



PLANNING COMMISSION MEETING

Monday, June 30, 2025 at 6:30 PM
Sandy City Hall and via Zoom

AGENDA

TO ATTEND THE MEETING IN-PERSON:

Come to Sandy City Hall (lower parking lot entrance) - 39250 Pioneer Blvd., Sandy, OR 97055

TO ATTEND THE MEETING ONLINE VIA ZOOM:

Please use this link: <https://us02web.zoom.us/j/81811081427>

Or by phone: (253) 215-8782; Meeting ID: 818 1108 1427

ROLL CALL

APPROVAL OF MINUTES

- [1.](#) Approval of Minutes for May 27, 2025

REQUESTS FROM THE FLOOR - CITIZEN COMMUNICATION ON NON- AGENDA ITEMS

The Commission welcomes your comments at this time. Please see the instructions below:

- If you are participating online, click the "raise hand" button and wait to be recognized.
- If you are participating via telephone, dial *9 to "raise your hand" and wait to be recognized.

DIRECTOR'S REPORT

- [2.](#) Director's Report for June 2025

COUNCIL LIAISON AND PLANNING COMMISSIONER DISCUSSION

NEW BUSINESS

- [3.](#) Public Hearing for File No. 25-031 DCA - Alternative Wastewater Systems Code Additions
- [4.](#) Public Hearing for File No. 25-030 DCA - FEMA PICM Code Modifications

ADJOURN

Americans with Disabilities Act Notice: Please contact Sandy City Hall, 39250 Pioneer Blvd. Sandy, OR 97055 (Phone: 503-668-5533) at least 48 hours prior to the scheduled meeting time if you need an accommodation to observe and/or participate in this meeting.

Sandy Planning Commission Regular Meeting Monday, May 27, 2025

Chair Wegener called the meeting to order at 6:30 p.m.

1. MEETING FORMAT NOTICE: Instructions for electronic meeting

2. ROLL CALL

Commissioner Lee – Present
Commissioner Poulin – Present
Commissioner Zawaski – Present
Commissioner Malone – Present
Commissioner O’Leary – Present
Vice Chair Crosby – Present
Chair Wegener – Present

Council Liaison Ramseyer – Present

Staff present: Development Services Director Kelly O’Neill Jr., Senior Planner Patrick Depa, Executive Assistant Rebecca Markham

3. APPROVAL OF MINUTES – January 13, 2025

Chair Wegener asked for any edits to the draft minutes.

Motion: Motion to approve the minutes from January 13, 2025

Moved By: Commissioner Lee

Seconded By: Commissioner Malone

Yes votes: Commissioners Lee, Malone, Poulin, Zawaski, O’Leary, Crosby, and Wegener

No votes: None

Abstentions: None

4. REQUESTS FROM THE FLOOR – CITIZEN COMMUNICATION ON NON-AGENDA ITEMS:

None

5. DIRECTOR’S REPORT

Development Services Director Kelly O’Neill Jr. explained that moving forward his director’s reports will be slightly different. He plans to list upcoming Planning Commission meeting dates and tentative meeting items that could come before them, and just provide a line to the monthly report he publishes for the City Council.

O’Neill also told the Commission the great news that the City received approval of the adjustment request to a house bill requiring cities to approve 100% of the adjustment requests for housing projects. Approval of this exemption now gives the City the authority to have more local control of our process and requires the City to approve 90% of the adjustment requests instead of 100%. Sandy is only the second city in the state of Oregon to receive this exemption. There will be some conditions the City has to meet, such as updating the City website and additional language on our pre-app notes.

6. CITY COUNCIL LIAISON REPORT

City Council Liaison Ramseyer noted that the extensive City budget process has been completed, but now the new increased SDC fees are “rocking the boat” requiring further discussion. Planning Commissioner O’Leary asked what “rocking the boat” meant when referring to the SDC’s. Ramseyer explained that the City is getting push back from developers on those increased fees which have led to attorneys being involved and a need for further discussions.

Chair Wegener thanked everyone on the Commission who participated in the budget process and discussion.

7. NEW BUSINESS:

7.1. Chapter 17.74 Work Session on Fences/Retaining Walls and Temporary Uses /Structures

O’Neill started the work session discussing fences and retaining walls. He stated that staff and the Commission discussed updating this chapter back on June 10, 2024, and from that discussion, they came up with an exhaustive list noted in the staff report. He explained the confusion and challenges over the combination height of fences and retaining walls, especially with the topography in Sandy. He also wants to be realistic and avoid unnecessary adjustments or variances and instead just allow for additional flexibility in those circumstances.

O’Neill explained the new addition of “battery charged” fencing in zones without housing, which would be the I-1, I-2 and, I-3 zoning districts and said the electrified fencing is an ORS requirement that the City Attorney suggest be added. Some other additions had to do with measuring the finished grade, landscape buffers for I-2 and I-3 zones, and the removal of most galvanized fencing in front yards as an option. He also mentioned restricting mesh, polyethylene fencing, and what is considered prohibited retaining wall materials.

O’Neill also explained the need to start requiring permits for any retaining wall over 4 feet in height. He went over some of the City’s challenges since the State Buildings Code Division no longer regulates retaining walls unless it holds up a surcharge.

Commissioner Poulin stated that black chain link versus regular galvanized fencing was significantly more money and wanted to know why we want to require black chain link over galvanized when we are in a housing crisis and looking to bring costs for new homeowners. O’Neill stated that in his opinion, galvanized fencing starts to rust giving it a bad and “stand-offish” look and feeling. He also said that most yards don’t have a front yard fence and it’s more affordable to just not install a front yard fence. Chair Wegener also noted that houses built on transit streets that have very visible front yards would set the tone if galvanized fencing was allowed. Commissioner Crosby also agrees that over time the galvanized fencing will eventually look “tacky and rusty”. O’Neill stated that some cities don’t even allow front yard fences. After some additional discussion, the Commission agreed to limit galvanized fencing materials in the front yard.

The Commission then discussed the definition of “recreation area” that O’Neill agreed that staff could better define. Fence regulations for swimming pools were also analyzed but it was determined that staff would need to get clarification from the Building Official on hot tub fencing and if it also follows the same rules as pools.

After some discussion, the Commission also agreed to require engineering in addition to a building permit for any retaining walls over 4 feet in height due to structural and safety concerns.

Next, O'Neill went through temporary uses and structures. He stated that the additions they see are sections that the Planning Commission gave direction on last year in June as well as a few that staff included after multiple reviews, such as the inclusion of temporary structures during emergency events and retroactive approval.

Wegener asked how emergency "sheltering" such as FEMA would work when B (1) doesn't allow overnight accommodations in the right-of-way. O'Neill stated he could write up a provision for emergency situations. Wegener stated that "portable outdoor storage unit" should be better defined and O'Neill agreed.

7.2. Chapter 8.36 Work Session on Outdoor Burning Code Amendments

Senior Planner Patrick Depa explained how this code section was updated to address the issues that the fire department was dealing with as well as defining regulations more clearly. Depa said that the incorporated code updates came from the Clackamas County Fire code, Sandy Fire code, and State code regulations. O'Neill said that staff also relied on the regulations and code language from the Department of Environmental Quality (DEQ) and the Oregon Department of Forestry (ODF). He also stated that the Clackamas County Fire Marshal and the City Attorney did a lengthy review on these updates.

Depa identified a few sections in Chapter 8.36 that the City has discretion on and what staff is asking of the Commission to discuss. This includes minimum lot sizes for permitted burns, distance of the burn piles to structures, fine amounts, size of burn piles, and burn times.

The Commission agreed to keep the minimum lot sizes as staff proposed and there was consensus on adding the words "or recreation" after "cooking" under A (1) to allow for other uses besides only cooking.

Commissioner Zawaski suggested striking B (1) since B (4) basically defines things that would make a noxious odor, and the Commission agreed.

The Commission next discussed the proposed fine amount, which is proposed as a Class A infraction, due to concerns with noncompliant burning. It was clarified by O'Neill that the only discretion for these fines once a citation has been issued is with the municipal judge. The Commission agreed with the proposed Class A infraction.

Lastly, the Commission agreed on the proposed burn times.

O'Neill explained that the Chapter 8.36 code amendments will be refined as directed by the Commission and then presented to the City Council in a work session.

At 8:21 p.m. Commissioner Lee was excused to leave the meeting early.

8. Goal Priorities for 2025 - 2027

O'Neill explained the goal list from the City Council that he broke down into three categories for the Planning Commission to review. He stated that the City Council set the goals but not the priorities and would like the Commission's input on prioritizing the list before them.

Commissioner Malone suggested prioritizing the goals that have been on the list the longest and through a few budget cycles. Chair Wegener said he could see an argument where if they haven't been prioritized for the last few years, maybe they're not as important.

O'Neill also pointed out that staff needs more clarification from City Council on the goal to "update the City's zoning map" since it's unclear what that goal means.

Chair Wegener said his top goals were "developing a clear policy for ERU allocations", "completing the HPS" and "emergency management projects". Wegener also stated that he felt the "Pleasant Street Master Plan" should start with the Economic Development Advisory Board.

O'Neill asked the Commission if they had any input on the code modification list. Malone felt Urban Forestry would be a good one to modify and O'Neill agreed, but also said it's a very difficult one to amend.

Wegener asked about the addressing code and O'Neill said the City doesn't currently have a code section for addressing which has made it difficult for staff when addressing changes are needed.

9. ADJOURNMENT

Chair Wegener adjourned the meeting at 8:39 p.m.

Chair Darren Wegener

Attest:

Date signed: _____

Kelly O'Neill Jr.,
Development Services Director



STAFF REPORT

Planning Commission

Item # 2.

Meeting Type: Planning Commission
Meeting Date: June 30, 2025
From: Kelly O'Neill Jr., Development Services Director
Subject: Director's Report for June 2025

Next Meetings:

July 28 at 6:30 PM – Planning Commission Meeting with the following tentative items:

- a. Design Review and variances for covered basketball court at Deer Pointe Park

August 25 at 6:30 PM – Nothing tentatively scheduled at this time

September 22 at 6:30 PM – Nothing tentatively scheduled at this time

Previous and future Development Services Department report content will be posted on the City's WordPress site, here: <https://reports.cityofsandy.com/planning/>

Envision Sandy 2050 Receives Community Engagement Award:

“**Envision Sandy 2050** is Sandy's newly updated comprehensive plan, which was developed over multiple years culminating in its adoption by the City Council in September 2024. The project involved several rounds of community engagement to ensure that a diverse range of voices in our community could help shape this important long range planning document.

Now we are proud to announce that **Envision Sandy 2050** has received the 2025 Achievement in Community Engagement Award from Oregon's Department of Land Use and Development! Their Community Involvement Advisory Committee was very impressed with Envision Sandy 2050's commitment to:

- Engagement of community members from all sectors, in particular youth engagement,
- Undertaking of a comprehensive plan update through a lens of community preparedness and resilience, and
- Reflecting past and potential changes, challenges, and opportunities for the City of Sandy throughout the process.

Thank you to everyone who participated in the Envision Sandy 2050 process, through surveys, community events, public meetings, and other methods. We are excited for everything in store for Sandy over the coming decades as we implement our new comprehensive plan!”



STAFF REPORT

Planning Commission

Item # 3.

Meeting Type: Planning Commission (Legislative Public Hearing)
Meeting Date: June 30, 2025
From: Josh Soper, City Attorney
Kelly O'Neill Jr., Development Services Director
AJ Thorne, Public Works Director
Subject: Alternative Wastewater Systems Code Additions (File No. 25-031 DCA)

DECISION TO BE MADE:

Hold a legislative public hearing to review and take comments on the proposed code amendments to Title 17, Chapter 17.12 – Procedures for Decision Making and Chapter 17.84 – Improvements Required with Development of the Sandy Municipal Code and make a recommendation to the City Council.

APPLICABLE COUNCIL GOAL:

- **7.8:** Explore possible alternative wastewater treatment systems to facilitate targeted economic development under the moratorium.

BACKGROUND / CONTEXT:

The City first enacted a development moratorium relating to capacity issues with its wastewater treatment system on October 3, 2022 (Moratorium 1.0). Since that time, the City has periodically enacted replacement moratoria as circumstances change, generally to loosen restrictions or provide improved flexibility as much as possible.

Additionally, as initially discussed with the City Council on November 4, 2024, ([meeting link](#)) and then again on March 17, 2025, ([meeting link](#)) staff is seeking to implement alternative wastewater systems municipal code modifications to facilitate targeted economic development while the moratorium is in effect.

Amongst other inquiries, City staff have been contacted by two industrial property owners at the intersection of Industrial Way and Champion Way that want to construct structures. Both of the sites would provide living wage jobs in Sandy and at least one of the sites would align with a desired growth sector as identified in Goal 3 of the [Economic Development Strategic Plan](#) (metals manufacturing). Without consideration of alternative wastewater treatment systems during the sanitary sewer moratoria there could be several sites that will not develop, and thus potentially limit the expansion of living wage jobs in Sandy.

As required by state law, City staff notified the Department of Land Conservation and Development (DLCD) of the proposed code amendments on May 21, 2025.

KEY CONSIDERATIONS / ANALYSIS:

The attached ordinance addresses such issues as:

1. What types of systems would be allowed? Porta-potties and greywater systems have been identified as the most likely system types to be proposed. However, there is also a mechanism for other types of systems to be considered as detailed in Section 17.84.70.E.2.
2. What review process would be required? There is a more streamlined review for porta-potties and greywater systems, while a more robust review is required for other system types that may be proposed. All requests will be processed as a Type IV procedure in accordance with Chapter 17.12, thus requiring quasi-judicial public hearings before the Planning Commission and the City Council. The review process is listed in Section 17.12.40.D.9. and Section 17.84.70.D.
3. What approval criteria will be used to analyze requests from developers and business owners? Because alternative wastewater systems would not be allowed for residential uses, state law does not require that the criteria be clear and objective. It's therefore recommended that the criteria are discretionary in nature to ensure that the City's objectives are met under this program. Criteria for approval are proposed in Section 17.84.70.E.
4. What would be required for future connection to the City's system and how would this be enforced? The requirements depend on the type of system being installed because it may be advantageous to the City for some types of systems to remain in place even after public sewer capacity becomes available. Conditions of approval are proposed in Section 17.84.70.F. and enforcement of the future connection is proposed in Section 17.84.70.G.
5. What are the application requirements? The applicant will be required to submit materials as detailed in Section 17.84.70.C. The fee for processing the alternative wastewater treatment systems request will be a Type IV public hearing review fee plus a three percent technology fee for a total fee of \$2,251.58 (current fee schedule but subject to future increase).

BUDGET IMPACT:

City Attorney charges

RECOMMENDATION:

Staff recommend that the Planning Commission hold a public hearing, discuss the proposed code modifications, and provide staff with a motion to forward to the City Council.

SUGGESTED MOTION LANGUAGE:

I move to recommend that the City Council approve the proposed text amendments to Title 17, Chapter 17.12 – Procedures for Decision Making and Chapter 17.84 – Improvements Required with Development of the Sandy Municipal Code as presented in Attachment 1.

LIST OF ATTACHMENTS / EXHIBITS:

- Attachment 1. Ordinance No. 2025-17
 - Exhibit A. Code Amendments
 - Exhibit B. Findings



ORDINANCE NO. 2025-17

AN ORDINANCE AMENDING CHAPTERS 17.12 AND 17.84 RELATED TO ALTERNATIVE WASTEWATER SYSTEMS

WHEREAS, the City of Sandy is currently under a development moratorium enacted pursuant to ORS 197.510 et seq., relating to a lack of capacity in its wastewater system; and

WHEREAS, the City has received requests from property and business owners to consider allowing alternative wastewater systems during the moratorium as a means of enabling certain limited types of development to occur without impacting the City's sanitary sewer system; and

WHEREAS, as a result of those requests, staff developed an outline of potential terms under which such a program could operate and discussed this issue in a public work session with the City Council on March 17, 2025; and

WHEREAS, based on the direction received at that work session, staff prepared this ordinance, which would amend the City's development code to allow the issuance of permits for alternative wastewater systems under certain circumstances; and

WHEREAS, the Planning Commission held a public hearing on June 30, 2025, allowing the public an opportunity to provide testimony on the proposed code amendments; and

WHEREAS, the City Council held a public hearing on July 21, 2025, allowing the public an opportunity to provide testimony on the proposed code amendments.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: Title 17 Development Code, Chapters 17.12 and 17.84, are hereby amended as reflected in Exhibit A, attached to this ordinance and incorporated by reference.

Section 2: This ordinance is supported by findings, attached as Exhibit B, and incorporated by reference.

Section 3: This ordinance shall take effect thirty days after it is adopted by the City Council.

This ordinance is adopted by the City Council of the City of Sandy this 21st day of July, 2025.

Kathleen Walker, Mayor

ATTEST:

Jeffrey Aprati, City Recorder

DRAFT

Sec. 17.12.40. - Type IV.

Type IV decisions are usually legislative but may be quasi-judicial.

Type IV (Quasi-Judicial) procedures apply to individual properties. This type of application is generally considered initially by the Planning Commission with final decisions made by the City Council.

Type IV (Legislative) procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts, not just one property). Type IV matters are typically considered first by the Planning Commission with final decisions made by the City Council. Occasionally, the Planning Commission will not consider a legislative matter prior to its consideration by the City Council.

Applications processed under a Type IV procedure involve a public hearing pursuant to the requirements of Chapter 17.20. Notification of this public hearing shall be noticed according to the requirements of Chapter 17.22 with appeal of a Type IV decision made to the state Land Use Board of Appeals according to the provisions of Chapter 17.28.

- A. The City Council shall consider the recommendation of the Planning Commission and shall conduct a public hearing pursuant to Chapter 17.20. The Director shall set a date for the hearing. The form of notice and persons to receive notice are as required by the relevant sections of this Code. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information, and interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission and make final arguments why the matter should or should not be approved and, if approved, the nature of the provisions to be contained in approving action.
- B. To the extent that a finding of fact is required, the City Council shall make a finding for each of the applicable criterion and in doing so may sustain or reverse a finding of the Planning Commission. The City Council may delete, add or modify any of the provisions pertaining to the proposal or attach certain development or use conditions beyond those warranted for compliance with standards in granting an approval if the City Council determines the conditions are appropriate to fulfill the criteria for approval.
- C. To the extent that a policy is to be established or revised, the City Council shall make its decision after information from the hearing has been received. The decision shall become effective by passage of an ordinance.
- D. Types of Applications:
 1. Appeal of Planning Commission decision.
 2. Comprehensive Plan text or map amendment.
 3. Zoning District Map changes.
 4. Village Specific Area Plan (master plan).
 5. Annexations.
 6. Extension of City Services Outside the City Limits.
 7. Vacating of Public Lands and Plats.
 8. Zoning Map Overlay Districts.
 9. [Alternative Wastewater System Permits.](#)

- E. *Timing of Requests.* The City accepts legislative requests twice yearly, in March and September. The City Council may initiate its own legislative proposals at any time.

Sec. 17.84.60. - Public facility extensions.

- A. All development sites shall be provided with public water, sanitary sewer, broadband (fiber), and storm drainage and shall meet the following requirements:
1. The required improvements shall be installed at the expense of the developer.
 2. Public water facilities shall meet the requirements of Title 13 of the Sandy Municipal Code and the 2022 City of Sandy Water System Master Plan and shall be designed in conformance with the City of Sandy Water Service Utility Standard Details.
 3. Sanitary sewer facilities shall meet the requirements of Title 13 of the Sandy Municipal Code and shall be designed in conformance with the City of Sandy Sewer Service Utility Standard Details.
 4. Storm drainage facilities meet the requirements of Title 13 of the Sandy Municipal Code and the City of Portland Stormwater Management Manual, as adopted by the City of Sandy, and shall be designed in conformance with the City of Sandy Stormwater Utility Standard Details.
- B. Where necessary to serve property as specified in A. above, required public facility installations shall be constructed concurrent with development, and shall be completed prior to issuance of a Certificate of Occupancy.
- C. Off-site public facility extensions necessary to fully serve a development site and abutting properties, as shown in the utility plan, shall be constructed concurrent with development.
1. If requested by the applicant, the City Engineer or designee may approve an alternative to the off-site public facility extensions required under Subsection C., based upon information submitted by the applicant showing that the extensions which would otherwise be required by this code would not be reasonably related or roughly proportional to the impact of the proposed development, as determined by the City.
- D. Public facilities installed concurrent with development of a site shall be extended through the site and extended or stubbed out to adjacent undeveloped land or to a point in the street that allows for connection with adjacent property(ies). If abutting land has an approved tentative plat, public facilities shall align with public facilities in the approved tentative plat.
- E. Private on-site sanitary sewer and storm drainage facilities shall only be considered [either as described in Section 17.84.70, or](#) if all the following conditions exist:
1. Extension of a public facility through the site is not necessary for the future development of adjacent properties;

2. The development site remains in one ownership and land division does not occur (with the exception of land divisions that may occur under the provisions of 17.84.50.E.7. or 17.84.50.F.5., above);
3. The facilities are designed and constructed in accordance with the Uniform Plumbing Code and other applicable codes, and permits and/or authorization to proceed with construction is issued prior to commencement of work.

Sec. 17.84.70. – Alternative wastewater systems.

A. Purpose. The purpose of Section 17.84.70 is to provide a means by which certain types of development may obtain a permit to allow use of an alternative wastewater system in lieu of connecting to the City's sanitary sewer system as otherwise required by this code.

B. Definitions. As used in Section 17.84.70, the following terms are defined as follows:

1. "Alternative wastewater system" means a system which provides for the collection and treatment or reuse of sanitary waste and/or wastewater by a means other than through connection to the City's sanitary sewer system. It includes, but is not limited to, greywater systems and portable restrooms.
2. "Associated use" means the use on the subject property which produces sanitary waste and/or wastewater which will flow into an alternative wastewater system.
3. "Greywater system" means a system which collects wastewater for reuse for non-potable purposes such as irrigation.
4. "Portable restroom" means a movable, self-contained toilet which is not connected to the City's sanitary sewer system and which collects sanitary waste and/or wastewater for off-site disposal.
5. "Sanitary waste" means waste from toilets, urinals, and similar devices.
6. "Wastewater" means water which has been used for shower, sink, washing machine, and similar purposes, but does not include sanitary waste.

C. Application requirements. An application shall be made on forms provided by the Director. The application shall be accompanied by the following:

1. A narrative description of the proposed alternative wastewater system accompanied by site plans, technical specifications, and a screening plan when applicable.
2. A description of the operation and maintenance requirements for the proposed alternative wastewater system.
3. Payment of the alternative wastewater system permit fee established by resolution.
4. Such other information and materials as may be necessary to demonstrate compliance with the approval criteria in Subsection E.

D. Review Process. Alternative wastewater system permit applications will be processed as a Type IV decision.

E. Criteria for Approval.

1. All applications for an alternative wastewater system permit shall meet the following criteria:

- a. The alternative wastewater system will be located on a lot or parcel with a commercial, industrial, or community service use and will be used only in connection with a commercial, industrial, or community service use;
- b. If the associated use is commercial or industrial, the use is of a type where the public generally is not received;
- c. The alternative wastewater system will have no impact on the City's sanitary sewer system and will adequately protect against environmental contamination;
- d. Disposal of waste will occur entirely outside the City's sanitary sewer system;
- e. The alternative wastewater system, including its operation and maintenance program, is adequate to meet the wastewater character and volumes of the associated use;
- f. The alternative wastewater system will be fully screened from view from public right-of-way and adjacent properties; and
- g. The proposed alternative wastewater system complies with all applicable federal, state, and local laws, including but not limited to the Americans with Disabilities Act.

2. In addition to the criteria specified in Subsection (E)(1), an application for an alternative wastewater system permit seeking approval for an alternative wastewater system other than a portable restroom or greywater system shall meet the following criteria:

- a. The alternative wastewater system proposal, taken as a whole, is not materially detrimental or injurious to the public welfare or the surrounding area; and
- b. The associated use is identified as a target industry in the City's Economic Development Strategic Plan or otherwise advances the goals of the Economic Development Strategic Plan.

F. Conditions of Approval. Any approval of an alternative wastewater system permit will be subject to the following conditions of approval:

- 1. Prior to certificate of occupancy, the applicant shall install all interior plumbing and fixtures required by the building code (e.g. toilets, urinals, sinks, etc.), all sanitary sewer infrastructure otherwise required by this code, and all infrastructure necessary for the associated use to connect to the City's sanitary sewer system, up to the point of connection in the public right-of-way or a public utility easement, but no connection may be made until authorized by the City in writing.

2. When the alternative wastewater system includes portable restrooms, the applicant shall remove all portable restrooms from the property and connect to the City's sanitary sewer system within ninety (90) calendar days after written notice from the City.
 3. Grey water systems may remain in place for the useful life of the system. Substantial replacement of a greywater system will require a new alternative wastewater system permit.
 4. Alternative wastewater systems other than portable restrooms and greywater systems are subject to the requirements of Subsection (F)(2) or (F)(3) as specified by the City Council based on an evaluation of the nature of the alternative wastewater system.
 5. Sanitary sewer system development charges are due and payable at the time of issuance of any permits required for connection to the City's sanitary sewer system, or upon such connection, whichever occurs sooner.
 6. The property owner shall record a deed restriction, in a form approved by the City Attorney, obligating the property owner and all successors to comply with Subsections (F)(2) through (5) and setting forth the penalties described in Subsection (G).
 7. The alternative wastewater system shall be operated and maintained in accordance with the approved proposal.
 8. Such other conditions of approval as the City Council may determine necessary to ensure compliance with the approval criteria and the purposes of Section 17.84.70.
- G. Enforcement. In addition to and not in lieu of enforcement under Chapter 17.06 for any violation of Section 17.84.70, if a property owner fails to connect to the City's sanitary sewer system as described in Subsection (F)(2) through (4), the City may at its option perform or cause to be performed the work required to effectuate the connection at the property owner's sole cost and expense. The City shall notify the property owner in writing of the final cost within thirty (30) calendar days after completing the work, and the property owner shall submit payment in full within thirty (30) calendar days after the date the City sends such notice by U.S. mail to the owner's address reflected in the property records of Clackamas County. Any amounts unpaid after such date shall become a lien upon the real property and shall be recorded in the City lien docket. That lien shall have priority over all other liens and encumbrances of any character. The lien shall accrue interest at the rate applicable for municipal assessment liens from the date of docketing until clearance. The lien may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.595.

Ordinance 2025-17 Findings

Goal 1: Citizen Involvement

This goal calls for "the opportunity for citizens to be involved in all phases of the planning process."

Findings: The City held public hearings before both the Planning Commission and City Council to afford the public the opportunity to be involved. Notice of the two hearings was published in the Sandy Post, posted on the City's website, and on the City Facebook account. Notice was provided to the Department of Land Conservation and Development on May 21, 2025.

Conclusion: *Goal 1 Public Involvement requirements are met.*

Goal 2: Land Use

This goal requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. Cities and counties must build their comprehensive plans on a factual base and follow their plan when making decisions on appropriate zoning.

Findings: The proposed alternative wastewater systems code amendments show that the City is continuing to seek alternative actions during the sanitary sewer moratoria. Allowing alternative wastewater systems for limited types of development validates the City's decision making to mitigate the negative impact on the City's economic goals, while providing continued support to the development community and business owners.

Conclusion: *Goal 2 Land Use requirements are met.*

Goal 9: Economic Development

This goal requires cities to provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of their citizens. Cities comply with Goal 9 through analysis of economic development needs and inventories of related land supplies.

Findings: The proposed alternative wastewater systems ordinance will assist with economic development growth which is critical to meet future economic development needs as outlined in the 2024 Economic Opportunities Analysis (EOA). The proposed code amendments provide the development community and business owners with an approval process for limited types of development that would otherwise not be possible during the sanitary sewer moratoria.

Conclusion: *Goal 9 Economic development requirements are met.*

Goal 11: Public Facilities

This goal is to establish policies to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Findings: The City's comprehensive plan contains an acknowledged Goal 11 element that contains policies to ensure sufficient and adequate public services are available (or will be available as appropriate) to serve lands within the UGB. This alternative wastewater systems option during the moratorium is a means of enabling certain limited types of development to occur without impacting the City's sanitary sewer system. Therefore, this ordinance will not be in violation of the moratorium and will not place any additional burdens on the sanitary sewer treatment system than what is already anticipated.

Conclusion: *Goal 11 Public Facilities requirements are met.*

Goal 12: Transportation

This goal is to establish policies to provide and encourage a safe, convenient, and economic transportation system.

Findings: The City's Comprehensive Plan with respect to Goal 12, its transportation system plan, and its standards governing transportation and transportation-related facilities are not affected by this decision. The City's comprehensive plan contains an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. This alternative wastewater systems ordinance would enable some industrial and commercial land to be developed, thus prompting frontage improvements, including additional sidewalks in Sandy.

Conclusion: *Goal 12 Transportation requirements are met.*



STAFF REPORT

Planning Commission

Item # 4.

Meeting Type: Planning Commission (Legislative Public Hearing)
Meeting Date: June 30, 2025
From: Patrick Depa, Senior Planner
Kelly O'Neill Jr., Development Services Director
Subject: Chapter 17.60 – Flood and Slope Hazard (FSH) Overlay District Text
Amendments (File No. 25-030 DCA - FEMA PICM Code Modifications)

DECISION TO BE MADE:

Hold a legislative public hearing to review and take comments on the proposed code amendments to Title 17, Chapter 17.60 – Flood and Slope Hazard (FSH) Overlay District of the Sandy Municipal Code and make a recommendation to the City Council.

APPLICABLE COUNCIL GOAL:

- **6.9:** Ensure compliance with state legislative and regulatory mandates through code amendments that are responsible and reflect the community's values.

BACKGROUND / CONTEXT:

The City of Sandy has floodplain regulations that apply to development within the Flood and Slope Hazard (FSH) Overlay District. The Flood and Slope Hazard (FSH) Overlay District regulations are in Chapter 17.60 of the City of Sandy Municipal Code. The FSH Overlay District is an overlay zone classification defining areas subject to periodic flooding or inundation which can result in property harm or loss, disruption of public services, hazards for public health, or added expense for public services.

Compliance with floodplain development regulations is reviewed through the land use review and building permitting process, with review responsibility by the Development Services Department and Public Works Department. The City's Floodplain Administrator for the City of Sandy is the Development Services Director. All conditions and restrictions of land use established by Chapter 17.60 are in addition to such restrictions and conditions as may be imposed and established in underlying zoning districts.

The City has adopted FEMA's 100-year floodplain maps. Anyone may view the floodplain layers on the FEMA website under - [Flood Map Service Center](#) - that shows the City of Sandy's map area number as **41005C0094E** that became effective on January 18, 2019. The City of Sandy uses the combination of the Flood and Slope Hazard (FSH) Overlay District and FEMA's 100-year floodplain as the basis for determining flood hazard.

Pursuant to the result of a 2007 lawsuit and a 2016 Biological Opinion from National Marine Fisheries Services, FEMA must develop reasonable alternatives to its current floodplain regulations and

implement changes to the National Flood Insurance Program (NFIP), to address takings of Endangered-Species Act (ESA) - listed species (Attachment 1). Since the City of Sandy participates in the NFIP, the City has mandatory compliance requirements. The City of Sandy's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In the City of Sandy there are currently twelve (12) NFIP policies in force representing \$2,887,000 in coverage.

The first stage of FEMA's compliance plan begins with Pre-Implementation Compliance Measures, or PICMs. Local governments participating in the NFIP were required to inform FEMA of their selection of one of the three following PICM options by December 1, 2024:

1. Adopt the FEMA model ordinance;
2. Require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or
3. Prohibit development in the Special Flood Hazard Area.

Based on input and recommendations from the City Attorney, City staff sent FEMA the selection to assess floodplain development requests on a permit-by-permit basis on November 18, 2024. Included in that correspondence was that the City would adopt new municipal code language by FEMA's final compliance deadline of July 31, 2025. City staff, with the City Attorney's direction, have drafted amendments to Sandy Municipal Code 17.60 Flood Slope Hazard (FSH) Overlay District (Attachment 2, Exhibit A) to implement the permit-by-permit review option in a clear and objective manner.

In addition to the usual notices provided in conjunction with a legislative land use hearing, City staff provided individual Measure 56 notices to all affected property owners in accordance with ORS 227.186. The Measure 56 notice was sent on June 9, 2025.

Staff have included some additional information on what the FEMA terms and requirements mean.

What is a mitigation assessment?

A mitigation assessment must achieve three goals:

1. Describe the existing site conditions where the proposed development and impacts are expected to occur.
2. Describe the project and its impact to the floodplain functions within the Special Flood Hazard Area.
3. Identify mitigation required to achieve no net loss.

The intention of a mitigation assessment is to demonstrate compliance with the Endangered Species Act (ESA) and the Pre-Implementation Compliance Measures requirements. ESA compliance measures require No Net Loss of three (3) floodplain functions essential to the survival of ESA-listed species under the jurisdiction of National Marine Fisheries Service within the implementation area, the establishment of riparian buffer zones (RBZ) measured from the Ordinary High-Water Mark (OHWM) of a fresh waterbody and the Mean Higher-High Waterline (MHHW) from a tidally-influenced waterbody, and beneficial gain requirement for development that is located within the RBZ.

What does 'No Net Loss' mean?

No net loss is defined as any development action resulting in negative impacts to one or more key floodplain functions (i.e. floodplain storage, water quality, and vegetation) that are then mitigated or avoided to offset said impacts. No net loss is primarily achieved through mitigation, but practicing avoidance and minimization can lessen the impact of development and the amount of mitigation required to achieve compliance.

When is a mitigation assessment required?

A mitigation assessment is required whenever a development project is proposed in the Special Flood Hazard Area in the City of Sandy. Under the permit-by-permit approach the property owner must obtain a permit for development within the floodplain. The mitigation assessment must identify existing site conditions before development occurs, describe the impact of the proposed development on existing floodplain and instream habitat functions, and identify mitigation required to achieve no net loss.

What projects and activities are exempt from ‘No Net Loss’ standards?

1. Maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;
2. Street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that do not alter contours (this does not include expansion of paved areas);
3. Maintenance of landscaping that does not involve grading, excavation, or fill;
4. Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from a special flood hazard area or tilled into fields as a soil amendment;
5. Routine silviculture practices (harvesting of trees), including hazardous fuels reduction and hazard tree removal so long as root balls are left in place;
6. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;
7. Maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;
8. Maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility;
9. Habitat restoration activities; and,
10. Pre-Emptive removal of documented susceptible trees to manage the spread of invasive species.

BUDGET IMPACT:

City Attorney charges

RECOMMENDATION:

Staff recommend that the Planning Commission hold a public hearing, discuss the proposed code modifications, and provide staff with a motion to forward to the City Council.

SUGGESTED MOTION LANGUAGE:

I move to recommend that the City Council approve the proposed text amendments to Title 17, Chapter 17.60 – Flood and Slope Hazard (FSH) Overlay District as presented in Attachment 2.

LIST OF ATTACHMENTS / EXHIBITS:

- Attachment 1. FEMA Community PICM Letter to City of Sandy
- Attachment 2. Ordinance No. 2025-16
 - Exhibit A. Code Amendments
 - Exhibit B. Findings

**FEMA**

July 15, 2024

Stan Pulliam
City Hall
39250 Pioneer Boulevard
Sandy, Oregon 97055

Dear Stan Pulliam:

The purpose of this letter is to announce the start of the United States Department of Homeland Security's Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. The intent of PICM is to ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act (ESA). These measures include coordination with communities to provide appropriate technical assistance, help identify available resources, deliver trainings, and facilitate workshops to ensure on-going community participation in the NFIP. These pre-implementation compliance measures will assist communities in preparing for the Final NFIP-ESA Implementation Plan by helping them develop short and long-term solutions to ensure their on-going participation in the NFIP.

FEMA is currently conducting a National Environmental Policy Act (NEPA) evaluation of impacts associated with the Oregon NFIP-ESA Implementation Plan. FEMA developed this plan, in part, due to a Biological Opinion in 2016 from National Marine Fisheries Services. The Biological Opinion recommended specific measures for FEMA to take to avoid jeopardizing endangered species, including interim compliance measures. The release of the Final Implementation Plan (Plan) is anticipated by 2026, following the Record of Decision in the Environmental Impact Statement (EIS) process, then FEMA will fully implement the Plan in 2027.

FEMA has heard concerns from several communities regarding challenges they are facing to meet the expectations of this Plan. To provide communities with the support needed to incorporate ESA considerations to their permitting of development in the floodplain, FEMA will inform, educate, and support our Oregon NFIP participating communities through the PICM before the Final Implementation Plan is released.

NFIP participating communities in Oregon must select one of the PICM pathways which include the following: (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard; (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or (3) putting in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA). Communities must pick a PICM pathway by December 1, 2024. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway. Communities will be required to report their floodplain development activities to FEMA beginning in January of 2025. Failure to report may result in a

compliance visit.

As a part of the PICM, FEMA will implement a delay in the processing of two types of Letters of Map Changes in the Oregon NFIP-ESA Implementation Plan area, specifically Letters of Map Changes associated with the placement of fill in the floodplain: Conditional Letter of Map Revision Based on Fill (CLOMR-F) and Letter of Map Revision Based on Fill (LOMR-F) requests. This action was specifically requested by NMFS in their 2016 Biological Opinion and serves to remove any perceived programmatic incentive of using fill in the floodplain. This delay in processing will begin on August 1, 2024, and will be in place until the Final Implementation Plan is released.

Your community's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In City Of Sandy there are currently 12 of NFIP policies in force representing \$2887000 in coverage for your community.

FEMA will be conducting informational virtual webinars this summer to provide an overview and status update for the Oregon NFIP-ESA integration, introduce the Pre-Implementation Compliance Measures, and provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff. In the fall, FEMA will hold workshops to provide in-depth opportunities for local technical staff to work with FEMA technical staff, to understand and discuss issues relating to the PICM.

The webinars will be held virtually over Zoom. The information at each webinar is the same so your jurisdiction only needs to attend one. You can register for a webinar using the links below.

- Wednesday, July 31 at 3-5pm PT: <https://kearnswest.zoom.us/meeting/register/tZEkc-murjstGdPJiFioethjRk-id8N-k0hj>
- Tuesday, August 13 at 9:30-11:30am PT: <https://kearnswest.zoom.us/meeting/register/tZAod-isrTsqGN0KqckRLPPeaZuu4rv96lcR>
- Thursday, August 15 at 2-4pm PT: https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH_zt
- Wednesday, August 21 at 12:30-2:30pm PT: https://kearnswest.zoom.us/meeting/register/tZYqcuGsrD8rH9DZO22vG0v9KrNzVeUZA9g_y

FEMA will also develop a questionnaire to allow communities to identify how they currently incorporate or plan to incorporate ESA considerations, both in the short-term and long-term. To assist communities in making this determination, FEMA will be offering guidance on the potential pathways that help ensure current compliance. Communities will also be asked to help identify what technical assistance and training would be most beneficial. Feedback from this questionnaire will drive FEMA's engagement and outreach.

Upon completion of the Environmental Impact Statement review and determination, the Final Implementation Plan will be distributed along with several guidance documents and a series of Frequently Asked Questions. FEMA will also be starting NFIP Compliance Audits, in which we will be reviewing permits issued by communities for development in the floodplain and will expect the community to be able to demonstrate what actions are being taken to address ESA considerations.

If you have any questions, please contact us through our project email address fema-r10-mit-

PICM@fema.dhs.gov. Thank you for your community's on-going efforts to reduce flood risk in your community and for your support as we worked toward these milestones.

Sincerely,



Willie G. Nunn
Regional Administrator
FEMA Region 10

cc: KellyOneill, City Of Sandy
John Graves, Floodplain Management and Insurance Branch Chief
Deanna Wright, Oregon State National Flood Insurance Program Coordinator

Enclosure: Pre-Implementation Compliance Measures Fact Sheet

Oregon National Flood Insurance Program Endangered Species Act Integration

Pre-Implementation Compliance Measures Overview

Beginning this summer, FEMA will assist communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon.

Why are the changes needed?

As the result of a Biological Opinion issued by the National Marine Fisheries Service, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in Special Flood Hazard Areas. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA). FEMA outlined these changes in the [draft Oregon NFIP-ESA Implementation Plan](#).

Current status

FEMA is evaluating proposed changes to the NFIP outlined in the Implementation Plan through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).



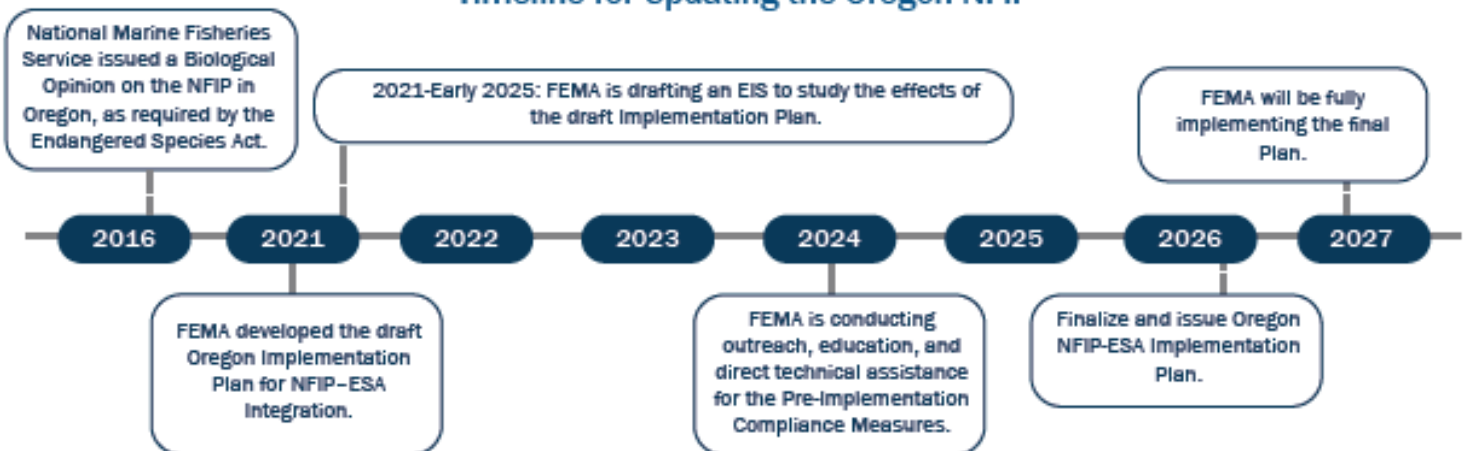
The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

What is “no net loss”?

Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities need to begin taking action to protect habitat and achieve “no net loss.” FEMA is offering several resources for communities to learn more and implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

Timeline for Updating the Oregon NFIP



What can communities do to comply with these changes?

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as PICMs. FEMA developed these measures in response to concerns from communities about the time and resources needed to meet requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits, which will begin when the Final Implementation Plan is in place.

Communities can select one of the following three PICMs:

- Prohibit all new development in the floodplain.
- Incorporate the ESA into local floodplain ordinances.
- Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”

Communities must report to FEMA on their implementation of interim measures.

In addition to the above measures, as of August 1, 2024, FEMA is temporarily suspending processing applications for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs) in NFIP communities to avoid potentially negative effects on ESA-listed species.

FEMA is here to support your community.

FEMA is offering several resources to assist communities in preparing for the Oregon NFIP-ESA Implementation Plan.

- **Informational Webinars (Summer 2024):** Learn about what FEMA is doing to revise the Implementation Plan and receive an introduction to the PICMs.
- **Questionnaire (Summer 2024):** Share what floodplain management measures your community is currently implementing to comply with the ESA, which PICMs you’re most interested in, and what support you need. Your feedback will help us plan the fall workshops and identify needs for technical assistance.
- **Workshops (Fall 2024):** Get an in-depth look at PICMs and talk through questions and concerns with FEMA staff.
- **Technical Assistance (Begins in Fall 2024):** Get support from FEMA to begin implementing PICMs.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov



ORDINANCE NO. 2025-16

AN ORDINANCE AMENDING CHAPTER 17.60 FLOOD SLOPE HAZARD OVERLAY DISTRICT RELATED TO THE FLOODPLAIN REGULATIONS AND DECLARING AN EMERGENCY

WHEREAS, Title 17, Development Code of Sandy's Municipal Code (SMC), establishes requirements for development regulations in the City of Sandy; and

WHEREAS, Title 17, Chapter 17.60 – Flood and Slope Hazard (FSH) Overlay District includes floodplain regulations for the city of Sandy; and

WHEREAS, pursuant to a 2007 lawsuit, the National Marine and Fisheries Service (NMFS) issued a Biological Opinion requiring FEMA to develop reasonable and prudent alternatives (RPAs) to its current floodplain regulations and implement changes to the National Flood Insurance Program (NFIP) to address takings of Endangered-Species Act (ESA)-listed species in Oregon.; and

WHEREAS, the first stage of FEMA's compliance plan began with Pre-Implementation Compliance Measures (PICMs); and

WHEREAS, when FEMA issued the PICMs, FEMA stated that local governments participating in the NFIP were required to inform FEMA of their selection of one of the three following PICM options by December 1, 2024: prohibit all new floodplain development; assess floodplain development requests on a case-by-case basis; or adopt the FEMA model ordinance; and

WHEREAS, based on advice received from the City Attorney, two of the options presented by FEMA were not favorable and therefore City staff sent the selection to assess floodplain development requests on a case-by-case basis on November 18, 2024, prior to the deadline established by FEMA; and

WHEREAS, FEMA has required local governments to implement their selected PICM no later than July 31, 2025; and

WHEREAS, staff and the City Attorney have developed proposed code amendments intended to meet FEMA requirements while also complying with state law, including requirements relating to clear and objective standards; and

WHEREAS, the Planning Commission held a public hearing on June 30, 2025, allowing the public an opportunity to provide testimony on the proposed code amendments; and

WHEREAS, the City Council held a public hearing on July 21, 2025, allowing the public an opportunity to provide testimony on the proposed code amendments.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: The amended Title 17 Development Code, Chapter 17.60, attached as Exhibit A to this Ordinance, is hereby adopted in its entirety and replaces the existing Chapter 17.60 of the Sandy Municipal Code (SMC).

Section 3: This ordinance is supported by findings, attached as Exhibit B, and incorporated by reference.

Section 2: To comply with the mandatory FEMA compliance deadline of July 31, 2025, an emergency is hereby declared and this ordinance shall take effect on July 31, 2025.

This ordinance is adopted by the City Council of the City of Sandy this 21st day of July, 2025.

Kathleen Walker, Mayor

ATTEST:

Jeffrey Aprati, City Recorder

DRAFT

Title 17 - DEVELOPMENT CODE
CHAPTER 17.60 FLOOD AND SLOPE HAZARD (FSH) OVERLAY DISTRICT

CHAPTER 17.60 FLOOD AND SLOPE HAZARD (FSH) OVERLAY DISTRICT¹

Sec. 17.60.00. Intent.

This chapter is intended to promote the public health, safety and general welfare by minimizing public and private adverse impacts from flooding, erosion, landslides or degradation of water quality consistent with Statewide Planning Goals 6 (Air, Land and Water Resources Quality) and 7 (Areas Subject to Natural Disasters and Hazards) and the Sandy Comprehensive Plan (SCP). This chapter is also intended to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. 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;
- F. 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;
- G. Notify potential buyers that the property is in a Special Flood Hazard Area;
- H. Verify that development has achieved no net loss of key floodplain functions;
- ~~H.I.~~ Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
- ~~I.J.~~ Participate in and maintain eligibility for flood insurance and disaster relief.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.10. Interpretation and mapping.

The Director has the ultimate responsibility for maintaining the FSH Overlay District on the City of Sandy Zoning Map, determining on-site measuring methods, and otherwise interpreting the provisions of this chapter. Technical terms used in this chapter are defined in Chapter 17.10, Definitions. This chapter does not regulate development on lots or parcels entirely outside the FSH Overlay District.

- A. *FSH Overlay District.* The only areas subject to the restrictions and prohibitions of the FSH overlay district are those indicated on the City of Sandy Zoning Map on file in the Planning Department and areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "Flood Insurance Study (FIS) for Clackamas County, Oregon and

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2019-01, effective January 7, 2019. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

Incorporated Areas," dated January 18, 2019, with accompanying Flood Insurance Rate Maps (FIRMs). This chapter does not regulate lots or parcels entirely outside the FSH Overlay District.

1. The FIS and FIRMs are hereby adopted by reference and declared to be a part of Section 17.60 and are on file at the City of Sandy.
- B. *Development Approval Required.* No development shall occur within the FSH overlay district without first obtaining City approval under the provisions of this chapter. The Director shall notify the Oregon Division of State Lands whenever any inventoried wetland is proposed for development, in accordance with ORS 227.350. In riverine situations, the Director shall notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the administrator.
- C. *Interpretation.* All provisions of the FSH overlay code 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.
- D. *Applicant Responsibilities.* The applicant for alteration or development within the FSH overlay district shall be responsible for preparing a survey of the entire site, based on site-specific field surveys or Corps of Engineers data that precisely maps and delineates the following areas:
 1. The name, location and dimensions of affected streams or rivers, and the tops of their respective banks.
 2. Area of Special Flood Hazard boundaries and elevations as determined by the January 18, 2019 FIS for Clackamas County and Incorporated Areas.
 3. The City of Sandy FSH overlay district boundary as depicted on the City of Sandy FSH Map.
 4. The water quality and slope setback area(s) as defined in Section 17.60.30.
 5. The size and location of locally significant wetlands shall be determined based on the City of Sandy Locally Significant Wetland Inventory (2002) unless modified by a wetland delineation approved by the Oregon Division of State Lands and submitted to the City. Wetland delineations that have formal concurrence from the Division of State Lands shall be valid for the period specified in that agency's administrative rules.
 6. Steep slope areas where the slope of the land is 25 percent or greater within the FSH overlay district boundary.
 7. The area enclosed by a continuous line, measured 25 feet horizontally, parallel to and upland from the top of a steep slope area, where the top of the steep slope is within the FSH overlay district boundary.
 8. Existing public rights-of-way, structures, roads and utilities.
 9. Natural vegetation, including trees six inches DBH or greater or tree groves and understory within the FSH Overlay District boundary.
 10. Existing and proposed contours at two-foot intervals.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.20. Permitted uses and activities.

This chapter lists permitted uses, or uses allowed under prescribed conditions, within the FSH overlay district. Where there are conflicts, this chapter supersedes the use provisions of the underlying district.

- A. *Restricted Development Areas.* Restricted development areas within the FSH overlay district as shown on the City of Sandy Zoning Map include:
 - 1. Slopes of 25 percent or greater that:
 - a. encompass at least 1,000 square feet; and
 - b. have an elevation differential of at least ten feet.
 - 2. Protected water features, including locally significant wetlands, wetland mitigation areas approved by the Division of State Lands, and perennial streams.
 - 3. Required setback areas as defined in Section 17.60.30.
- B. *Permitted Uses.* Permitted uses within restricted development areas are limited to the following:
 - 1. Open space and trails provided they are constructed consistent with standards in the 2022 Parks and Trails Master Plan.
 - 2. Removal of refuse and permitted fill.
 - 3. Planting of native vegetation species included in the City of Portland Plant List.
 - 4. Removal of non-native/invasive vegetation, dead or dying trees, or vegetation that is hazardous to the public.
 - 5. Removal of up to two trees of six inches or greater DBH in a calendar year, provided that each tree removed is replaced with two native trees, each of which must meet the standards in Section 17.92.50 and be placed within the restricted development area of the site.
 - 6. Construction or expansion of public facilities or private roads necessary to support permitted development.
 - 7. Construction or expansion of a single-family residence or duplex on a legal lot, provided the standards in Subsections a. through d., below, are met. If these standards cannot be met, exceptions may be approved in accordance with Subsection e.
 - a. The site review, engineering, erosion control, water quality, and re-vegetation standards of this chapter shall be fully satisfied.
 - b. The maximum disturbance area (permanent and temporary) allowed within the restricted development areas on a lot is determined by subtracting the area of the Buildable Portion of the lot from 4,000 square feet.
 - i. For purposes of this subsection, the Buildable Portion of the lot is the largest single contiguous area of the lot outside of the restricted development area.
 - ii. Except as specified in subsection iii, below, if the Buildable Portion of the lot is less than 4,000 square feet, encroachment into the restricted development area shall be limited to the amount of area needed to make up for the deficit.
 - iii. If the dimensions of the Buildable Portion of the lot are such that a 40-foot by 40-foot area cannot be located within the Buildable Portion of the lot, encroachment into the restricted development area shall be limited to the minimum area needed to accommodate a 40-foot by 40-foot area.

- c. In addition to the maximum disturbance area established by Subsection b., a stormwater facility serving only a single residential lot may be located on the site provided there is no disturbance to existing tree canopy, and it is located outside the critical root zone of existing trees over six inches DBH.
- d. Development shall not result in cuts or fills in excess of three feet except for basement construction.
- e. Exceptions to Subsections a. through d. may be approved by the Director through a Type II review provided the applicant demonstrates that:
 - i. There is insufficient buildable land on the lot to allow the proposed construction or expansion.
 - ii. An adjustment under Section 17.60.110_ is not sufficient to avoid impacts on restricted development areas.
 - iii. The design and location of the proposed construction or expansion minimizes adverse impacts to restricted development areas to the extent feasible.
 - iv. If the additional impervious area is for a driveway, a longer driveway will avoid required setbacks from protected water features, and the driveway will either: (a) more closely follow hillside contours and thereby reduce overall cut and fill area by at least 20 percent; or (b) avoid tree clusters and thereby reduce the number of six-inch or greater DBH trees that must be removed by at least 20 percent.
 - v. In no case shall the total disturbance area within restricted development areas exceed 10,000 square feet.
- 8. Replacement of a single-family dwelling constructed over substantially the same footprint as the original single-family dwelling. "Substantially the same footprint" means that the replacement footprint is relocated no more than ten feet from the original footprint in any direction except closer to the stream/wetland/steep slope.
- 9. Repair or stabilization of unstable slopes.
- 10. Stream bank restoration, subject to a stream bank restoration plan. This plan must:
 - a. Be prepared by a team of specialists in the fields of stream morphology, water quality, and riparian vegetation approved by the Director.
 - b. Remove invasive vegetation and replace it with multi-layered native vegetation that provides for stream shading within the entire stream bank.
 - c. Reduce the steepness of the bank along reaches that have been highly eroded.
 - d. Reduce the velocity of water carried by the stream.
 - e. Include guarantees and funding to assure at least a 90 percent survival rate of native plants over a three-year period. This guarantee shall be in one of the following forms:
 - i. A surety bond executed by a surety company authorized to transact business in the state of Oregon in a form approved by the City Attorney.
 - ii. In lieu of the surety bond, the applicant may:
 - Deposit with the City cash money to be released only upon authorization of the Director;

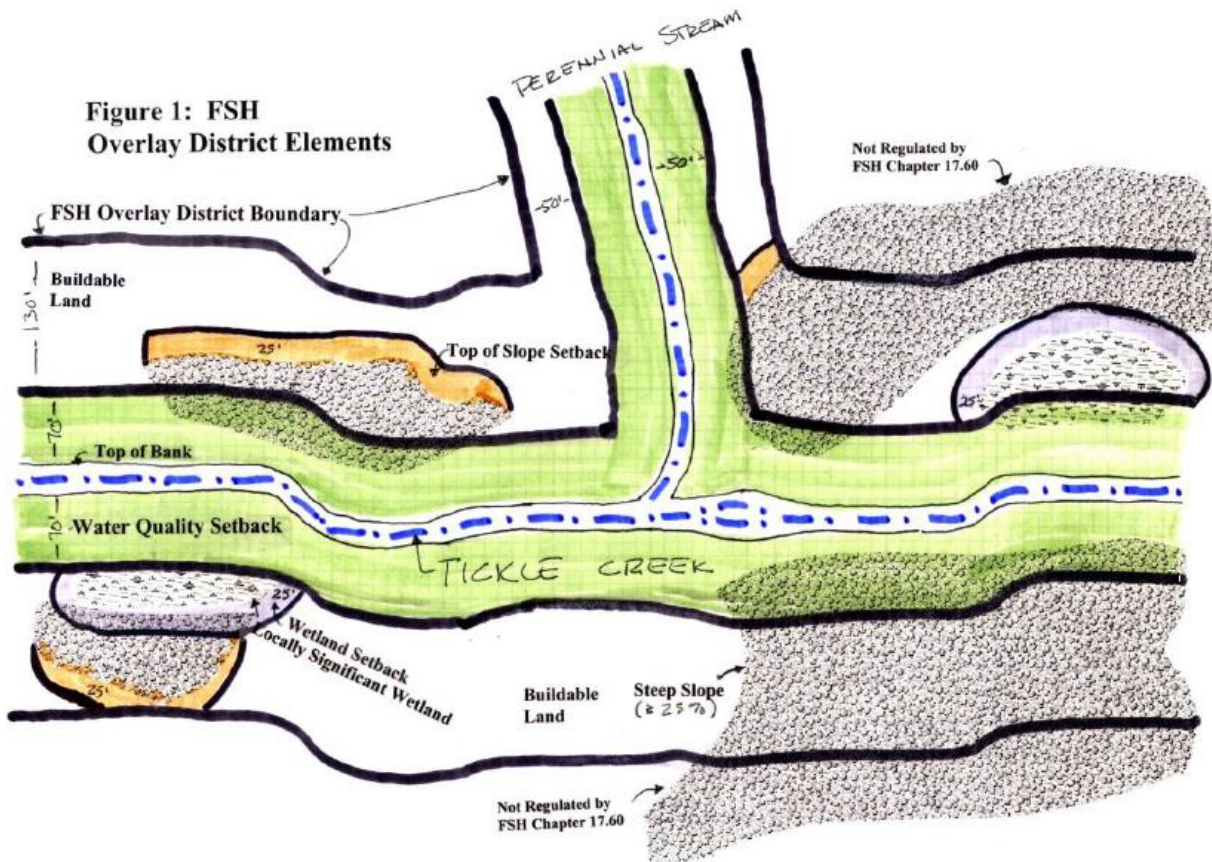
- Supply certification by a bank or other reputable lending institution that an irrevocable letter of credit in compliance with the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits, UCP 600 or most current revision has been established to cover the cost of required improvements, to be released only upon authorization of the Director; or
 - iii. Such assurance of full and faithful performance shall be for a sum determined by the Director as sufficient to cover the cost of required restoration.
 - iv. If the applicant fails to construct one or more of the guaranteed restoration improvements and the City has expenses resulting from such failure, the City shall call on the performance guarantee for reimbursement. If the amount of the performance guarantee exceeds the expense incurred, the remainder shall be released. If the amount of the performance guarantee is less than the amounts of expense incurred by the City, the applicant shall be liable to the City for the excess costs. If the applicant fails to reimburse the City for expenses incurred to complete the public improvements, the City shall place a lien on the property in an amount equal to the City's costs.
11. Maintenance of existing landscaping on existing lots of record is permitted and is exempt from the requirements of the FSH Overlay District.
 12. Appurtenant structures as permitted under Section 17.60.70.[J.L.](#)
- C. *Platting of New Lots.* No new lot shall be platted or approved for development that is exclusively in restricted development areas as defined in Subsection 17.60.20.A.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.30. Required setback areas.

Setback areas shall be required to protect water quality and maintain slope stability near stream corridors and locally significant wetlands. Setbacks are measured horizontally from, parallel to, and upland from the protected feature.

- A. *Required Setbacks.* The required special setback(s), as illustrated in Figure 1, shall be:
1. Eighty feet from the top of bank of Tickle Creek and other fish-bearing streams (this supersedes the setback in Figure 1).
 2. Fifty feet from the top of bank along other perennial streams, except for "No Name Creek" east of Towle Drive, as provided in Subsection 17.60.30.C.2.
 3. Twenty-five feet around the edge of any mapped locally significant wetland.
 4. Twenty-five feet from the top of any 25 percent slope break where the slope break occurs within the FSH overlay district as mapped by the City.



- B. *Minimize Impacts.* Natural vegetation shall be preserved and enhanced, and excavation minimized within required water quality setback areas.
- C. *Exceptions, Intent.* Exception 1 below recognizes that existing hillside, stormwater detention, and erosion control measures are sufficient to maintain water quality and quantity in areas of steep slopes separated from streams and wetlands by improved public streets in existing rights-of-way. Exception 2 recognizes that "No Name Creek" east of Towle Drive has been severely impacted by culverting, erosion, and invasive plants, and has only a few remaining infill sites adjacent to its banks. This exception is intended to encourage appropriate development of these infill sites and the opening and restoration of No Name Creek.
 - 1. Land lying within the FSH overlay district, but upland from an existing public right-of-way with an improved public street, shall not be subject to the steep slope restrictions of this chapter. Such land shall remain subject to applicable Section 17.56 Hillside Regulations and shall comply with required setbacks set forth in Subsection 17.60.30.A.3.
 - a. Applications for development that include only areas that meet this exception and have existing improved public streets and have no locally significant mapped wetlands are not subject to the provisions of this chapter.
 - 2. The required setback for "No Name Creek" east of the Towle Drive crossing may be reduced to 25 feet, subject to approval of a "stream bank restoration plan" that meets the standards of Subsection 17.60.20.B.10.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.40. Review procedures.

Review of development requests within the FSH Overlay District shall occur subject to the following procedures. Type II and III development applications shall be reviewed by the Director to ensure consistency with Sections 17.60.60-17.60.70. Section 17.60.50 special reports shall also be required, unless specifically exempted by the Director.

- A. *Type I Procedure.* The following uses shall be reviewed under a Type I procedure:
 1. Planting of native plant species identified in the City of Portland Plant List.
 2. Removal of permitted fill.
 3. Removal of non-native/invasive vegetation, dead, or dying vegetation that is hazardous to the public.
 4. Removal of up to two trees of six inches or greater DBH in a calendar year.
 5. Appurtenant structures as permitted under Subsection 17.60.70.[JL](#).
- B. *Type II Procedure.* The following uses shall be reviewed under a Type II review procedure:
 1. Construction or expansion of major public facilities identified in sanitary, storm, water, street, or parks master plans or of minor public facilities necessary to support development, where no other practical alternative exists.
 2. Construction or expansion of trails.
 3. Construction, expansion, or replacement of a single-family residence or duplex within a restricted development area or floodway on a legal lot.
 4. Repair and stabilization of unstable slopes. If emergency slope stabilization is required and authorized by the City Engineer, a Type II development application shall be submitted to the City within 60 days of having taken the emergency action.
 5. Stream bank restoration plans, consistent with the requirements of Subsection 17.60.20.B.10.
 6. Exemption of Type II development applications from one or more required reports.
 7. Development that is completely outside restricted development areas, as determined by available mapping based on site-specific information provided by the applicant and reviewed by a third-party professional consistent with Subsection 17.60.10.C. Such site-specific information shall remain valid for five years from the date approved by the Director, provided that topographical or hydrological changes have not occurred on the site that could invalidate such information.
 8. Development requests that are similar in scope and impact, as determined by the Director, except that no other residential uses shall be considered beyond the provisions of Subsection B.3. The Director shall include the justification for the classification decision in the required notice to affected property owners.
- C. *Type III Procedure.* The Planning Commission shall review all other public and private development requests under a Type III procedure.
- D. *Establishment of Development Decision.* A development decision shall be obtained before construction or development begins, within any Area of Special Flood Hazard. Application for a development permit may be made on forms provided by the Director and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in

question, existing or proposed structures, fill storage of materials, drainage facilities and the location of the aforementioned. Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level of the lowest floor (including basement of all structures).
2. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria detailed in Subsection 17.60.70.FH. below.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.50. Special reports.

Where development is proposed on restricted development areas within the FSH overlay district as defined in Subsection 17.60.20.A., the following special reports shall be submitted. These reports shall be in addition to other information required for specific types of development and shall be prepared by professionals in their respective fields.

The Director may require one or more of these reports where necessary to address potential adverse impacts from development on buildable land within the FSH overlay district. Applications for residential construction allowed under Subsection 17.60.40.B.3. that are not requesting any exceptions or adjustments are exempt from requirements to submit these reports. The Director may exempt Type II permit applications from one or more of these reports where impacts are minimal and the exemption is consistent with the purpose of the FSH overlay zone as stated in Section 17.60.00.

- A. *Hydrology and Soils Report.* This report shall include information on the hydrological conditions on the site, the effect of hydrologic conditions on the proposed development, the proposed development's impact on surface and groundwater flows to wetlands and streams, and any hydrological or erosion hazards. This report shall also include soils characteristics of the site, their suitability for development, carrying capacity, and erosion or slumping characteristics that might present a hazard to life and property, or adversely affect the use or stability of a public facility or utility. Finally, this report shall include information on the nature, distribution, and strength of existing soils; the adequacy of the site for development purposes; and an assessment of grading procedures required to impose the minimum disturbance to the natural state. A licensed professional engineer registered in Oregon shall prepare the hydrology and soils report.
- B. *Grading Plan.* The grading plan shall be specific to a proposed physical structure or use and shall include information on terrain (two-foot intervals of property), drainage, direction of drainage flow, location of proposed structures and existing structures which may be affected by the proposed grading operations, water quality facilities, finished contours or elevations, including all cut and fill slopes and proposed drainage channels. Project designs including but not limited to locations of surface and subsurface devices, walls, dams, sediment basins, storage reservoirs, and other protective devices shall form part of the submission. The grading plan shall also include: 1) construction phase erosion control plan consistent with the provisions of Chapter 15.44; and 2) schedule of operations. A licensed professional engineer registered in Oregon shall prepare the grading and erosion control plan.

- C. *Native Vegetation Report.* This report shall consist of a survey of existing vegetative cover, whether it is native or introduced, and how it will be altered by the proposed development. Measures for revegetation with native plant species will be clearly stated, as well as methods for immediate and long-term stabilization of slopes and control of soil erosion. A landscape architect, landscape designer, botanist, or arborist with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation shall prepare the vegetation report. The applicant shall be responsible for replacing any native plant species that do not survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.60. Approval standards and conditions.

The approval authority may approve, approve with conditions, or deny an application based on the provisions of this chapter. The approval authority may require conditions necessary to comply with the intent and provisions of this chapter. Residential construction allowed under Subsection 17.60.40.B.3. is subject to the approval standards in Subsection B. All other uses are subject to the approval standards in Subsection A.

- A. *Approval Standards.* The following approval standards apply to development proposed within restricted development areas of the FSH overlay district.
1. *Cumulative Impacts.* Limited development within the FSH overlay district, including planned vegetation removal, grading, construction, utilities, roads and the proposed use(s) of the site will not measurably decrease water quantity or quality in affected streams or wetlands below conditions existing at the time the development application was submitted.
 2. *Impervious Surface Area.* Impervious surface area within restricted development areas shall be the minimum necessary to achieve development objectives consistent with the purposes of this chapter.
 3. *Construction Materials and Methods.* Construction materials and methods shall be consistent with the recommendations of special reports, or third-party review of special reports.
 4. *Cuts and Fills.* Cuts and fills shall be the minimum necessary to ensure slope stability, consistent with the recommendations of special reports, or third-party review of special reports.
 5. *Minimize Wetland and Stream Impacts.* Development on the site shall maintain the quantity and quality of surface and groundwater flows to locally significant wetlands or streams regulated by the FSH Overlay District.
 6. *Minimize Loss of Native Vegetation.* Development on the site shall minimize the loss of native vegetation. Where such vegetation is lost as a result of development within restricted development areas, it shall be replaced on-site on a two:one basis according to type and area. Two native trees meeting the standards in Section 17.92.50. shall replace each tree removed. Disturbed understory and groundcover shall be replaced by native understory and groundcover species that effectively covers the disturbed area.
- B. *Approval Standards for Residential Construction.* The following standards apply to residential construction allowed under Subsection 17.60.40.B.3.
1. *Cumulative Impacts.* Limited development within the FSH overlay district will not measurably decrease water quantity or quality in affected streams or wetlands below conditions existing at the time the development application was submitted.

2. *Impervious Surface Area.* The maximum impervious surface coverage within restricted development areas shall be 2,500 square feet, unless an exception is granted as part of a discretionary review, pursuant to Subsection 17.60.20.B.7.d.
 3. *Construction Materials and Methods.* Construction materials and methods shall be consistent with the recommendations of special reports, or third-party review of special reports.
 4. *Cuts and Fills.* Development shall not result in cuts or fills in excess of three feet except for basement construction, unless specifically approved by the Director as part of a discretionary review.
 5. *Minimize Wetland and Stream Impacts.* Development on the site shall maintain the quantity and quality of surface and groundwater flows to locally significant wetlands or streams regulated by the FSH Overlay District, consistent with the recommendations of special reports, or third-party review of special reports.
 6. *Minimize Loss of Native Vegetation.* Where native vegetation is lost as a result of development within restricted development areas, it shall be replaced on-site on a two:one basis according to type and area. Two native trees meeting the standards in Section 17.92.50 shall replace each tree removed. Disturbed understory and groundcover shall be replaced by native understory and groundcover species that effectively covers the disturbed area.
- C. All development permits for areas partially or fully within the Area of Special Flood Hazard shall be reviewed by the Director to determine that:
1. The permit requirements of Chapter 17.60 have been satisfied;
 2. All other required state and federal permits have been obtained; and,
 3. For residential construction allowed under Subsection 17.60.40.B.3., the standards in Section 17.60.70.EG have been met; or
 4. For all other uses, the site is reasonably safe from flooding.
- D. *Conditions.* The required reports shall include design standards and recommendations necessary for the engineer and landscape expert to certify that the standards of this chapter can be met with appropriate mitigation measures. These measures, along with third party reviewer and staff recommendations, shall be incorporated as conditions into the final decision approving the proposed development.
- E. *Assurances and Penalties.* Assurances and penalties for failure to comply with mitigation, engineering, erosion, and water quality plans required under this chapter shall be as stated in Chapter 17.06.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.70. Floodplain regulations.

This section regulates development within the Area of Special Flood Hazard. For purposes of this section, “floodplain functions” mean flood storage, water quality, and riparian vegetation conditions. A “floodplain mitigation assessment” is an assessment of the portions of a site that are within the special flood hazard area, performed by a qualified professional, that identifies existing site conditions before development occurs, describes the impact the proposed development would have on existing floodplain functions within the applicable portion of the existing site, and identifies the mitigation needed for the proposed development to result in no net loss of those floodplain functions. The City website includes the guidance prepared by the Federal Emergency Management Agency for preparation of a floodplain mitigation assessment.

“No net loss” means adverse impacts to floodplain functions are avoided or offset so that there is no net change in the applicable floodplain functions from the existing condition when a development application is submitted to the City, as further described in NMFS Consultation No. NWR-2011-3197. A “qualified professional” is a person who has a minimum of a bachelor’s degree in wildlife or fisheries habitat biology, or a related degree in a biological field from an accredited college or university with a minimum of four years’ experience as a practicing fish or wildlife habitat biologist; or is listed on the Oregon Department of Transportation’s official list of consultants qualified to provide Endangered Species Act Documentation.

A. An application for a permit to develop in the area of special flood hazard shall include the following:

1. Either:

- a. A statement confirming that the applicant has obtained a floodplain mitigation assessment of the proposed development performed by a qualified professional;
- b. A statement that, in addition to being covered by the consultation and biological opinion issued by the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS) for the Federal Emergency Management Agency’s implementation of the National Flood Insurance Program in Oregon (NMFS Consultation No. NWR-2011-3197), the development proposed by the application is a project or project action that is covered by another formal consultation with NMFS or the United States Fish and Wildlife Service, pursuant to Section 4(d), 7, or 10 of the Endangered Species Act of 1973;
- c. A statement that the development proposed by the application fits within the nature and scope of the project types that are addressed in an existing full programmatic habitat assessment of all current and reasonably foreseeable future conditions; or
- d. A statement that the development proposed by the application is exempt from the requirement for a floodplain mitigation assessment because it is one or more of the following activities:
 - i. Normal maintenance, repairs, or remodeling of structures, such as re-roofing and replacing siding, that does not (1) alter the footprint or expand the roof of the structure or (2) constitute a substantial improvement or repair of substantial damage (meaning the work must be less than 50 percent of the market value of the structure(s)).
 - ii. Routine maintenance of streets, sidewalks, paths and roads (including but not limited to filling potholes, repaving, and installing signs and traffic signals) that does not alter contours or culverts, that is less than six inches above grade, and that does not expand paved areas;
 - iii. Routine maintenance of landscaping that does not include grading, excavation, or filling;
 - iv. Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration and that removes all spoils from the special flood hazard area or tills spoils into fields as a soil amendment;
 - v. Routine silviculture practices (harvesting of trees), including hazardous fuels reduction and hazard tree removal with root balls left in place;
 - vi. Removal of noxious weeds and hazard trees or replacement of non-native vegetation with native vegetation;

- vii. Normal maintenance of above and below ground utilities and facilities, such as replacing downed power lines and utility poles that does not result in a net change in footprint;
 - viii. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility (this does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor);
 - ix. Habitat restoration activities;
 - x. Activities with the sole purpose of creating, restoring, or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas, provided the activities meet federal and state standards and do not include structures, grading, fill, or impervious surfaces;
 - xi. Repair to onsite septic systems, provided ground disturbance is the minimal necessary and best management practices are utilized to prevent stormwater runoff and soil erosion; and
 - xii. Pre-emptive removal of documented susceptible trees to manage the spread of invasive species.
2. If the applicant has confirmed that it has obtained a floodplain mitigation assessment under Section 17.60.70.A.1.a. above, a statement confirming that the proposed development activities, as shown on the design plans and drawings submitted with the application, include measures to incorporate all mitigation identified in the floodplain mitigation assessment as needed for no net loss of floodplain functions.
- B. The City will deny a permit to develop in the area of special flood hazard unless the applicant submits a statement meeting the requirements of Section 17.60.70.A.1.
- AC.** *Residential and Non-residential Structures.* No new residential structures (including manufactured dwellings) with the exception of Subsection 17.60.40.B.3., non-residential structures or critical facilities shall be permitted in the Area of Special Flood Hazard.
- BD.** *Flood Storage Capacity.* On-site flood storage capacity shall not decrease as a result of development. The cumulative effects of any proposed development shall not reduce flood storage capacity or raise base flood elevations on- or off-site.
- CE.** *Public Facilities and Private Roads.* Generally, public facilities and private roads shall avoid restricted development areas. However, where avoidance cannot be achieved consistent with City-approved facilities master plans and sound engineering principles, the following standards shall be met.
1. The facility shall be designed, located and constructed to minimize flood damage, excavation and loss of native vegetation and to avoid raising flood levels. Facilities and roads located within a floodway may be permitted only where a registered professional engineer certifies based on hydrologic and hydraulic analysis performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Utilities necessary to serve permitted development, or a single family home on a legally-approved lot-of-record, may be permitted only where a registered professional engineer or architect certifies based on hydrologic and hydraulic analysis performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge, and that water quality will not be adversely affected.

2. Water supply and sanitary sewer facilities shall be designed, located and constructed to avoid infiltration of floodwaters into the system, and to avoid discharges from such facilities to floodwaters, streams and wetlands.
3. On-site septic systems, waste disposal systems, and private wells shall be prohibited within the FSH overlay district.

E. *Structural Elevation Report.* An application for any substantially improved structure, nonresidential structure or manufactured dwelling within the area of special flood hazard shall include the elevation, referenced to mean sea level, of the lowest floor, of the bottom of the lowest horizontal structural member (for manufactured dwellings), or the elevation to which the structure will be flood-proofed. The elevation of the lowest floor, and any basement area and the elevation of the service facilities/mechanical equipment shall also be provided. A professional engineer registered in Oregon shall prepare the structural elevation certificate.

EG. *Existing Residential Structures (including new construction allowed per Subsection 17.60.40.B.3.).* Improvements and substantial improvements to an existing residential structure (including manufactured dwellings) or replacement of a single family residence per Subsection 17.60.20.B.8. in a flood-prone area shall comply with the following:

1. Improvements shall be adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Materials used shall be resistant to flood damage;
3. Utilities shall be designed and/or located to prevent water from entering or accumulating within the components during flooding;
4. The lowest floor (including basement) shall be elevated at least one foot above the base flood level;
5. Fully enclosed areas below the lowest floor used solely for vehicle parking or building access or storage in an area other than a basement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters and shall either be designed and certified by a registered professional engineer or architect or 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

FH. *Existing Non-Residential Structures.* Improvements and substantial improvements to existing non-residential structures within the floodplain shall comply with one of the following:

1. Elevate the lowest floor (including basement) at least one foot above the base flood level and ensure that any area below the elevated lowest floor meets the requirements of paragraph E.5. and E.5.a., above;
2. Walls and utilities of structures below the base flood level shall be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of NFIP Regulations per Volume 44 of the Code of Federal Regulations.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Director for verification; or certification by a registered professional engineer or architect that the floodproofing requirements of this section are satisfied, including the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be provided to the Director for verification.

G.I. *Recreational Vehicles.* Recreational Vehicles within the floodplain shall comply with one of the following:

1. Be located on the site for fewer than 180 consecutive days; and
2. Be fully licensed and ready for highway use; or
3. Meet the elevation and anchoring requirements for manufactured homes dwellings and permit requirements of NFIP Regulations.

H.J. *Anchoring.* All new construction and substantial improvements (including manufactured dwellings) shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

K. *Construction materials and methods.*

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

L. *Appurtenant Structures (Detached Garages and Storage Structures).* Appurtenant structures used solely for parking of vehicles or storage may be constructed such that the floor is below the Base Flood Elevation, provided the structure is designed and constructed in accordance with the following requirements:

1. Use of the appurtenant structure must be limited to parking of vehicles or storage;
2. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
3. The appurtenant structure must be adequately anchored to prevent flotation, collapse and lateral movement;
4. Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the Base Flood Elevation;
5. The appurtenant structure must meet the floodway requirements of Chapter 17.60 and must not result in any increase in base flood elevations and this shall be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices;
6. The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Subsection 17.60.70.EG.5.;

7. The appurtenant structure must not be used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank elevated at least one foot above Base Flood Elevation; and
8. Shall not exceed the size requirements in the State of Oregon Residential and Structural Specialty Codes and shall not exceed one story.

Detached garages, storage structures and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards of Chapter 17.60.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.80. Notification to other entities and recordkeeping.

- A. Whenever a watercourse is to be altered or relocated, notification shall be sent to Clackamas County and DLCD prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means (i.e. submittal of a Letter of Map Revision (LOMR)), and assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
- B. Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Director shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- C. Notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.
- D. Obtain and maintain the following for public inspection and make available as needed:
 1. Obtain and record the actual elevation (in relation to the mean sea level) of the lowest floor (including basements) of all new or substantially improved structures, and whether or not the structure contains a basement.
 2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level), and
 - b. Maintain the floodproofing certifications required in Subsection 17.60.70.F.H.
 3. Obtain and maintain certification for flood openings when certification is required under Subsection 17.60.70.E.G.5.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.90. Water quality treatment facilities.

Tickle Creek, the Sandy River, and associated natural drainage ways are vital to Sandy's recreationally based economy and to the quality of life of Sandy residents. Placement of water quality facilities shall be limited as follows:

- A. The water quality facility shall not be constructed in restricted development areas, except where necessary to serve approved development within restricted development areas (e.g., a road) and where no reasonable alternative exists in buildable areas of the site.

- B. Where the approval authority determines that a more efficient and effective regional site exists within the sub-basin, the water quality facility may be constructed off-site.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.100. Density transfer provisions.

Residential density transfer may be approved subject to the following:

- A. *Required Setback Areas.* Density may be transferred from restricted development areas (i.e., steep slopes, protected water features and required setbacks) to buildable portions of the site.
- B. *Density Maximum.* The maximum gross density for the buildable area of the site shall not exceed 150 percent of the maximum density allowed by the underlying zoning district for that buildable area.
- C. *Housing Types Not Permitted in Underlying Zoning District.* Housing types not permitted in the underlying zoning district may only be approved through the SAP (specific area plan) process.
- D. *Transfer Area.* Transfer of density may only occur within the same property and/or to properties contiguous to the primary property. The term "primary property" identifies the legal lot from which density is to be transferred to "secondary property(s)." Further development or land use action on the primary or secondary properties shall be reviewed together in the same application.

(Ord. No. 2021-16, § 9(Exh. I), 8-16-2021; Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.110. Adjustments.

Variances to Chapter 17.60 provisions are not permitted. In contrast, adjustments to dimensional standards of the underlying zoning district may be approved when necessary to further the intent of this overlay district.

- A. *Adjustment Option.* One or more adjustments to the setback, height, or lot area standards of the underlying zoning district may be approved to allow development consistent with the intent of the FSH overlay district. The intent of the adjustment process is to reduce adverse impacts on water quantity and quality, locally significant wetlands and perennial streams, and on the potential for slope or flood hazards.
- B. *Adjustment Criteria.* A special FSH adjustment may be requested when development is proposed within the FSH overlay district. Adjustments are reviewed under the procedure type applicable to the primary application. The applicant shall demonstrate that the following criteria are fully satisfied:
 1. The adjustment is the minimum necessary to allow a permitted use, while at the same time minimizing disturbance to restricted development areas.
 2. Explicit consideration has been given to maximizing vegetative cover, minimizing excavation, and minimizing impervious surface area on restricted development areas.
 3. Design options have been considered to reduce the impacts of development, including but not limited to multi-story construction, siting of residences close to streets to reduce driveway distance, maximizing the use of native landscaping materials, minimizing parking area and garage space.
 4. In no case shall the impervious surface area (including the building footprint, parking areas, accessory structures, swimming pools and patios) exceed 2,500 square feet of restricted development area except for a private drive that reduces the disturbance to restricted development areas.

5. Assurances are in place to guarantee that future development will not encroach further onto restricted development areas under the same ownership.
6. The Planning Commission or Director may impose any reasonable condition necessary to mitigate identified impacts resulting from development on otherwise restricted development areas.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Sec. 17.60.120. Disclaimer.

The degree of hazard protection afforded by adherence to the provisions of this chapter is considered reasonable for regulatory purposes and is based on the best available engineering and scientific information available to the City. Larger floods than those anticipated by the chapter may occur. Landslides may occur in areas outside of the delineated steep slope and constrained slope boundaries. This chapter does not imply that areas outside the FSH overlay district or land use permitted within FSH boundaries will be free from any significant flooding, mass movement, landslide damage, erosion, or water pollution. This chapter shall not create liability on the part of the City of Sandy for any damage that results from reliance on the provisions of this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 2024-01, § 1(Exh. A), 2-20-2024)

Ordinance 2025-16 Findings

Goal 1: Citizen Involvement

This goal calls for "the opportunity for citizens to be involved in all phases of the planning process."

Findings: The City held public hearings before both the Planning Commission and City Council to afford the public the opportunity to be involved. Notice of the two hearings was published in the Sandy Post, posted on the City's website, and on the City Facebook account. Notice was provided to the Department of Land Conservation and Development on May 14, 2025.

Conclusion: *Goal 1 Public Involvement requirements are met.*

Goal 2: Land Use

This goal requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. Cities and counties must build their comprehensive plans on a factual base and follow their plan when making decisions on appropriate zoning.

Findings: The proposed amendments include the adoption of regulatory changes required by the Federal Emergency Management Agency (FEMA), which will maintain the City's participation in the National Flood Insurance Program (NFIP) and protect public safety and welfare for properties located within the Flood and Slope Hazard (FSH) Overlay District.

Conclusion: *Goal 2 Land Use requirements are met.*

Goal 7: Areas Subject to Natural Hazards

This goal requires local comprehensive plans to address Oregon's natural hazards. Protecting people and property from natural hazards requires knowledge, planning, coordination, and education.

Findings: The proposed amendments include the adoption of updated regulations related to "no net loss" of the floodplain functions (storage, water quality, and vegetation). The existing regulations and proposed amendments to maintain no net loss of the floodplain functions ensures development can withstand hazardous events. The proposed amendments reduce the risk of loss of life and damage to property from severe weather events, particularly flooding events. These standards are applied in conjunction with the state building code to reduce the risk of damage to property.

Conclusion: *Goal 7 Areas Subject to Natural Hazards requirements are met.*

Goal 10: Housing

This goal requires that cities analyze housing needs to ensure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries (UGBs), and to provide greater certainty in the development process so as to reduce housing costs.

Findings: The proposed amendments include “no net loss” standards to ensure floodplain functions, specifically floodplain storage, water quality, and vegetation. The proposed amendments allow residential development when located outside of the area of special flood hazard. Any development, including residential, must comply with all applicable standards when developing within the special flood hazard area.

Conclusion: *Goal 10 Housing requirements are met.*