staff and visitors of such
28 housing units. A city may establish a requirement for the provision
29 of one or more parking space per bedroom if the jurisdiction has
30 determined a particular housing unit to be in an area with a lack of
31 access to street parking capacity, physical space impediments, or
32 other reasons supported by evidence that would make on-street parking
33 infeasible for the unit. A city may require a developer to record a
34 covenant that prohibits the rental of a unit subject to this parking
35 restriction for any purpose other than providing for housing for
36 seniors or people with disabilities.

37 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21C
38 RCW to read as follows:

(1) A project action pertaining to residential, multifamily, mixed use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to transportation elements of the environment, so long as the project does not present significant adverse impacts to the state-owned transportation system as determined by the department of transportation and the project is:

- (a) (i) Consistent with a locally adopted transportation plan; or (ii) Consistent with the transportation element of a comprehensive plan; and

(b) (i) A project for which traffic or parking impact fees are imposed pursuant to RCW 82.02.050 through 82.02.090; or

(ii) A project for which traffic or parking impacts are expressly mitigated by an ordinance, or ordinances, of general application adopted by the city or town.

(2) For purposes of this section, "impacts to transportation elements of the environment" include impacts to transportation systems; vehicular traffic; waterborne, rail, and air traffic; parking; movement or circulation of people or goods; and traffic hazards.

Sec. 7. RCW 43.21C.420 and 2010 c 153 s 2 are each amended to read as follows:

(1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and i

1 accordance with this section, may adopt optional elements of th
2 comprehensive plans and optional development regulations that apply
3 within the mixed-use or urban centers. The optional elements of their
4 comprehensive plans and optional development regulations must enhance
5 pedestrian, bicycle, transit, or other nonvehicular transportation
6 methods.

7 (3) A major transit stop is defined as:

8 (a) A stop on a high capacity transportation service funded or
9 expanded under the provisions of chapter 81.104 RCW;

10 (b) Commuter rail stops;

11 (c) Stops on rail or fixed guideway systems, including
12 transitways;

13 (d) Stops on bus rapid transit routes or routes that run on high
14 occupancy vehicle lanes; or

15 (e) Stops for a bus or other transit mode providing fixed route
16 service at intervals of at least thirty minutes during the peak hours
17 of operation.

18 (4) (a) A city that elects to adopt such an optional comprehensive
19 plan element and optional development regulations shall prepare a
20 nonproject environmental impact statement, pursuant to RCW
21 43.21C.030, assessing and disclosing the probable significant adverse
22 environmental impacts of the optional comprehensive plan element and
23 development regulations and of future development that is consistent
24 with the plan and regulations.

25 (b) At least one community meeting must be held on the proposed
26 subarea plan before the scoping notice for such a nonproject
27 environmental impact statement is issued. Notice of scoping for such
28 a nonproject environmental impact statement and notice of the
29 community meeting required by this section must be mailed to all
30 property owners of record within the subarea to be studied, to all
31 property owners within one hundred fifty feet of the boundaries of
32 such a subarea, to all affected federally recognized tribal
33 governments whose ceded area is within one-half mile of the
34 boundaries of the subarea, and to agencies with jurisdiction over the
35 future development anticipated within the subarea.

36 ~~(c) ((In cities with over five hundred thousand residents, notice~~
37 ~~of scoping for such a nonproject environmental impact statement and~~
38 ~~notice of the community meeting required by this section must be~~
39 ~~mailed to all small businesses as defined in RCW 19.85.020, and to~~
40 ~~all community preservation and development authorities established~~

1 under chapter 43.167 RCW, located within the subarea to be studied
2 within one hundred fifty feet of the boundaries of such subarea. The
3 process for community involvement must have the goal of fair
4 treatment and meaningful involvement of all people with respect to
5 the development and implementation of the subarea planning process.

6 (d)) The notice of the community meeting must include general
7 illustrations and descriptions of buildings generally representative
8 of the maximum building envelope that will be allowed under the
9 proposed plan and indicate that future appeals of proposed
10 developments that are consistent with the plan will be limited.
11 Notice of the community meeting must include signs located on major
12 travel routes in the subarea. If the building envelope increases
13 during the process, another notice complying with the requirements of
14 this section must be issued before the next public involvement
15 opportunity.

16 ((e)) (d) Any person that has standing to appeal the adoption
17 of this subarea plan or the implementing regulations under RCW
18 36.70A.280 has standing to bring an appeal of the nonproject
19 environmental impact statement required by this subsection.

20 ((f) Cities with over five hundred thousand residents shall
21 prepare a study that accompanies or is appended to the nonproject
22 environmental impact statement, but must not be part of that
23 statement, that analyzes the extent to which the proposed subarea
24 plan may result in the displacement or fragmentation of existing
25 businesses, existing residents, including people living with poverty,
26 families with children, and intergenerational households, or cultural
27 groups within the proposed subarea plan. The city shall also discuss
28 the results of the analysis at the community meeting.

29 (g)) (e) As an incentive for development authorized under this
30 section, a city shall consider establishing a transfer of development
31 rights program in consultation with the county where the city is
32 located, that conserves county-designated agricultural and forestland
33 of long-term commercial significance.

34 If the city decides not to
35 establish a transfer of development rights program, the city must
36 state in the record the reasons for not adopting the program. The
37 city's decision not to establish a transfer of development rights
38 program is not subject to appeal. Nothing in this subsection (4)
39 ((g)) (e) may be used as a basis to challenge the optional
40 comprehensive plan or subarea plan policies authorized under this
section.

1 (5) (a) ~~Until July 1, ((2018)) 2029,~~ a proposed development t
2 meets the criteria of (b) of this subsection may not be challenged in
3 administrative or judicial appeals for noncompliance with this
4 chapter as long as a complete application for such a development that
5 vests the application or would later lead to vested status under city
6 or state law is submitted to the city within a time frame established
7 by the city, but not to exceed the following time frames:

8 (i) Nineteen years from the date of issuance of the final
9 environmental impact statement, for projects that are consistent with
10 an optional element adopted by a city as of the effective date of
11 this section; or

12 (ii) Ten years from the date of issuance of the final
13 environmental impact statement, for projects that are consistent with
14 an optional element adopted by a city after the effective date of
15 this section.

16 (b) A proposed development may not be challenged, consistent with
17 the timelines established in (a) of this subsection, so long as the
18 development:

19 (i) Is consistent with the optional comprehensive plan or subarea
20 plan policies and development regulations adopted under subsection
21 (1) or (2) of this section;

22 (ii) Sets aside or requires the occupancy of at least ten percent
23 of the dwelling units, or a greater percentage as determined by city
24 development regulations, within the development for low-income
25 households at a sale price or rental amount that is considered
26 affordable by a city's housing programs. This subsection (5) (b) (ii)
27 applies only to projects that are consistent with an optional element
28 adopted by a city pursuant to this section after the effective date
29 of this section; and ((that))

30 (iii) Is environmentally reviewed under subsection (4) of this
31 section ((may not be challenged in administrative or judicial appeals
32 for noncompliance with this chapter as long as a complete application
33 for such a development that vests the application or would later lead
34 to vested status under city or state law is submitted to the city
35 within a time frame established by the city, but not to exceed ten
36 years from the date of issuance of the final environmental impact
37 statement)).

38 ~~((b))~~ (c) After July 1, ((2018)) 2029, the immunity from
39 appeals under this chapter of any application that vests or will vest
40 under this subsection or the ability to vest under this subsection i

1 still valid, provided that the final subarea environmental imp
2 statement is issued by July 1, ((2018)) 2029. After July 1, ((2018))
3 2029, a city may continue to collect reimbursement fees under
4 subsection (6) of this section for the proportionate share of a
5 subarea environmental impact statement issued prior to July 1,
6 ((2018)) 2029.

7 (6) It is recognized that a city that prepares a nonproject
8 environmental impact statement under subsection (4) of this section
9 must endure a substantial financial burden. A city may recover or
10 apply for a grant or loan to prospectively cover its reasonable
11 expenses of preparation of a nonproject environmental impact
12 statement prepared under subsection (4) of this section through
13 access to financial assistance under RCW 36.70A.490 or funding from
14 private sources. In addition, a city is authorized to recover a
15 portion of its reasonable expenses of preparation of such a
16 nonproject environmental impact statement by the assessment of
17 reasonable and proportionate fees upon subsequent development that is
18 consistent with the plan and development regulations adopted under
19 subsection (5) of this section, as long as the development makes use
20 of and benefits ((~~from~~)) from, as described in subsection (5) of
21 this section, ((~~from~~)) the nonproject environmental impact statement
22 prepared by the city. Any assessment fees collected from subsequent
23 development may be used to reimburse funding received from private
24 sources. In order to collect such fees, the city must enact an
25 ordinance that sets forth objective standards for determining how the
26 fees to be imposed upon each development will be proportionate to the
27 impacts of each development and to the benefits accruing to each
28 development from the nonproject environmental impact statement. Any
29 disagreement about the reasonableness or amount of the fees imposed
30 upon a development may not be the basis for delay in issuance of a
31 project permit for that development. The fee assessed by the city may
32 be paid with the written stipulation "paid under protest" and if the
33 city provides for an administrative appeal of its decision on the
34 project for which the fees are imposed, any dispute about the amount
35 of the fees must be resolved in the same administrative appeal
36 process.

37 (7) If a proposed development is inconsistent with the optional
38 comprehensive plan or subarea plan policies and development
39 regulations adopted under subsection (1) of this section, the city

1 shall require additional environmental review in accordance with t
2 chapter.

3 **Sec. 8.** RCW 36.70A.490 and 2012 1st sp.s. c 1 s 309 are each
4 amended to read as follows:

5 The growth management planning and environmental review fund is
6 hereby established in the state treasury. Moneys may be placed in the
7 fund from the proceeds of bond sales, tax revenues, budget transfers,
8 federal appropriations, gifts, or any other lawful source. Moneys in
9 the fund may be spent only after appropriation. Moneys in the fund
10 shall be used to make grants or loans to local governments for the
11 purposes set forth in RCW 43.21C.240, 43.21C.031, (~~(e)~~) 36.70A.500,
12 section 1 of this act, for costs associated with section 3 of this
13 act, and to cover costs associated with the adoption of optional
14 elements of comprehensive plans consistent with RCW 43.21C.420. Any
15 payment of either principal or interest, or both, derived from loans
16 made from this fund must be deposited into the fund.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 35.21
18 RCW to read as follows:

19 A city may not prohibit permanent supportive housing in areas
20 where multifamily housing is permitted.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.21
22 RCW to read as follows:

23 A code city may not prohibit permanent supportive housing in
24 areas where multifamily housing is permitted.

25 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.22
26 RCW to read as follows:

27 (1) Except as provided in subsection (2) of this section, a
28 surcharge of two dollars and fifty cents shall be charged by the
29 county auditor for each document recorded, which will be in addition
30 to any other charge or surcharge allowed by law. The auditor shall
31 remit the funds to the state treasurer to be deposited and used as
32 follows:

33 (a) Through June 30, 2024, funds must be deposited into the
34 growth management planning and environmental review fund created in
35 RCW 36.70A.490 to be used first for grants for costs associated with

1 section 1 of this act and for costs associated with section 3 of t
2 act, and thereafter for any allowable use of the fund.

3 (b) Beginning July 1, 2024, sufficient funds must be deposited
4 into the growth management planning and environmental review fund
5 created in RCW 36.70A.490 for costs associated with section 3 of this
6 act, and the remainder deposited into the home security fund account
7 created in RCW 43.185C.060 to be used for maintenance and operation
8 costs of: (i) Permanent supportive housing and (ii) affordable
9 housing for very low-income and extremely low-income households.
10 Funds may only be expended in cities that have taken action under
11 section 1 of this act.

12 (2) The surcharge imposed in this section does not apply to: (a)
13 Assignments or substitutions of previously recorded deeds of trust;
14 (b) documents recording a birth, marriage, divorce, or death; (c) any
15 recorded documents otherwise exempted from a recording fee or
16 additional surcharges under state law; (d) marriage licenses issued
17 by the county auditor; or (e) documents recording a federal, state,
18 county, or city lien or satisfaction of lien.

19 (3) For purposes of this section, the terms "permanent supportive
20 housing," "affordable housing," "very low-income households," and
21 "extremely low-income households" have the same meaning as provided
22 in RCW 36.70A.030.

23 NEW SECTION. **Sec. 12.** Section 11 of this act is necessary for
24 the immediate preservation of the public peace, health, or safety, or
25 support of the state government and its existing public institutions,
26 and takes effect July 1, 2019.

Passed by the House April 24, 2019.
Passed by the Senate April 22, 2019.
Approved by the Governor May 9, 2019.
Filed in Office of Secretary of State May 13, 2019.

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STAFF REPORT

Amendments to Camas Municipal Code
 Chapter 16.57 *Frequently Flooded Areas* and Section 18.03.050 *Environmental Definitions*
 File# MC20-04

TO Tim Hein, Chair
 Planning Commission

FROM Lauren Hollenbeck, Senior Planner

DATE 11/10/2020

Summary

This workshop is a discussion of proposed mandatory code updates for compliance with current state and National Flood Insurance Program (NFIP) standards. The City of Camas is a participant in the NFIP which allows citizens in the community to obtain flood insurance and certain types of federal disaster aid. To maintain participation in the National Flood Insurance Program (NFIP), the City must adopt a compliant floodplain ordinance that meets the new State of Washington Model Flood Damage Prevention Ordinance and NFIP standards per Code of Federal Regulation 44 CFR 60.3.

The following two attachments are provided for your review: 1) The proposed CMC amendments are shown in red text. A comment box is provided at each section indicating whether the proposed amendment is MANDATORY or RECOMMENDED by FEMA and identifies the applicable CFR and Section of the WA Model Ordinance 2) The WA Model Ordinance, and 3) Floodplain Development Permit

Chapter 18.03 Definitions

Chapter 18.03.050 – Environmental Definitions

Suggest adopting the NFIP definitions in 44 CFR 59.1 for “alteration of watercourse”, “area of shallow flooding”, “area of special flood hazard”, “base flood”, “base flood elevation”, and “flood or flooding”, “flood elevation study”, “flood insurance rate map”, “floodplain or flood prone area”, “floodplain administrator”, “flood proofing”, “floodway”, “functionally dependent use”, “highest adjacent grade”, “historic structure”, “main sea level”, “new construction”, “structure” and “variance”.

Chapter 16.57 Frequently Flooded Areas

Chapter 16.57.010 – Applicability

Mandatory amendments to this section include language 1) adopting by reference the Flood Insurance Study (FIS), 2) providing the City Hall address for the physical location to obtain copies of the FIS and Flood Insurance Rate Maps (FIRM) and 3) penalties for non-compliance.

Recommended amendment to this section is that all development in the special flood hazard areas shall comply with this ordinance.

Chapter 16.57.050 – Performance Standards-General requirements

Mandatory amendments to this section include 1) the establishment of a flood development permit within a special flood hazard area, 2) the designation and duties of a floodplain administrator that would enforce the ordinance including reviewing all floodplain development permits, 3) requiring staff to obtain and maintain information such as a record of elevation of the lowest floor of structures, and 4) informing applicants that are floodproofing that insurance premiums are based on the flood proofed level.

Recommended amendments to this section include requiring engineering documentation and analysis if a project alters the BFE or boundaries of a SFHA and requires the applicant to submit the full CLOMR documentation with the flood development permit if a CLOMR is required. Another recommended amendment in this section is prohibiting the storage or processing of injurious materials in flood areas unless if not susceptible to flood damage and properly stored.

Chapter 16.57.060 – Performance Standards-Specific Uses

Mandatory amendments to this section include 1) waterproofing or elevation of mechanical equipment and utilities at least one foot above the BFE, 2) residential and nonresidential construction in an Unnumbered A zone shall have the lowest floor at least two feet above the Highest Adjacent Grade if the BFE is not available or cannot be obtained, 3) garages floor slabs below the BFE shall allow for entry and exit of floodwaters (i.e. flood vents), 4) water wells are to be located on high ground outside of the floodway and 5) BFE data shall be included as part of a development proposal greater than 5 acres.

A recommended amendment includes language that further explains variances from flood elevations or other requirements in the flood ordinance are quite rare and are only granted for parcels with unusual physical land characteristics and only when the requirements of this ordinance would create an exceptional hardship.

Recommendation

Staff recommends the Planning Commission discuss proposed amendments and provide direction to staff. A public hearing on the proposed mandated amendments will be scheduled for next month's Planning Commission meeting.

DRAFT AMENDMENTS TO TITLE 18 - ZONING

18.03.050 - Environmental definitions.

In addition to the definitions found in Title 16, the following definitions shall also apply to this title:

"Adverse environmental impact" means an impact caused by vegetation removal which creates a risk of landslide or erosion, or which alters or damages wetlands, wetland buffers, wildlife habitat, streams, or watercourses.

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

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

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

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

~~"Base flood" the flood having a one-percent chance of being equaled or exceeded in any given year (also referred to as the "one hundred-year flood"). Designated on Flood Insurance Rate Maps by the letter A.~~

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

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

"Best available information" means, in the absence of official flood insurance rate map data, communities can use data from other federal, state, or other sources; provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience. Flood data from existing flood events may be used where flood events are considered more accurate indicators of past base flood conditions. Any variance from adopted flood insurance rate maps must be of a more restrictive nature.

"Buffer" means either: (1) an area adjacent to hillsides which provides the margin of safety through protection of slope stability, attenuation of surface water flows, and landslide, seismic, and erosion hazards reasonably, necessary to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters; or (2) an area adjacent to a stream or wetland which is an integral part of the stream or wetland ecosystem, providing shade; input of organic debris and coarse sediments; room for variation in stream or wetland boundaries; habitat for wildlife; impeding the volume and rate of runoff; reducing the amount of sediment, nutrients, and toxic materials entering the stream or wetland; and protection from harmful intrusion to protect the public from losses suffered when the functions and values of stream and wetland resources are degraded.

"Critical root zone" is the area of soil around a tree trunk where roots are located that provide stability and uptake of water and minerals required for tree survival.

"Diameter at breast height (DBH)" means the diameter of the tree measured at four feet six inches above soil grade.

Commented [LH1]: Mandatory per 44 CFR 59.1 and per Section 2.0 WA Model Ordinance.

"Drainage facility" means the system of collecting and storing surface and stormwater runoff. Drainage facilities shall include but not be limited to all surface and stormwater runoff conveyance and containment facilities including streams, pipelines, channels, ditches, wetlands, closed depressions, infiltration facilities, retention/detention facilities, and other drainage structures and appurtenances, both natural and man-made.

"Environmentally sensitive area(s)" or "sensitive lands" means areas within the city that are characterized by, or support unique, fragile or valuable natural resources, or that are subject to natural hazards. Sensitive areas include wetlands and wetland buffers, streams and watercourses, steep slopes, and areas with potentially unstable soils, as those areas are defined and identified pursuant to this title and Title 16.

~~"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; and/or~~
- ~~2) The unusual and rapid accumulation of runoff of surface waters from any source.~~

~~"Flood or Flooding" means~~

~~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 or runoff of surface waters from any source.~~

~~3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.~~

~~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 (1)(a) of this definition~~

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

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

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

~~"Flood Insurance Study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood.~~

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

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

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

~~"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

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

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

"Hazard tree." A hazard tree is any tree with a combination of structural defect and/or disease, which makes it subject to a high probability of failure and a proximity to persons or property which makes it an imminent threat.

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

"Hillsides" means geological features of the landscape having slopes of fifteen percent or greater. To differentiate between levels of hillside protection and the application of development standards, the city categorizes hillsides into four groups: hillsides of at least fifteen percent but less than forty percent; hillsides with unstable slopes; hillsides of forty percent slope and greater; hillsides which are ravine sidewalls or bluffs.

"Historic structure" means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

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

"Mitigation" means the use of any combination of, or all of the following actions:

1. Avoid impacts to environmentally sensitive areas by not taking a certain action, or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environmentally sensitive area;
4. Reducing or eliminating the impact over time by reservation and maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing or enhancing environmentally sensitive areas, or providing substitute resources.

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

"Open space" means land set aside and maintained in a natural state, providing air, light, and habitat for wildlife, and/or containing significant trees and vegetation. Open space may contain environmentally sensitive lands, which include but are not limited to steep slopes and areas with unstable soils, wetlands, and streams and watercourses. Open space may also provide for active and passive recreation use.

There are two general categories of open space, which are as follows:

1. "Natural open space" means land devoted to protecting environmentally sensitive lands as defined in this title and CMC Title 16. Natural open space generally has no developed areas, with the exception of trails as identified in the comprehensive parks, recreation, open space plan, or by a condition of development approval.
2. "Recreational open space" means land set aside for recreational opportunities, which may contain trails, sports fields, playgrounds, swimming pools, tennis courts, and picnic areas. Recreational open space is generally limited in size and intensity, proportionate to the development, and is intended for the enjoyment of the residents of the development.

"Open space connectors" means tracts of land with typically no sensitive lands that connect parcels of land to form the open space network.

"Open space network" means a network of open space composed of mostly wooded areas, steep slopes, ravines, streams and waterways, as areas identified in the comprehensive parks, recreation, and open space plan.

"Protective mechanism" means a method of providing permanent protection to open space, and shall include conservation easements, dedication to the city, conveyance to a public or private land trust, conveyance to a homeowner's association, restrictive covenants, or any combination of such mechanisms.

"Ravine sidewall" means a steep slope which abuts and rises from the valley floor of a stream, and which was created by the wearing action of the stream. Ravine sidewalls contain slopes predominantly in excess of forty percent, although portions may be less than forty percent. The toe of a ravine sidewall is the stream valley floor. The top of a ravine sidewall is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the top is where the slope diminishes to less than fifteen percent. Minor natural or man-made breaks in the slope of ravine sidewalls shall not be considered as the top. Benches with slopes less than fifteen percent, and containing developable areas, shall be considered as the top.

Sensitive Areas. See "Environmentally sensitive areas."

"Sensitive area(s) map(s)" means those maps adopted, and/or incorporated by reference, by the city to identify the general location of environmentally sensitive or valuable areas. In case of questions as to map boundaries or mapping errors, the presence or absence of a sensitive area shall be determined in the field by a qualified professional, experienced in a discipline appropriate to evaluation of the appropriate feature, and shall determine the applicability of this chapter.

"Significant trees" means evergreen trees eight inches DBH, and deciduous trees twelve inches DBH. Does not include hazard trees or invasive species.

"Steep slopes" or "area with potential unstable soils" means any land potentially subject to landslides, severe erosion, or seismic activity (earthquake faults). Steep slopes are generally characterized by slopes of fifteen percent or greater, impermeable subsurface material (sometimes interbedded with permeable subsurface material), and/or springs or seeping groundwater during the wet season. Seismic areas are those lying along or adjacent to identified earthquake faults.

"Stream" or "watercourse" means those areas where surface waters produce a defined channel or bed. The channel or bed need not contain water year-round. This definition does not include irrigation ditches, canals, storm or surface water conveyance devices, or other entirely artificial watercourses. Streams are further categorized as Class 1 through 5 in accordance with the classifications used by WAC 222-16-030.

"Structure" For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Tree protection zone" is an arborist-defined area surrounding the trunk intended to protect roots and soil within the critical root zone and beyond, to ensure future tree health and stability. Tree protection zones may be calculated based on multiplying the tree's DBH by a factor of twelve depending on the tree's species and tolerance of root disturbance.

"Variance" means a grant of relief by a community from the terms of a floodplain management regulation.

"Water dependent" means a use or portion of a use that cannot exist in a location which is not adjacent to the water, and which is dependent on the water by reason of the intrinsic nature of its operations. Examples include, but are not limited to: aquaculture, marinas, or float plane facilities.

"Wetland bond" insures the satisfactory installation, maintenance, and monitoring of wetland creation or enhancement as may be required as part of the SEPA or wetland mitigation plans. The bond has a beginning and ending date, and shall be in the amount as specified in CMC Section 17.21.050(B)(3).

"Wetland buffer" means a naturally vegetated and undisturbed, enhanced or revegetated area surrounding wetland that is part of a wetland ecosystem and protect a wetland from adverse impacts to its function, integrity, and value. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from human activities.

"Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands include those artificial wetlands intentionally created to mitigate conversions of wetlands.

"Wildlife habitat" means areas that provide food, protective cover, nesting, breeding, or movement for threatened, endangered, sensitive, monitor, or priority species of wildlife, or other wildlife species of special concern. "Wildlife habitat" shall also mean areas that are the location of threatened, endangered, sensitive, monitor, or priority species of plants, or other plant species of special concern.

(Ord. 2515 § 1 (Exh. A (part)), 2008)

(Ord. No. 2612, § I(Exh. A), 2-7-2011; Ord. No. 2648, § I, 5-21-2012; [Ord. No. 2691, § I\(Exh. A\), 1-21-2014](#).)

DRAFT AMENDMENTS TO TITLE 16 - ENVIRONMENT

Chapter 16.57 - FREQUENTLY FLOODED AREAS

16.57.010 - Applicability.

- A. **Frequently Flooded Areas.** Frequently flooded areas include: The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Clark County, Washington, and incorporated areas" dated September 5, 2012, and any revisions thereto, **are hereby adopted by reference and declared to be part of this ordinance**, with accompanying Flood Insurance Rate Maps (FIRM). The study is the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood. The study and FIRM are on file at the City of Camas **{616 NE 4th Avenue, Camas WA}**. The best available information for flood hazard area identification as outline in Section 16.57.050(C) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized. The flood insurance study and accompanying rate maps are hereby adopted by reference, and declared part of this chapter. These are minimum designations; the director may identify additional areas.
- B. Use of Additional Information. The director may use additional flood information that is more restrictive than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.
- C. Flood Elevation Data. When the base flood elevation data is not available (Zone A), the director 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 this chapter.
- D. For the purposes of this chapter, definitions are generally found in CMC Section 18.03.
- E. **Compliance.** **All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.**
- F. **Penalties for Noncompliance.** **No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall be subject to the enforcement provisions of Camas Municipal Code Sections 18.55.400-18.55.460. shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than _____ or imprisoned for not more than ___ days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the _____ from taking such other lawful action as is necessary to prevent or remedy any violation**

Commented [LH1]: Mandatory, per (44 CFR 60.3 (preamble) and 44 CFR 60.2(h)). Section 3.2 WA Model Ordinance.

Commented [LH2]: Recommended, per Section 3.3 WA Model Ordinance.

Commented [LH3]: Mandatory, per 44 CFR 60.2(h). Section 3.4 WA Model Ordinance.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012; [Ord. No. 2691, § I\(Exh. A\), 1-21-2014](#))

16.57.020 - Uses and activities prohibited.

- A. **Critical Facilities.** Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet or more above the level of the base flood elevation (one hundred year flood), or to the height of the five hundred-year flood, whichever is higher. 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 all critical facilities to the extent possible. Certification by a registered professional engineer is required.

- B. Wells.
- C. On-site sewage or waste disposal systems.
- D. Lots (Includes residential and non-residential). There shall be no increase in lots within frequently flooded areas. No additional lots shall be created within a frequently flooded area. Divisions of land shall have the frequently flooded areas designated as separate tract(s) and not included within any additional lot.
- E. Development in Floodways.
 - 1. New Development Requires Certification by an Engineer. Encroachments, including new construction, substantial improvements, fill, and other development, are prohibited within designated floodways unless certified by a registered professional engineer. Such certification shall demonstrate through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge. Small projects that are solely to protect or create fish habitat, and designed by a qualified professional, may be allowed without certification if the director determines that the project will not obstruct flood flows. Fish protection projects shall be reviewed on behalf of the City by a qualified professional in the field of hydraulics.
 - 2. Residential Construction and Reconstruction Prohibited. Construction and reconstruction of residential structures is prohibited within floodways, except for:
 - a. Maintenance or repairs to a structure that do not increase the ground floor area; and
 - b. Repairs, reconstruction, or improvements to a structure for which the cost does not exceed fifty percent of the market value of the structure either:
 - i. Before the repair or reconstruction is started; or
 - ii. If the structure has been damaged and is being restored, before the damage occurred.
 - c. Improvement to a building to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the City, and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places shall not be included in the fifty percent.
 - 3. If Section E(1) above is satisfied, all new construction and substantial improvements must also comply with all applicable flood hazard reduction provisions.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012)

16.57.030 - Critical area report—Additional requirements.

In addition to the items listed in CMC 16.51.140 Critical Area Reporting, the following is required:

- A. Prepared by a Qualified Professional. A frequently flooded areas report shall be prepared by a qualified professional who is a hydrologist, or engineer, who is licensed in the state of Washington, with experience in preparing flood hazard assessments.
- B. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for frequently flooded areas:
 - 1. The site area of the proposed activity;

2. All areas of a special flood hazard area, as indicated on the flood insurance rate map(s), within three hundred feet of the project area; and
 3. All other flood areas indicated on the flood insurance rate map(s) within three hundred feet of the project area.
- C. Flood Hazard Assessment Required. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment, including the following site- and proposal-related information at a minimum:
1. Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
 - a. Floodplain (one hundred-year flood elevation), ten- and fifty-year flood elevations, floodway, other critical areas, management zones, and shoreline areas;
 - b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
 - c. Clearing limits; and
 - d. Elevation of the lowest floor (including basement) of all buildings, and the level to which any building has been floodproofed;
 2. Floodproofing Certificate (FEMA Form 81-65, most current edition). When floodproofing is proposed for a non-residential building, a certification by a registered professional engineer or architect that the floodproofing methods meet the requirements in CMC Section 16.57.050(F); and
 3. Watercourse Alteration. When watercourse alteration is proposed, the critical area report shall include:
 - a. Extent of Watercourse Alteration. A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of proposal, and
 - b. Maintenance Program Required for Watercourse Alterations. A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished.
- D. Information Regarding Other Critical Areas. Potential impacts to wetlands, fish and wildlife habitat, and other critical areas shall be addressed in accordance with the applicable sections of these provisions.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012)

16.57.040 - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purpose and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human or natural causes. This chapter does not imply that land outside frequently flooded areas, or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of City of Camas, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter, or any administrative decision lawfully made hereunder.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012)

16.57.050 - Performance standards—General requirements.

All Elevation Certificates (FEMA Form 81-31), Floodproofing Certificates for non-residential structures (FEMA Form 81-65), documents, and records pertaining to the provisions of this ordinance shall be maintained by the City for public inspection.

- A. All Necessary Permits Shall be Obtained. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required. A development permit shall be obtained before construction or development begins within any frequently flooded area established in Section 16.57.010. The permit shall be for all structures, including manufactured homes, as set forth in the "Definitions," and for all development, including fill and other activities, also as set forth in the "Definitions."
- B. **Application for Development Permit.** Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
 2. Elevation in relation to mean sea level to which any structure has been floodproofed;
 3. Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Section 16.57.060(B);
 4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
 5. Where development is proposed in a floodway, an engineering analysis indication no rise of the Base Flood Elevation, and
 6. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.
- C. **Designation of the Floodplain Administrator.** The Community Development Director, or designee, is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.
- D. **Duties of the Floodplain Administrator.** Duties of the (Floodplain Administrator) shall include, but not be limited to:
- E. **Permit Review.** Review all development permits to determine that:
 1. The permit requirements of this ordinance have been satisfied;
 2. All other required state and federal permits have been obtained;
 3. The site is reasonably safe from flooding;
 4. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of CMC Section 16.57.020(E)(1) are met.
 5. Notify FEMA when annexations occur in the Special Flood Hazard Area.
- F. **Information to be Obtained and Maintained.**

Commented [LH4]: Mandatory, per Subsection 44CFR 60.3(B)(1). Section 4.1 WA Model Ordinance.

Commented [LH5]: Mandatory, per 44 CFR 59.22(b)(1). Section 4.2 WA Model Ordinance.

Commented [LH6]: Mandatory per 44 CFR 60.1 (b). Section 4.3 WA Model Ordinance.

Commented [LH7]: Mandatory per 44 CFR 60.1 (b). Section 4.3-1 WA Model Ordinance.

Commented [LH8]: Mandatory, Per 44 CFR 60.3(b)(4). Section 4.3-3 WA Model Ordinance.

- 1. Where base flood elevation data is provided through the FIS, FIRM, or required as in CMC Section 16.57.010(C), obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- 2. For all new or substantially improved flood proofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in CMC Section 16.57.010(C).
 - a. Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was flood proofed.
 - b. Maintain the flood proofing certifications required in CMC Section 16.57.050(B)(3).
- 3. Certification required by CMC Section 16.57.020(E)(1) (No-Rise Standard).
- 4. Records of all variance actions, including justification for their issuance.
- 5. Improvement and damage calculations (give an example).
- 6. Maintain for public inspection all records pertaining to the provisions of this ordinance.

G. Changes to Special Flood Hazard Area.

- 1. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
- 2. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

Commented [LH9]: Recommended, per Section 4.3-7 WA Model Ordinance.

BH. Area of Special Flood Hazards with Base Flood Elevation. When the base flood elevation is provided, but a regulatory floodway has not been designated, new construction, substantial improvements, or other development, including fill, shall not be permitted within frequently flooded areas, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one inch at any point within the City limits.

CI. Areas Without Base Flood Elevation Data. Where base flood elevation data is not available (Zone A), and there is insufficient data then a report shall be submitted by a qualified professional that includes analysis of historical data and field surveys **to ensure the proposed structure is reasonably safe from flooding.** The reports shall include reasonable mapping to ensure proposed buildings are safe from flooding and to demonstrate 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 inch at any point within the City limits.

Commented [LH10]: Mandatory 44 CFR 60.3(a)(3). Section 4.3-6 WA Model Ordinance.

DJ. Construction Materials and Methods.

- 1. Methods that Minimize Flood Damage. All new construction and substantial improvements shall be constructed using flood resistant materials and utility equipment, and with methods and practices that minimize flood damage.
- 2. Buildings shall be located outside the floodplain. For sites with no buildable area out of the floodplain, buildings may be allowed provided they are placed on the highest land on the site, oriented parallel to flow rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the City detects any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.

3. Utilities Shall be Protected. 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.

EK. Elevation Certificate Required Following Construction. Following construction of a building within the floodplain where the base flood elevation is provided, the applicant shall obtain a "finished construction" elevation certificate (FEMA Form 81-31, most current edition) from a registered professional engineer or architect that records the elevation of the lowest floor.

FL. Floodproofing (Non-Residential Only).

1. When a building is to be floodproofed, it shall be designed and constructed using methods that meet the following requirements:

- a. Watertight Building. The building shall be watertight with walls substantially impermeable to the passage of water below one foot above the base flood level;
- b. Hydrostatic and Hydrodynamic Resistance. Structural components shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- c. Certified by a Registered Professional Engineer or Architect. The building shall 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.

2. Floodproofing Certificate Required Following Construction. Following construction of the building, the applicant shall obtain a floodproofing certificate (FEMA Form 81-65, most current edition) from a registered professional engineer or architect that records the actual (as-built) elevation to which the building was floodproofed.

3. Applicants who are flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one foot below). Flood proofing the building an additional foot will reduce insurance premiums.

GM. Anchoring. All new construction and substantial improvements within the floodplain shall be anchored to prevent flotation, collapse, or lateral movement of the building resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frames tied to ground anchors.

HN. Fill and Grading. Fill and grading within the floodplain shall only occur upon a determination from a registered professional engineer that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the City has delineated such zones as of the time of the application. If fill or grading is located in a floodway, CMC Section 16.57.020 applies.

O. Storage of Materials and Equipment.

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

Commented [LH11]: Mandatory, per CFR 60.3(c)(3) and (4). Section 5.2-2 WA Model Ordinance.

Commented [LH12]: Recommended, Section 5.1-3 WA Model Ordinance

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012; [Ord. No. 2691, § I\(Exh. A\), 1-21-2014](#); [Ord. No. 18-002, § I, 1-16-2018](#).)

16.57.060 - Performance standards—Specific uses.

In all special flood hazard areas the following provisions are required:

A. Residential Units.

- 1. Must be Above Base Flood Elevation. **In AE zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new New** construction or placement of residential units and substantial improvement of any residential building shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. **Mechanical equipment and utilities shall be waterproof or elevated at least one foot above the BFE.**
- 2. **New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.**
- 23. Areas Below the Lowest Floor. 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; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - d. **A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.**
- 34. Manufactured Homes. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured homes is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. All manufactured homes 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 frames ties to ground anchors. If the manufactured home is placed on a permanent footing/foundation with stem walls, CMC Section 16.57.060(A)(2) applies.

Commented [LH13]: Mandatory, per 44 CFR 60.3(c)(2) and (5). Section 5.2-1 WA Model Ordinance.

Commented [LH14]: Mandatory, per 44 CFR 60.3(c)(2) and (5). Section 5.2-1 WA Model Ordinance.

Commented [LH15]: Mandatory, per 44 CFR 60.3(b)(2). Section 5.2-1 WA Model Ordinance.

Commented [LH16]: Mandatory, per 44 CFR 60.3(c)(5). Section 5.2-1 WA Model Ordinance.

Commented [LH17]: Mandatory, per 44 CFR 60.3(c)(5). Section 5.2-1 WA Model Ordinance.

B. Nonresidential Construction. **New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the following requirements:**

- 1. Must be Above Base Flood Elevation. **In AE or other A zoned areas where the BFE has been determined or can be reasonably obtained, new New** construction and substantial improvement of any commercial, industrial, or other nonresidential building shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation or, together with attendant utility and sanitary facilities, shall be floodproofed in accordance with floodproofing (Section 16.57.050(**FL**)). Unavoidable impacts to flooded areas (from fill) need to be mitigated.
- 2. Areas Below the Lowest Floor. If floodproofed, areas shall be in accordance with floodproofing (Section 16.57.050(**FL**)). If elevated and not floodproofed, fully enclosed areas

Commented [LH18]: Mandatory, per 44 CFR 60.3(C)(3) and (4). Section 5.2-2 WA Model Ordinance.

Commented [LH19]: Mandatory, per 44 CFR 60.3(C)(3) and (4). Section 5.2-2 WA Model Ordinance.

below the lowest floor 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:

Commented [LH20]: Mandatory, per 44 CFR 60.3(C)(3) and (4). Section 5.2-2 WA Model Ordinance.

- a. A minimum of three openings having a total net area of no 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; and
- c. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

3. Unnumbered A Zones. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

Commented [LH21]: Mandatory, per 44 CFR 60.3(C)(3) and (4). Section 5.2-2 WA Model Ordinance.

C. Utilities.

- 1. Shall be Designed to Minimize Infiltration of Floodwaters. All new and replacement water supply systems shall be designed to preclude infiltration of floodwaters into the systems.
- 2. Sanitary Sewage Systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- 3. On-site Waste Disposal Systems. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. New on-site sewage disposal systems are prohibited for uses and activities prohibited from frequently flooded areas.

4. Water wells shall be located on high ground that is not in the floodway.

Commented [LH22]: Mandatory, per 44CFR 60.3(a)(5) and (6) and WAC 173-160-171. Section 5.1-4 WA Model Ordinance.

D. Subdivision/Land Division Proposals.

- 1. All land division proposals shall:
 - a. Minimize Flood Damage. Subdivisions, short subdivisions, planned developments, and binding site plans shall be designed to minimize or eliminate flood damage to proposed buildings; and public utilities and facilities that are installed as part of such subdivisions. Sewer, gas, electrical, and water systems shall be located and constructed to minimize flood damage. Subdivisions should be designed using natural features of the landscape, and should not incorporate "flood protection" changes.
 - b. Have Adequate Drainage. Subdivisions, short subdivisions, planned developments, and binding site plans shall have adequate natural surface water drainage in accordance with City requirements to reduce exposure to flood hazards; and
 - c. Show Flood Areas on Plat Maps. Subdivisions, short subdivisions, planned developments, and binding site plans shall show the one hundred-year floodplain, floodway, and channel migration zone on the preliminary and final plat maps.

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

Commented [LH23]: Mandatory, per (44 CFR 60.3(a)(4) and (b)(3). Section 5.1-5 WA Model Ordinance.

2. Lots. No lot or portion of lot after the effective date of the ordinance codified in this title shall be established within the boundaries of a frequently flooded area.

E. Alteration of Watercourses.

- 1. Shall be in Accordance with Habitat Regulations. Watercourse alterations shall only be allowed in accordance with the fish and wildlife habitat conservation areas (Chapter 16.61).

2. Shall Not Result in Blockage. Watercourse alteration projects shall not result in blockage of side channels.
3. Notification Required. The City shall notify adjacent communities, the Washington State Department of Ecology, and the Federal Insurance Administration of a proposed watercourse alteration at least fifteen days prior to permit issuance.
4. Maintenance of Alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished. Maintenance shall be bonded for a period of five years, and be in accordance with an approved maintenance program.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012)

16.57.070 - Recreational vehicles.

Recreational vehicles placed on sites are required to either:

- A. Be on the site for fewer than one hundred eighty consecutive days; or
- B. Be fully licensed and ready for highway use on its wheels, or the jacking system is attached to the site only by quick disconnect type utilities and securities devices, and has no permanently attached additions; or
- C. Meet the requirements of CMC Section 16.57.060(A)(3) and the elevation and anchoring requirements for manufactured homes.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012)

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

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

- A. Additional Variation Considerations. In review of variation requests for activities within frequently flooded areas, the City shall consider all technical evaluations, relevant factors, standards specified in this chapter, and:

Commented [LH24]: Recommended, per Section 6.0 WA Model Ordinance.

1. The danger to life and property due to flooding, erosion damage, or materials swept onto other lands during flood events;
 2. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the proposed use;
 3. The importance of the services provided by the proposed use to the community;
 4. The necessity of a waterfront location and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
 5. The safety of access to the property for ordinary and emergency vehicles;
 6. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and
 7. 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.
- B. Variations shall only be issued upon a determination that the granting of a variation 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 laws or ordinances.
- C. Variations shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(Ord. 2517 § 1 (Exh. A (part)), 2008)

(Ord. No. 2647, § I(Exh. A), 5-21-2012)

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

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

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

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

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

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

exceed minimum NFIP standards.

Please Note: RCW 86.16.190 requires that:

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

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

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

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

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

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

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

1.1 Statutory Authorization

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

1.2 Findings of Fact

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

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

1.3 Statement of Purpose

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

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

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

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

1.4 Methods of Reducing Flood Losses

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

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

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

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

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

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

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

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

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

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

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

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

Building: See "Structure."

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

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

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

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

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

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

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

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

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

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

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

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

***Flood or Flooding:**

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

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

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

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

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

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

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

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

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

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

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

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

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

Reasonably Safe from Flooding: Development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

***Recreational Vehicle: A vehicle,**

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

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

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

***Structure:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

- 1) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

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

Section 3.0 – General Provisions

3.1 Lands to Which This Ordinance Applies (44 CFR 59.22(a))

This ordinance shall apply to all special flood hazard areas within the boundaries of **{Community Name}**.

3.2 Basis for Establishing the Areas of Special Flood Hazard

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for **{exact title of study}**” dated **{date}**, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated **{date}**, and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file at **{community address}**.

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

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

3.3 Compliance

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

3.4 Penalties For Noncompliance

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

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

3.5 Abrogation and Greater Restrictions

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

3.6 Interpretation (Not mandatory)

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

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

3.7 Warning And Disclaimer of Liability (Not mandatory)

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

3.8 Severability

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

Section 4.0 – Administration

4.1 Establishment of Development Permit

4.1-1 Development Permit Required (44 CFR 60.3(b)(1))

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions,” and for all development including fill and other activities, also as set forth in the “Definitions.”

4.1-2 Application for Development Permit

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

- 1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
- 2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- 3) Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Section 5.2-2;
- 4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- 5) Where a structure is proposed in a V, V1-30, or VE zone, a V-zone design certificate;
- 6) Where development is proposed in a floodway, an engineering analysis indication no rise of the Base Flood Elevation, and
- 7) Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

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

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

The **{job title of the appropriate administrative official}** is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

4.3 Duties & Responsibilities of the Floodplain Administrator

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

4.3-1 Permit Review

Review all development permits to determine that:

- 1) The permit requirements of this ordinance have been satisfied;
- 2) All other required state and federal permits have been obtained;
- 3) The site is reasonably safe from flooding;
- 4) The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Section 5.4-1 are met;
- 5) Notify FEMA when annexations occur in the Special Flood Hazard Area.

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

When base flood elevation data has not been provided (in A or V zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer Sections 5.2, SPECIFIC STANDARDS, and 5.4 FLOODWAYS.

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

- 1) Where base flood elevation data is provided through the FIS, FIRM, or required as in Section 4.3-2, obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. (44 CFR 60.3(b)(5)(i) and (iii))
- 2) Obtain and maintain documentation of the elevation of the bottom of the lowest horizontal structural member in V or VE zones. (44 CFR 60.3(e)(2)(i) and (ii))
- 3) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 4.3-2:
 - a) Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed. (44 CFR 60.3(b)(5)(ii))
 - b) Maintain the floodproofing certifications required in Section 4.1-2(3). (44 CFR 60.3(b)(5)(iii))
- 4) Certification required by Section 5.4.1 {or the numbering system used by the community} (floodway encroachments). (44 CFR 60.3(d)(3))
- 5) Records of all variance actions, including justification for their issuance. (44 CFR 60.6(a)(6))
- 6) Improvement and damage calculations.
- 7) Maintain for public inspection all records pertaining to the provisions of this ordinance. (44 CFR 60.3(b)(5)(iii))

4.3-4 Alteration of Watercourse

Whenever a watercourse is to be altered or relocated:

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

said watercourse is maintained. (44 CFR 60.3(b)(7))

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

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP (44 CFR 59-76).

4.3-6 Review of Building Permits *(44 CFR 60.3(a)(3))*

Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (Section 4.3-2), applications for floodplain development shall be reviewed to assure that proposed construction will be *reasonably safe from flooding*. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

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

4.3-7 Changes to Special Flood Hazard Area

- 1) If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
- 2) If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

Section 5.0 – Provisions for Flood Hazard Reduction

5.1 General Standards *(Section 5.0 is required)*

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

5.1-1 Anchoring *(44 CFR 60.3(a) and (b))*

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

5.1-2 Construction Materials and Methods *(44 CFR 60.3(a)(3)(ii-iv))*

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

5.1-3 Storage of Materials and Equipment

- 1) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas **(recommended)**.

- 2) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

5.1-4 Utilities (44 CFR 60.3(a)(5) and (6))

- 1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- 2) Water wells shall be located on high ground that is not in the floodway (WAC 173-160-171);
- 3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- 4) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-5 Subdivision Proposals and Development (44 CFR 60.3(a)(4) and (b)(3))

All subdivisions, as well as new development shall:

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

5.2 Specific Standards (44 CFR 60.3(c)(1))

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, or Section 4.3-2, USE OF OTHER BASE FLOOD DATA. The following provisions are required:

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

- 1) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE.
- 2) New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Appendix A.
- 3) New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
- 4) New construction and substantial improvement of any residential structure in a V, V1-30, or VE zone shall meet the requirements in Appendix B.
- 5) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must meet or exceed the following minimum criteria:
 - a) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - d) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

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

5.2-2 Nonresidential Construction (44 CFR 60.3(c)(3) and (4))

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

1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

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

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.

b) If located in an AO zone, the structure shall meet the requirements in Appendix A.

c) If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

d) If located in a V, V1-30, or VE zone, the structure shall meet the requirements in Appendix B.

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

i) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

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

iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

- iv) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

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

- 2) If the requirements of subsection 1 are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
 - a) Be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
 - b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2);
 - d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(5);

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

5.2-3 Manufactured Homes (44 CFR 60.3(c)(6)(12))

- 1) All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(If the above phrase is applied to all manufactured homes in the floodplain, then the remaining verbiage is not necessary to adopt.)

This applies to manufactured homes:

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

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

- 1) Recreational vehicles placed on sites are required to either:
- 2) Be on the site for fewer than 180 consecutive days, or
- 3) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

Meet the requirements of 5.2-3 above.

5.2-5 Enclosed Area Below the Lowest Floor

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

5.2-6 Appurtenant Structures (Detached Garages & Small Storage Structures)

For A Zones (A, AE, A1-30, AH, AO):

- 1) Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
 - b) The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
 - c) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - d) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
 - e) The appurtenant structure must comply with floodway encroachment provisions in Section 5.4-1;
 - f) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 5.2-1(5).
 - g) The structure shall have low damage potential,
 - h) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and
 - i) The structure shall not be used for human habitation.
- 2) Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 5.2-1.

- 3) Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

5.3 AE and A1-30 Zones with Base Flood Elevations but No Floodways (44 CFR 60.3(c)(10))

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

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

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

5.4-1 No Rise Standard

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

5.4-2 Residential Construction in Floodways

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

places, may be excluded in the 50 percent.

1) Replacement of Farmhouses in Floodway

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

- a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;
- b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
- c) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
- d) A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
- e) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
- f) For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
- g) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
- h) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
- i) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

2) Substantially Damaged Residences in Floodway

- a) For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the

local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

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

5.4-3 All Other Building Standards Apply in the Floodway

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

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

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

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

5.6 Critical Facility *(Optional Provision)*

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

5.7 Livestock Sanctuaries

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

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

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

Section 6.0 - Variances

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

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

6.1 Requirements for Variances

- 1) Variances shall only be issued:
 - a) Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - b) For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

- c) Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - d) Upon a showing of good and sufficient cause;
 - e) Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - f) Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 2.0 {or the numbering system used by the community} of this ordinance in the definition of “Functionally Dependent Use.”
- 2) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
 - 3) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of Sections 4.0 and 5.0 {or the numbering system used by the community} of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

6.2 Variance Criteria

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

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

- 6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
- 7) The compatibility of the proposed use with existing and anticipated development;
- 8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
- 10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
- 11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges.

6.1 Additional Requirements for the Issuance of a Variance

- 1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - a) The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 - b) Such construction below the BFE increases risks to life and property.
- 2) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
- 3) The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
- 4) Variances as interpreted in the NFIP are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

APPENDIX A
STANDARDS FOR SHALLOW FLOODING
AREAS (AO ZONES)
(44 CFR 60.3(c)7, 8 and 11)

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

1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one foot or more above* the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).
2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above* the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - b) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer, or architect as in section 5.2-2(3).
3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
4. Recreational vehicles placed on sites within AO zones on the community's FIRM either:
 - a) Be on the site for fewer than 180 consecutive days, or

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

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

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

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

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

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

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

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

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

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

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

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

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

*Floodplain Development Permit
Application for «Community»*

OFFICE USE ONLY
Date Received: _____
File Number: _____

SECTION I: Applicant and Project Information

GENERAL INFORMATION

1. No work of any kind may begin in a floodplain until a floodplain development permit is issued.
2. The permit may be revoked if any false statements are made in this application.
3. If revoked, all work must cease until a permit is re-issued.
4. The development may not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within 6 months of the date of issue.
6. The permit will not be issued until any other necessary local, state or federal permits have been obtained.

By signing and submitting this application, the Applicant gives consent to the local Floodplain Administrator or his/her representative to make reasonable inspections prior to the issuance of a Certificate of Compliance.

By signing and submitting this application, the Applicant certifies that all statements contained in SECTION I of the application, and in any additional attachments submitted by the Applicant, are true and accurate.

OWNER INFORMATION

Property Owner: _____	Mailing Address: _____
Telephone Number: _____	_____
Email Address: _____	_____
Signature of Property Owner: _____	Date: _____

APPLICANT INFORMATION

Applicant: _____	Brief project description: _____
Telephone Number: _____	
Email Address: _____	
Signature of Applicant: _____	

PROJECT INFORMATION

Project Address: _____
Subdivision: _____
Lot: _____
Block: _____

PROJECT INFORMATION (continued)

Type of Structure:

- Residential
- Garage/Shop
- Non-Residential
 - Elevated
 - Floodproofed
- Combined Use (Residential and Non-Residential)
- Manufactured Home

Type of Structural Activity:

- New Structure
- Addition to Existing Structure*
- Alteration of Existing Structure*
- Relocation of Existing Structure **
- Demolition of Existing Structure
- Replacement of Existing Structure**

*** Substantial Improvement**

If the fair market value of an addition or alteration to a structure equals or exceeds 50% of the value of the structure before the addition or alteration, the entire structure must be treated as a substantially improved structure.

Substantial Improvement Evaluation:

Cost of Improvement (a): \$ _____

Market Value of the Building (b) : \$ _____

Percent of Value Change (a/b): _____ %

Disclaimer: Substantial Improvement Evaluation must be supported by project cost documentation and approved market evaluation. Attach supporting documentation.

**** Relocation or Replacement**

A relocated structure or a structure being replaced must be treated as new construction.

Other Development Activities

- Excavation (not related to a structural development)
- Clearing
- Placement of Fill Material
- Grading
- Mining
- Drilling

- Dredging
- Watercourse alteration
- Drainage improvement (including culvert work)
- Individual water or sewer system (not included to a structural development listed above)
- Roadway or bridge construction
- Specify other development not listed above: _____

PROPERTY OWNER SIGNATURE

I certify that to the best of my knowledge the information contained in the application is true and accurate.

Signature of Property Owner:

Date:

SECTION II: (To be completed by Floodplain Administrator)**FLOOD INFORMATION**

1. The proposed development is located on FIRM map panel: _____ (number and suffix)
2. Effective date on the FIRM: _____
3. The proposed development is located in Zone _____
4. Is the proposed development located within the regulatory floodway: No Yes
*(New residential structures, additions, and substantial improvements prohibited;
 Non-residential: Attach Completed Engineer's Hydraulic Analysis for a No-Rise Certificate)*

Structural Development

For structures, the provisions of the flood ordinance specify that the lowest floor be elevated one foot or more above the base flood elevation (BFE).

Base Flood Elevation: _____ NGVD 29 NAVD 88 Unknown (Zone A)

Lowest Floor Elevation for the proposed development is: _____ NGVD 29 NAVD 88

Source of Base Flood Elevation: FIRM FIS or other: _____

The following documents are required:

- An Elevation Certificate (Finished Construction) *
- Site Plan (Showing location of SFHA and development)

The following documents may be required:

- Floodproofing Certificate * – required if floodproofing a non-residential structure
- A No-Rise Certificate * – if any of the proposed non-residential development is in a "regulatory floodway"
- An elevation study showing BFEs on developments/ subdivisions exceeding 50 lots or 5 acres in Zone A

** Certificates require completion by a Professional Land Surveyor or Registered Professional Engineer as indicated.*

SECTION III: (To be completed by Floodplain Administrator)**Permit Determination**

I have determined that the proposed development: IS IS NOT (non-conformance described in separate document) in conformance with the local Flood Damage Prevention Ordinance.

The Floodplain Development Permit: IS IS NOT (denials are described in separate document) issued subject to any conditions attached to and made part of this permit.

Signature of Floodplain Administrator: _____ Date: _____

CONDITIONS:

1. All enclosures below the BFE shall have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area. The bottom of all openings shall be no higher than one foot above grade.
2. All mechanical devices, plumbing, and electrical systems shall be installed above the BFE.
3. An updated Elevation Certificate with the as-built elevations is required upon project completion.
4. Enclosures below the BFE shall be used only for parking, building access, and limited storage.
- 5.
- 6.

Administrative

Final documentation verifying compliance with ordinance

Elevation Certificate attached (Finished Construction)

As-Built lowest floor elevation: _____ NGVD 29 NAVD 88

Work Inspected by: _____

Certificate of Compliance

Certificate of Compliance is issued and the development is found to be in compliance with all applicable ordinances.

Signature of Floodplain Administrator

Date