Falls City Oregon City Council Meeting

Monday, May 5, 2025 at 6:00 pm

Meeting Location

320 N Main St • Falls City, OR 97344

How to Attend and/or Participate

1. In Person: 320 N Main St. Falls City, OR 97344
2. Call-in: a. 1-253-215-8782 b. Meeting ID: 878 7406 4319
   You will be muted but may “raise your hand” to indicate you wish to comment.
3. Web Application: Zoom Webinar https://us06web.zoom.us/j/87874064319
   You will be muted but may “raise your hand” to indicate you wish to comment during Public Comments.
4. Write-In: Using regular mail or email. a. info@fallscityoregon.gov; 299 Mill St. Falls City, OR 97344

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1. **CALL TO ORDER & ROLL CALL**
   Mayor TJ Bailey, Council President Houghtaling, Councilor Nick Backus, Councilor Tony Meier, Councilor Tia Scruton, Councilor Dennis Sickles, Councilor Lori Jean Sickles
2. **PLEDGE OF ALLEGIANCE**
3. **ANNOUNCEMENTS, APPOINTMENTS, APPRECIATIONS, & PROCLAMATIONS**
4. **PUBLIC COMMENTS & LETTER COMMUNICATIONS**
   In order to encourage an environment of openness, courtesy and respect for differing points of view, please refrain from behavior that is disruptive to the meeting such as making loud noises, clapping, shouting, booing, or any other activity that disrupts the orderly conduct of the meeting. Abusive language will not be tolerated.

Please limit your commentary to 3 minutes or less.

5. **CONSENT AGENDA**
    a. **April 7, 2025 Minutes**

    Attachments:

    - **MInutes** (2025.04.07_Council_Minutes.pdf)

6. **REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS**
    a. **Mayor's Report**
    b. **Councilor Comments**
    c. **Park & Rec Committee Report**

    Attachments:

    - **Minutes** (Park_Minutes.pdf)

    d. **Historic Landmark Committee Report**

    Attachments:

    - **MInutes** (HLC_Minutes.pdf)

7. **REPORTS FROM CITY MANAGER & STAFF**
    a. **Sheriff Report**

    Attachments:

    - **Report** (Sheriff_March_Falls_City_Stats.pdf)

    b. **Falls City Code Report**

    Attachments:

    - **Report** (Code_Report.pdf)

    c. **Falls City Public Works Report**

    Attachments:

    - **Report** (PW_Report.pdf)

    d. **City Manager's Report**

    Attachments:

    - **Report** (2025.05.05_Monthly_Manager_s_Report.pdf)

8. **RESOULTIONS**
    a. **Resolution 04-2025**

    Attachments:

    - **Staff Report** (Res_04-2025_SR_Authorization_of_Award_of_Water_Mainline_Project_Bid.pdf)
    - **Award Letter** (Rec_of_Water_Mainline_Award_Falls_City_2025_WL_2-pager_Exhibit_A.pdf)

- **Res 04-2025** (Res_04-2025-_Authorization_of_Award_of_Water_Mainline_Project_Bid_Exhibit_B.pdf)

9. **ORDINANCES**
    a. **Ordinance 570-2025**

    Attachments:

    - **Staff Report** (___Staff_Memo_to_Mayor_and_Council_for_5-5-25_meeting_-_Reading_Ord_for_FEMA_NFIP-ESA_Integration.pdf)
    - **Ord 570-2025** (__Ordinance_570-2025_FEMA_Related_Updates.pdf)
    - **Exhibit A** (_Exhibit_A_-_FEMA_Related_Code_Amendments_to_Falls_City_Zoing___Development_Ord_-_Ordiance_Adoption.pdf)

10. **GOOD OF THE ORDER**
11. **ADJOURN**

Posted for Public at the City Hall Bulletin Board, Community Center, Falls City Website, Falls City Market, LCB Bulletin Board, and City Facebook page

Contact: Jeremy Teal, City Recorder (jteal@fallscityoregon.gov 503.787.3631) | Agenda published on 05/01/2025 at 12:30 PM

FALLS CITY CITY COUNCIL	MONDAY, APRIL 7, 2025
Mayor Bailey called the Falls City City Council into regular session on Monday, April 7, 2025 at 6:01 p.m. in the Community Center located at 320 N. Main Street.	
Council Members Present: Council President Amy Houghtaling, Councilor Nick Backus, Councilor Tony Meier, Councilor Tia Scruton, and Councilor Dennis Sickles. Councilor Lori Jean Sickles was absent.	
Staff Present: City Manager AJ Foscoli and City Recorder Jeremy Teal	
AGENDA	**ACTION**
Announcements, Appointments, Appreciations & Proclamations	Chief Gilbert and the Falls City Fire Department presented the Council and staff new fire department shirts for their continued support of the department. Mayor Bailey thanked the chief and the department for everything they do for the community. Mayor Bailey thanked Council President Houghtaling for running the last Council meeting and thanked the community for showing up and being a part of the process.
Public Comment	Mayor Bailey opened the public comments at 6:07 p.m. Boyd Lamprecht asked if Mitchell Street was finished. Mr. Foscoli stated he believed it was. Don Schaecher stated he called and asked where to find the agenda on the city website moments before the office closed and Mr. Teal told him where to find it, but as soon as he hung up the phone the agenda was in his inbox emailed from Mr. Teal. He thanked Mr. Teal for emailing the agenda and going above and beyond for the community. Lois Grippin stated she had lived in Falls City her entire life and noted Falls City was the best place to live. She mentioned the plan was to take down her fence and move the fence farther onto her property. She stated the fence and property had always been that way and she would like it left alone. She asked how much land she would be losing due to the fence moving.

	Mr. Foscoli stated the fence along 5th street and Prospect Ave would need to moved between 7 and 10 ft back onto the property. He noted every effort to maintain the fence as it is moved would be taken. He stated the fence would be placed on her actual property line. Ms. Grippin suggested going up the other side of 5th Street and Prospect Ave in an effort to leave her fence where it is and not effect anyone on Prospect. She stated she would buy the paint and put in a crosswalk for the kids. Mr. Foscoli noted there may be grant money to help move the fence because the work can only be done in the City's right of way. Ms. Grippin stated that none of the properties on the other side of the street would be affected as they have plenty of space in front of their homes. Mayor Bailey stated that Ms. Grippin didn't need to purchase the paint. He noted he appreciated her situation and that he and Mr. Foscoli would not take anything that was hers and they & the City would do anything to make sure she wasn't financially burdened. Mayor Bailey closed the public comments at 6:20 p.m.
Public Hearing **LA 2025-01: FEMA Flood Plain Code Revision**	Mayor Bailey opened the public hearing at 6:21 pm
Staff Report	Scott Whyte gave a brief staff report regarding the FEMA flood plain code revision. He noted that Falls City was a participant in the flood hazard area to incorporate FEMA's current changes to the endangered species act. He noted the changes were model code from FEMA. He stated the only change was the definition for the riparian buffer zone which is inside the flood plain. He stated there were no expansions and no changes to the maps.
Councilor Comments	There were no Councilor comments
Public Comment	There were no public comments.

Council Deliberation	Council President Houghtaling stated she appreciated the questions at last month's Council meeting. Mayor Bailey closed the public hearing at 6:27pm It was moved by Council President Houghtaling LA2025-01. The motion was duly seconded by Councilor Backus and carried with a vote of 5-0 with Councilors Backus, Meier, Scruton, D Sickles and Council President Houghtaling voting YES.
Consent Agenda a) March 3, 2025 Minutes	It was moved by Councilor Backus to approve the Consent Agenda as presented. The motion was duly seconded by Councilor Meier and CARRIED with a vote of 5-0 with Councilors Backus, Meier, Scruton, D Sickles and Council President Houghtaling voting YES.
Reports or Comments from Mayor and Council Members a) Mayor's Report	Mayor Bailey stated that the next available weekend he would have Coffee with the Mayor. He noted that public safety and neighborhood watch were the two topics. He stated the City Manager evaluation needed to get in the schedule. He suggested Mr. Foscoli outlined his goals at the next meeting and then the Council can deliberate and then score him. Councilor Meier suggested an executive session. Council President Houghtaling stated at the next meeting during an executive session he can present and the Council can go from there. Mayor Bailey stated the skate park would be built in phases. He noted he was going back to the ramp company with the plans and see what they can figure out and bring back to Council. He stated the community wanted an amphitheater in skate park for events and he would work on that.
b) Councilor Comments	Council President Houghtaling announced the Happy Dance on Saturday, May 17 at the Resource Center. She stated the Easter egg hunt would be on Saturday, April 19 at 11 am in the upper park and the baskets would be put together on the 18th at Boondocks.

c) Park & Rec Report	Councilor D Sickles asked about a sign for the falls park. Mayor Bailey stated he would come to the next Parks meeting with designs options and see what the committee liked.
d) Public Works Report	Mayor Bailey noted the committee discussed the Safe Routes to School project. Councilor D Sickles asked what the possible $100,000 was for. Mr. Foscoli noted the project budget was $800,000 and the City had acquired $650,000 so the project may need an approval from the Council to pitch in $100,000. Councilor D Sickles asked what would happen if the Council declined. Mr. Foscoli stated the engineer would need to shave off everything they could to get the project to $650,000. He reported that the project was awarded in 2019 and in the 5th year the City would have to payback all the design costs if the project was not undertaken.
e) Historic Landmark Report	Council President Houghtaling reported the project was moving along and thanked the community for volunteering to get interviewed.
Reports from City Manager & Staff	
a) Falls City Fire Department Report	There were no comments.
b) Falls City Public Works Report	There were no comments.
c) Falls City Code Services Report	There were no comments.
d) City Manager's Report	Mr. Foscoli reported on the wastewater treatment plant, code enforcement, oversized vehicle parking ban, upper park trees, town hall meeting would be April 21, goal setting session, and the resource center which helped 240 people last month. Mayor Bailey thanked Joe Schmuker for his help in the community with helping people.

e) Budget Officer Appointment	Mr. Foscoli stated part of the budget process was to appoint a budget officer each year to facilitate the budget process. It was moved by Councilor D Sickles to appoint City Manager Foscoli to be the Budget Officer. The motion was duly seconded by Councilor Meier and CARRIED with a vote of 5-0 with Councilors Backus, Meier, Scruton, D Sickles, and Council President Houghtaling voting YES.
Good of the Order	Council President Houghtaling asked if the budget calendar also needed to be approved. Mr. Foscoli stated just the Budget Officer appointment. Council President Houghtaling noted the budget meeting would be Wednesday, May 21. Mr. Foscoli stated he had a volunteer opportunity for a project in Monmouth for at risk teens this Saturday. Mr. Teal stated the spring clean up would be Saturday, May 31 at the mill lot from 8 am to 2 pm. Mayor Bailey noted the City was happy to get the van and thanked Mr. Schmuker for all his work around the community. He mentioned the monthly meetings for the veterans BBQ would start up soon.
Adjourn	There being no further business, the meeting was adjourned at 6:55 p.m.

Read and approved this _____ day of _____ 2025.

Mayor:_____
ATTEST:

City Recorder:_____

Parks and Recreation Committee Minutes

Wednesday, April 16, 2025 at 6:00 pm

Committee Members in attendance: Lori Jean Sickles - Dennis Sickles - Dani Haviland - Laura Britton - Laura Evans - Chris Martin - William Cleek.

1. Call to Order at 6:09PM by Laura Britton

2. Pledge of Allegiance said

3. Motion to Adopt the Entire Agenda by Lori Jean Sickles, seconded by Laura Evans. Passed unanimously, including the March 19 Minutes

4. Public Comments -None

6. Old Business:

a. City Updates – Upper Park Trees

It was brought to the attention of the committee that there is concern about the health status of the trees to be removed at the Upper Park. It was suggested that we either put a letter concerning this in the water bill or share the letter from the arborist(s) about their status on the Falls City Facebook page. It might diffuse some of the controversy and show that the trees removal has been professionally evaluated by the Department of Forestry.

b. Upper Park Bathrooms

After committee discussion, it appears the renovation of the bathroom only has two on-demand hot water units installed, with a paint job forthcoming. The doors on the bathroom are still not ADA compliant and there aren't grab bars next to the toilet. It was questioned whether the modifications were worth the $9000 for the project.

c. City Entrance Sign

The committee would like to know if the drawing is accurate. Is the pillar actually going to be on the roadside, a hazard if someone does go off the road.

Attachments:

Updates (City_Updates.pdf)

b. Skate Park Update – TJ Bailey was not in attendance. A breakdown on the scope of work still needs to be received from the Skate Park contractor. It would be beneficial to raising funds if we can do the project in steps, showing how far we've come to the community.

7. New Business

a. Event Updates: Easter Celebration July 19 at the Upper Park at 11 AM.

8. Correspondence, Comments and Ex-Officio Reports: None

9. Committee Announcements: None

10. Adjourn: Adjourned at 6: 45PM

Respectfully submitted,

Dani Haviland, Secretary

City of Falls City
Historic Landmark Commission
Tuesday April 1, 2025 at 6:00 pm
Meeting Location: 320 N Main Street Falls City

Commission Members Present
Amy Houghtaling, Nick Backus, Guy Mack. Natascha Adams , Mike McConnell absent. Commission was joined by Josh Wagner, Communications/Project Leader.

1) Roll Call
Chair Houghtaling called the meeting to order at 6:04 PM, took roll call.

2) Pledge of Allegiance
Chair Houghtaling led the Commission in the Pledge of Allegiance.

3) Motion to Adopt the entire Agenda
Member Mack moved and member Backus seconded **to adopt the Entire Agenda**. Motion passed 4-0-0 Ayes. Amy Houghtaling, Nick Backus, Natascha Adams, Guy Mack.

4) Consent Agenda Motion
Member Mack moved and member Backus seconded **to approve minutes for 03/4/25.**. Motion passed 4-0-0 Ayes. Amy Houghtaling, Nick Backus, Natascha Adams, Guy Mack.

5) Public Comment - None

6) Old Business
a. Grant Project Update
Chair Houghtaling updated Commission that she has given the State a Project progress report and that they are asking for better verification of expenses (receipts, etc.). Also said that the materials for photograph preservation are at City Hall. Member Adams said she would get them and store them for future use.

Project Leader Wagner informed the Commission that the Project is proceeding well and that many videos are nearing completion and that they were at the point where they can do more interviews. Videos need to be finished by school year end and before all funds are expended. Videos for Ben Jackson, John Gilbert and Dennis Sickles need completed and that he wants to interview Jim Krummel for the project. He also mentioned that we might want to include a couple of videos on historic sites (Kings Rest, the Stairs, the Falls?)

Chair Houghtaling reminded the Commission that the Grant called for a Public Education requirement and that we needed to schedule a public showing(s).Dates suggested were June 20th/21st or June 27th/28th, date to be determined and possibly both indoor and outdoor showings. She also mentioned that it would be advantageous to keep our Catalogit photographic account functioning which will require additional funding.

7) New Business - None

8) Correspondence, Comments and Ex-Officio Report
Member Adams mentioned that the Oregon Museum Association was having a three day conference in Independence, OR April 27th through the 29th, $200 registration fee for OMA members, $250 for non members.. She will email members a link to their site.

9) Committee Announcements
Next meeting will be May 6, 2025 in the Community Center at 6:00 pm.

10) Adjourn

Member Mack moved and Chair Houghtaling seconded: **we adjourn**. Motion carried 4-0-0 Ayes. Amy Houghtaling, Nick Backus, Natascha Adams, Guy Mack. Meeting adjourned at 6:36.pm.

_____ Historic Landmark Commissioner Chair Houghtaling

Attested: _____ Historic Landmark Commission Member

March 2025 Falls City Stats

Falls City Calls for Service							
Alarm	1	Community Event	1	Hang Up	1	Susp. Activity	3
Animal	4	Crime (misc)	1	Harass	4	Susp Person	2
AOA	2	Crimial Mischief	4	Misc	4	Susp Vehicle	2
Burg	2	Distrubance	1			Theft	1
Citizen Contact	2	DomDis	2			Trespass	1
Civil	9	EDP	4			Traffic	8
Check Welfare	5	Found Property	1				

Falls City Calls for Serivce	65	Of the FC Calls for Service	7	involved crimes	
Total Calls for Service (county wide)	1,163	FC Cases Cleared by Arrest	1	14.3%	clearance
Falls City % of Total Calls	5.6%	Total Arrests in Falls City	1	3.4%	of total arrests

Total Service Calls (Polk County)	1,163				
Crimes Occd	64		Junvenile Arrests	0	(county wide)
Cases Cleared by arrest	17	26.6%	Juvenile Arrests	0	(Falls City)
Total Arrests (county wide)	29		(only true crimes reported here)		

Code Enforcement

April 2025 Report

- Tagged SUV's at lower park. SUV at lower park was removed prior to tow. SUV at Lewis retagged for tow on 5/5
- Abandoned pickup on Fairview tagged and moved from public right away
- Met with landscaper at Post Office and had bushes and tree branches removed that made it difficult to see from the stop signs
- Working with one community member with community service hours to work off. Trash has been cleaned from the side of the roads
- Letter sent to resident of home with shrubbery growing into Alley after a neighbor had a complaint about access to property. Trimming has been started, but will need to be worked on more.
- Setting up an inspection of 171 Dayton by Polk County's building official. Was unable to line up times for everyone on the first try
- SUV at Lewis and 1st Ave tagged for tow

City of Falls City
299 Mill St ● Falls City, Oregon ● 97344
Ph. (503) 787-3631 ● www.fallscityoregon.gov

Public Works Report
April of 2025

Administration
Normal operations.

Water Division
We received 2.95" of rain.
We fixed a leak on 7th street on the 10th.
We installed a service at 268 6th Street.

Sewer Division
Turned off the UV for the season on the 30th.

Streets Division
Normal operations.

Parks & Cemeteries Division
Normal operations.

Non-Sewer Wastewater Division (TMDL)
We had 2 culverts and 4 catch basins cleaned on the 10th.

City of Falls City
299 Mill Street
Falls City, OR 97344
Ph 503.787.3631

City Manager's Report May 5, 2025

Introduction

April was a very busy month for staff in Falls City. We welcomed our two State legislators, Senator Starr and Representative Scharf to Town Halls. They were gracious enough to take time out of their busy legislative schedules, during session, to come to our community and talk about all that they have been doing for their constituents. The legislators were very transparent about the bills that they favor and are against, as well as highlighted their long careers advocating for the citizens they represent. They've both pledged to support Falls City in our upcoming capital projects that will need grant funding in order to move to the construction phase.

Wastewater Project – The regular meetings with Strider Construction and our contract engineers are now on a tri-weekly schedule as work is progressing steadily at the lagoon site, and within city limits. Leakage testing of Pond 1 has finally been done, checking off another major milestone in this project. The city, the city's engineers, and Strider's electrical contractor have been working with PacifiCorp to move onto construction at the school campus of the new pump station's electrical conduit there. An easement agreement will come before the City Council to allow Strider to connect to a PacifiCorp pole to power the new pump station. According to Strider Construction, the project completion schedule is early June.

Code Enforcement – Our Code Enforcement Officer has been coordinating with the Polk County Sheriff's Office Deputy to address several code compliance instances. As abandoned vehicles crop up in town, our Code Enforcement Officer & Sheriff Deputy are tagging and towing them from the right-of-way, to ensure safe transit through town. Our recent code changes have helped both to have more enforcement teeth to deal with individuals gaming the system. ,

Upper Park Trees – The city is still working with the Department of Forestry to decide on a schedule for the 5 trees that will need to be brought down. When the schedule is decided, Public Works staff will coordinate with the community to ensure everyone's safety.

Goal Setting Meeting – The 2025 Goal Setting Meeting by the City Council happened on March 22, and the City Council has set the goals for the coming year in a very efficient fashion. They can be found on the city's website.

Community Resource Center Project – The Falls City Resource Center's operation is busy as additional service providers are slotting in client hours at the building. In April, 279 people were assisted, among which 264 were Falls City Residents (69 scheduled appointments, 210 drop-ins,

including 88 kids coming in for snacks). We look forward to partnerships with all service providers to continue to serve the Falls City community.

Household Burning Ban – The community has seen an increase in properties burning household garbage within city limits, which are negatively impacting the air quality, especially of surrounding neighbors. Since this is not strictly illegal, in order to curb this behavior, city staff, in collaboration with the Fire Department will be bringing a Household Burning Ban Ordinance for council deliberation at the June meeting.

Town Hall Meeting – The next Town Hall Meeting is planned for Monday, July 21 at 6:00pm.

Sincerely,

STAFF REPORT

TO: HONORABLE MAYOR, AND CITY COUNCIL

FROM: CITY MANAGER, AJ FOSCOLI

SUBJECT: ACCEPTING WATER MAINLINE CONSTRUCTION BID

DATE: 5/5/2025

BACKGROUND

The City's contract engineering firm, Westech, has identified a winning bid for the Water Mainline Replacement Project.

SUMMARY

As the city has been working for the past two years on the on designing and planning the construction of several Water Mainline replacements, in the most breakage prone sections of town. As Westech Engineering assists Falls City with all its engineering needs, in addition to the design, they have solicited bids in accordance with the Infrastracture Finance Authority (funding agency)'s requirement. Their estimate of $1.6 million for the project was generally in line with the $1 million average from the six construction bids received. The engineer has shared with us that all bidders have good standing with the relevant regulatory authorities, and as is standard with these projects, the city of Falls City is statutorily required to choose the lowest bidder, Trench Line Excavation, Inc., which came in at $989,639.

In the accompanying letter from Westech, the engineering firm recommends that the City authorize award of a contract for ($989,639) to Trench Line Excavation, Inc., subject to final authorization by any applicable funding agencies.

RELEVANT COUNCIL ACTION

City Council must authorize award of a contract for ($989,639) to Trench Line Excavation, Inc., subject to final authorization by any applicable funding agencies in order for the project to move forward.

STAFF RECOMMENDATION

Adopt the contract award authorization as presented in the resolution.

ATTACHMENTS

Exhibit A – Westech Engineering Recommendation of Award Letter
Exhibit B – Resolution 04-2025 Authorization of Award of Water Mainline Project Bid

WESTECH ENGINEERING, INC.
CONSULTING ENGINEERS & PLANNERS

April 30, 2025

The Honorable Mayor and City Council
City of Falls City
299 Mill Street
Falls City, OR 97344

RE: Recommendation for Award, 2025 Waterline Improvements
JO. 2969.4020.0

Ladies and Gentlemen:

Bids for the above referenced project were received and opened at our office at 2:00 p.m. on April 29, 2025. There were a total of six (06) responsive bids received from qualified bidders. We are pleased with the level of interest the project generated among contractors, and with the bid response.

The low bid was submitted by Trench Line Excavation, Inc. of Corvallis, Oregon. The bid prices, in addition to our estimate for the work, are shown in the table below. Complete bid tabulations are also attached for your review and records.

Summary of Bids

Bidder	Base Bid	Additive Alternates	Bid Grand Total	Difference from Eng. Estimate
Engineers Estimate	$1,600,000	$90,000	$1,690,000	-
Trench Line Excavation, Inc.	**$935,237.86**	**$54,401.72**	**$989,639.58**	**-41%**
M.L. Houck Construction Company	$946,445.00	$51,875.00	$998,320.00	-41%
Pacific North Construction	$977,000.00	$66,110.00	$1,043,110.00	-38%
Turney Excavating, Inc.	$1,123,870.15	$71,663.85	$1,195,534.00	-29%
Emery & Sons Construction Group	$1,154,922.00	$76,704.00	$1,231,626.00	-27%
Strider Construction Company, Inc.	$1,746,570.00	$86,330.00	$1,832,900.00	8%

As shown above, the low bid was approximately 41% below the engineer's estimate. Trench Line Excavation, Inc.is a well-established firm capable of performing this work for the City.

3841 Fairview Industrial Dr. S.E., Suite 100, Salem, Oregon 97302
Phone: (503) 585-2474 Fax: (503) 585-3986

If it is the City's desire to proceed with the project at this time, we recommend that the City authorize award of a contract for the Base Bid and Alternate to Trench Line Excavation, Inc., subject to final authorization by any applicable funding agencies. Based on the units and prices listed in the bid schedule, the amount of the contract will be $989,639.58.

We further recommend that the City Council approve a construction contingency budget of ±15% of the bid total *(ie. $150,000)*, to address unknown conditions or issues that may come to light during construction.

We will be sending out the Notice of Intent to Award to all bidders as required by OAR 137-049-0395.1 *(the notice is subject to final authorization by the City Council, and approval by applicable funding agencies)*. Sending out the Notice of Intent to Award will start the statutory time limit for the 7 day bid protest period, but does not obligate the City to issue the final Notice of Award.

Upon expiration of the 7 day protest period (assuming no bid protests) and approval by the City Council and applicable funding agencies, we will then proceed to issue a Notice of Award to the Contractor, after which we will proceed with obtaining the required signatures for the Contract Documents, and schedule a preconstruction conference with the Contractor, the City and any affected utilities. We plan to issue the notice to proceed as soon as practical after contracts are signed and the preconstruction conference is held.

We hope this information is useful and will assist the City Council in making a final decision on the award of this project. We are happy to attend the City Council meeting and to answer questions or to discuss the project in more detail if you desire.

If you have any questions or need additional information regarding this matter, please contact us at (503) 585-2474.

Sincerely,

WESTECH ENGINEERING, INC.

RC Engel

Raymond C. Engel, P.E.
Project Manager

rce
encl.
cc:

- AJ Foscoli, City Manager, City of Falls City
- Jon Creekmore, Public Works Director, City of Falls City

Exhibit B

RESOLUTION 04-2025

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR ($989,639) TO TRENCH LINE EXCAVATION INC., SUBJECT TO FINAL AUTHORIZATION BY ANY APPLICABLE AGENCIES.

Whereas:

1. The City's Water Mainline Replacement is estimated at $1 million to construct; and

2. The City has received a minimum of three bids for the construction of said facility; and

3. In order to move forward with the process, the City Council must authorize the award by resolution.

NOW THEREFORE, THE CITY OF FALLS CITY RESOLVES AS FOLLOWS:

Section 1. City Council of Falls City authorizes award of a contract for ($$989,639) to Trench Line Excavation, Inc., subject to final authorization by any applicable funding agencies. Section 2. Effective Date.

1. This resolution becomes effective upon passage.

ADOPTED BY THE FALLS CITY COUNCIL ON THIS 5th DAY OF MAY 2025.

VOTE: AYE____ NAY____ ABSTAIN____ ABSENT____

Signed:

_____ _____

TJ Bailey, Mayor Date

Attest:

_____ _____

Jeremy Teal, City Recorder Date

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

To: Mayor and Members of the City Council
From: Scott Whyte, Contract City Planner for Falls City, MWVCOG
Subject: Reading of the Ordinance amending FCZDO specific to *Standards for Special Flood Hazard Area* – city case file LA 2025-01
Date: May 5, 2025, City Council meeting

Summary / Background

On April 7, 2025, the City Council closed the public hearing for LA 2025-01 and voted in favor of adopting the draft code changes identified to Sections 2.205.02 and 2.205.06 of the Falls City Zoning and Development Ordinance (FCZDO). Draft code changes were included with the staff memorandum dated March 31, 2025.

Action Requested

According to Chapter IV of the Falls City Charter (Section 16, Ordinance Adoption):

The Council may adopt an ordinance at a single meeting by the unanimous approval of at least a quorum of the Council, provided the proposed ordinance is available in writing to the public at least one week before the meeting.

The attached draft ordinance was made available at least one week before the meeting of May 5. Also, staff observe Chapter IV of Falls City Charter (Section 16, Ordinance Adoption) to state:

Any of the readings of an ordinance may be by title only, unless a council member present at the meeting requests to have the ordinance read in full.

In response to the above, staff recommend the following motion:

I move to have the Mayor read draft ordinance No. 570-2025 by title only,

[Note: After a second to the motion, vote can be aye / nay for this purpose. If there is at least one "nay" the City Manager is to read the Ordinance in full].

If all ayes, the Mayor then reads the draft ordinance by title only. Thereafter staff recommends the following motion, a second and a roll-call vote:

I move to waive second reading of the draft ordinance, and to approve adoption of Ordinance No. 570-2025 as read. [After second to the motion, vote must be roll-call and unanimous in support – if to adopt via single meeting].

Exhibits

Ordinance No. 570- 2025 for First and Second Reading

Exhibit A: Changes to Sections 2.205.02 and 2.205.06 of FCZDO

ORDINANCE 570-2025

AN ORDINANCE AMENDING SECTIONS 2.205.02 and 2.205.06 OF THE FALLS CITY ZONING AND DEVELOPMENT ORDINANCE

WHEREAS, the City of Falls City participates in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA); and

WHEREAS, beginning in November of 2024, the City Manager informed the City of Council of the need for selecting one of three Pre-Implementation Compliance Measures (PICMs) identified by FEMA for floodplain management purposes and for Endangered Species Act (ESA) compliance; and

WHEREAS, on December 2, 2024, in review of the PICM options identified by FEMA, the City Council selected PICM Option 1 thereby initiating legislative proceedings to amend the Falls City Zoning and Development Ordinance (FCZDO) specific to Sections 2.205.02 *Definitions*, and Section 2.205.06 titled *Standards for Special Flood Hazard Area*; and

WHEREAS, code provisions within FCZDO Section 2.205.06 are based on FEMA's past Model Floodplain Management Code and amendments to the same section are based on FEMA's current Model Floodplain Management Code of 2024; and

WHEREAS, on February 5, 2025, the Department of Land Conservation and Development (DLCD) received notification of the proposed amendments with the hearings-ready proposed amendments to FCZDO Sections 2.205.02 and 2.205.06 (proposed amendment); and

WHEREAS, on February 10, 2025, the city mailed a notice as described in ORS 227.186 to the owners of properties in the city having some portion of the 100-year flood hazard area on-site; and

WHEREAS, On February 19 and 26, 2025, the Itemizer-Observer published required notice of public hearings for the proposed amendment; and

WHEREAS, on March 3, 2025, and on April 7, 2025, the City Council of Falls City held public hearings on the proposed amendment, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, on April 7, 2025, the City Council of Falls City closed the public hearing and passed a motion to approve the proposed amendment as shown in Exhibit 1 of the staff memorandum dated March 31, 2025.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF FALLS CITY, OREGON, as follows:

Section 1. Section 2.205.02 of Falls City Zoning and Development Code specific to definitions, is removed in favor of amended definitions introduced to Section 2.205.06 as amended as shown Exhibit A. Attached hereto.

Section 2. Section 2.205.06 of Falls City Zoning and Development Code, is hereby amended in its entirety, as shown in Exhibit A. Attached hereto.

Section 3. This Ordinance amending the Falls City Zoning and Development Ordinance shall go into effect on the thirtieth day following its adoption by the Falls City Council.

ADOPTED by the City Council of the City of Falls City, Oregon, on May 5, 2025, by the following votes:

AYES:
NAYS:
ABSENT:
ABSTAIN:

_____
TJ Bailey, Mayor

ATTEST:

_____
Jeremy Teal, City Recorder

EXHIBIT A OF ORDINANCE 570-2025

"*****" (where shown) indicates a skip (i.e., existing code between that is not shown and is not to change). Yellow highlight indicates text approved for new / ~~strike-through~~ indicates text approved for removal.

2.200 GENERAL DEVELOPMENT STANDARDS

*****

2.205 STANDARDS FOR AREAS WITH BUILDING LIMITATIONS

2.205.01 PURPOSE

The purpose of this Section is to

A. Promote the public health, safety and general welfare;

B. Minimize public and private losses due to natural hazards resulting from geologic, soils, topographic and/or flood conditions;

C. To minimize expenditure of public money and costly flood control projects;

D. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

E. To minimize prolonged business interruptions;

F. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

G. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; and

H. To ensure that potential buyers are notified that property is in an area of special flood hazard.

~~2.205.02 DEFINITIONS~~

~~Unless specifically defined below, words or phrases in this section shall be interpreted to give them the same meaning as they have in common usage and to give this classification its most reasonable application. Where conflicts exist between definitions listed below and the General Definitions provided in Section 1.200 of this Ordinance, the definitions of this subsection shall be used in lieu of the General Definition with respect to the provisions of this subsection.~~

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

~~Area of Special Flood Hazard: The land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year. Designation on flood rate insurance maps always includes the letters A or V.~~

~~Base flood: The flood having a (one) 1 percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood plain. Designation on flood insurance rate maps always includes the letters A or V.~~

~~Basement: The area of the building having its floor subgrade (below ground level) on all sides.~~

~~Conveyance: Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (cfs). If the flow is 30,000 cfs at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.~~

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

~~Exception: A grant of relief from the requirements of this subsection which permits construction in a manner that would otherwise be prohibited by the provisions of this subsection.~~

~~Fill: Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.~~

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

~~1. The overflow of inland or tidal waters and/or~~

~~2. The unusual and rapid accumulation of runoff of surface waters from any source.~~

~~Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Falls City.~~

~~Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.~~

~~Flood Plain: Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Falls City. It is usually the flat area of land adjacent to a stream or river formed by previous floods.~~

~~Floodproofing: A combination of structural or non-structural provisions, changes, or adjustment to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.~~

~~Floodway: The channel of a river or other watercourse and the adjacent land areas reserved to discharge the 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood more than one foot.~~

~~Floodway Fringe: The area of the flood plain lying outside of the floodway as delineated on the Flood Insurance Rate Map where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.~~

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

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

~~New construction: Any structures for which the "start of construction" commenced on or after the effective date of this Ordinance.~~

~~Obstruction: A physical object which hinders the passage of water.~~

~~Recreational Vehicle: A vehicle which is:~~

~~1. Built on a single chassis;~~

~~2. 400 square feet or less when measured at the largest horizontal projection;~~

~~3. Designed to be self-propelled or permanently towable by a light duty truck; and~~

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

~~Severe Development Limitation Soils: Those soils in Falls City rated by the Soil Survey of Polk County as having severe development limitations. These severe limitations are due to low soil strength, relatively steep slope, shrink-swell characteristics, flood hazards, seasonal high water table, high landslide potential, and shallow depth to bedrock.~~

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

~~Structure: A walled and roofed building including a gas or liquid storage tank that is principally above ground.~~

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

~~Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:~~

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

~~2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures.~~

~~The term does not include:~~

~~3. Any project for improvements of a structure to comply with existing State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe livings conditions;~~

~~4. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.~~

~~Utility Facilities: Buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pre-treatment facilities.~~

2.205.03 AREA OF APPLICATION

The standards in this section apply to new development in those areas within the city limits of Falls City which are identified on the Building Limitations Map in the Falls City Comprehensive Plan, which is included as Exhibit A of this section.

These areas include the following:

A. Areas identified on the Building Limitations Map in the Comprehensive Plan as having:

1. Soils identified by the Natural Resources Service as having "Severe" building site development due to: Steep slopes; landslide hazard; poor drainage; erosion hazard; low stability; high water table; and/or high shrink-swell potential.

2. Slopes equal to or in excess of 25 percent grade.

3. Proximity to perennial or intermittent streams draining 50 or more acres.

B. "Areas of Special Flood Hazards", as defined herein.

2.205.04 ADMINISTRATION

The City Recorder or Recorder's designee is hereby appointed to administer and implement this section. Duties of the City Recorder or Recorder's designee shall include, but not be limited to:

A. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

B. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

C. Review all development proposals to determine if the proposed development is located in an area of special flood hazard. If located in the floodway, assure that the encroachment provisions of Section 2.205.06~~(I)~~ are met.

D. Review all development proposals to determine if the proposed development is located in an area of those soils rated with severe development limitations in the Soil Survey of Polk County, and/or slopes greater than or equal to 25 percent on any soil type.

2.205.05 STANDARDS FOR SEVERE DEVELOPMENT LIMITATIONS AREA

A. The purpose of this section is to protect life and property from geologic, topographic, and soils hazards.

B. The Severe Development Limitations Area is comprised of those soils rated with severe development limitations in the Soil Survey of Polk County, and/or slopes greater than or equal to 25 percent on any soil type.

C. No development, including utility facilities and stormwater pre-treatment facilities, shall occur within the Severe Development Limitation Area identified in Subsections 2.205.05(A) and (B), above, except in accordance with the provisions of this subsection.

D. Site Design Review, pursuant to the provisions of Section 3.203, shall be required for all new development proposals within the Severe Development Limitation Area. In the event of utility facilities, storm water pre-treatment facilities, subdivision or Planned Unit Development proposals within the Severe Development Limitation Area, Site Design Review for compliance with this subsection shall be combined with the review process for the subdivision or Planned Unit Development. No separate Site Design Review application or base fee shall be required for such combined reviews.

E. In addition to the submittal requirements of Site Design Review, the applicant shall submit a report prepared by a registered professional soils engineer or engineering geologist. This report shall describe:

1. The nature, distribution and strength of soils, slopes greater than or equal to 25 percent, and springs within the subject area.

2. Findings regarding the adequacy of the soils to support the intended types of structures or uses and an assessment of mass wasting hazards due to springs.

3. Findings that the construction of the structures, utility facilities, including but not limited to stormwater detention and retention structures, and planned uses will not destabilize conditions elsewhere in the City.

4. Recommendations, if necessary, of construction measures required to adequately mitigate the potential soil, slope hazard, or mass wasting hazards due to springs on- and off-site.

5. If necessary, a grading plan and erosion control measures adequate to minimize on-site and off-site impacts as described in Section 2.206.

F. If the Planning Commission determines that the geology report adequately addresses concerns for public safety from the applicable slope, soil, or spring hazard, and that other applicable provisions of this Ordinance are satisfied, the application shall be approved. The Planning Commission may attach such conditions to the approval as are necessary to assure the public safety with respect to the hazard.

2.205.06 STANDARDS FOR SPECIAL FLOOD HAZARD AREA

~~A. Findings of Fact~~

~~1. The flood hazard areas of Falls City are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.~~

~~2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.~~

~~B. The purpose of this section is to:~~

~~1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.~~

~~2. Minimize expenditure of public money for flood control projects, and rescue and relief efforts in areas subject to flooding.~~

~~3. Minimize flood damage to new construction by elevating or floodproofing all structures.~~

~~4. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.~~

~~5. Control filling, grading, dredging and other development which may be subject to or increase flood damage.~~

~~6. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.~~

~~7. Comply with the requirements of the Federal Insurance Administration to qualify the City of Falls City for participation in the National Flood Insurance Program.~~

~~8. Minimize flood insurance premiums paid by the citizens of the City of Falls City by reducing potential hazards due to flood damage.~~

~~9. Implement the flood plain policies in the City of Falls City Comprehensive Plan.~~

~~10. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of specific flood hazard;~~

~~11. Help maintain a stable tax base by providing for the sound use and development of areas of flood hazard so as to minimize future flood blight areas;~~

~~12. Ensure that potential buyers are notified that property is in an area of special flood hazard;~~

~~13. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and~~

~~14. Implement the policies of the Comprehensive Plan regarding development in flood hazard areas.~~

~~C. Methods of Reducing Flood Losses~~

~~In order to accomplish its purposes, this subsection of this Ordinance includes methods and provisions for:~~

~~1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~

~~2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~

~~3. Controlling the alteration of natural flood plains, stream channels, and natural protective 'barriers, which help accommodate or channel waters;~~

~~4. Controlling filling, grading, dredging, and other development which may increase flood damage; and~~

~~5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.~~

~~D. General Provisions:~~

~~1. Basis for Establishing the Areas of Special Flood Hazard:~~

~~The areas of Special Flood Hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Polk County, Oregon and Incorporated Areas," dated December 19, 2006, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Rate Map is on file at City Hall, Falls City, Oregon. The best available information for flood hazard area identification as outlined in Section 2.205.06(E)(4) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under Section 2.205.06(E)(4).~~

~~2. Penalties for Noncompliance:~~

~~No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this subsection and other applicable regulations. Violation of the provisions of this subsection by failure to comply with any of its requirements (including violation of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and shall be subject to the fines and penalties set forth in Section 1.103.~~

~~3. Annulment and Greater Restrictions. This subsection is not intended to repeal, annul or impair any existing easements, covenants or deed restrictions. However, where conflicts exist between a provision of this subsection and another section of this Ordinance, another ordinance, easement, covenant or deed restriction, whichever imposes the most stringent restrictions shall prevail.~~

~~4. Interpretation. In the interpretation and application of this Section, all provisions shall be:~~

~~a. Considered as minimum requirements;~~

~~b. Liberally construed in favor of the governing body; and,~~

~~c. Deemed neither to limit nor repeal any other powers granted under State statutes.~~

~~5. Warning and Disclaimer of Liability:~~

~~The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by artificial or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Falls City, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this subsection or any administrative decision lawfully made thereunder.~~

~~E. Flood plain Development Permit~~

~~1. Flood plain Development Permit Required. A Development Permit shall be obtained before construction or development begins within any area of Special Flood Hazard established in Subsection 2.205.06(D)(1). The permit shall be for all structures, including manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also set forth in the "Definitions" section.~~

~~2. Application for Flood plain Development Permit. Application for a Development Permit shall be made and reviewed in accordance with the procedures set forth in Type I-B procedures of Section 3.104. Application for a Development Permit shall be made on forms furnished by the City and shall include the following minimum information:~~

~~a. Scaled plans showing the nature, location, dimensions and elevations of the area in question;~~

~~b. Location of existing structures, fill, storage areas, and drainage facilities;~~

~~c. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;~~

~~d. Elevation, in relation to mean sea level, to which any structure has been floodproofed;~~

~~e. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 2.205.06(G)(2);~~

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

~~g. A topographic map of the site at contour intervals of two (2) feet or less showing a delineation of the Special Flood Hazards Area;~~

~~h. An inventory and location of existing debris and noxious materials.~~

~~3. Permit Review: Review of Flood Plain Development Permit applications shall be by the Planning Commission. Flood Plain Development Permit applications are Type I-B actions and shall be reviewed against the following criteria:~~

~~a. Review to ensure that the permit requirements of this subsection have been satisfied;~~

~~b. Review to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required; and~~

~~c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, review shall assure that the encroachment provisions of subsection 2.205.06(I)(1) are met.~~

~~4. Use of Other Base Flood Data:~~

~~When base flood elevation data and floodway data have not been provided in accordance with subsection 2.205.06(D)(1), the applicant, with the assistance of the City Recorder, or designee, shall obtain, review, and reasonably utilize any base flood elevation, floodway data, or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the City Recorder, or designee, may require that the applicant provide data derived by standard engineering methods.~~

~~5. Information to be Obtained and Maintained:~~

~~The City Recorder shall obtain from the applicant and maintain the following information:~~

~~a. Where base flood elevation data is provided through the Flood Insurance Study and Flood Insurance Rate Map or required as in Subsection 2.205.06(E)(4), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.~~

~~b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 2.205.06(E)(4):~~

~~i. verify and record the actual elevation to which the structure was flood-proofed (in relation to mean sea level), and~~

~~ii. maintain the floodproofing certifications required in Subsection 2.205.06(E)(2)(c).~~

~~c. Maintain for public inspection all records pertaining to the provisions of this Ordinance.~~

~~Prior to occupancy the applicant shall provide a FEMA elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures meets the requirements of Subsection 2.205.06(G).~~

~~6. Alteration of Watercourses~~

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

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

~~7. Interpretation of FIRM Boundaries~~

~~Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 2.205.06(E)(8).~~

~~8. Exception Procedure:~~

~~a. The Planning Commission shall hear and decide requests for exceptions to the requirements of this subsection. Requests for such exceptions shall be included in the application information submitted with the request for the Flood Plain Development Permit.~~

~~b. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:~~

~~i. the danger that materials may be swept onto other lands to the injury of others;~~

~~ii. the danger to life and property due to flooding or erosion damage;~~

~~iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~

~~iv. the importance of the services provided by the proposed facility to the community;~~

~~v. the necessity to the facility of a waterfront location, where applicable;~~

~~vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~

~~vii. the compatibility of the proposed use with existing and anticipated development;~~

~~viii. the relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;~~

~~ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;~~

~~x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,~~

~~xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~

~~c. Upon consideration of the factors of Subsection 2.205.06(E)(6)(b) and the purposes of this subsection, the Planning Commission may attach such conditions to the granting of exceptions as it deems necessary to further the purposes of this subsection.~~

~~9. Conditions for Exceptions:~~

~~a. Generally, the only condition under which an exception from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Subsection~~

~~2.205.06(E)(8) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.~~

~~b. Exceptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this subsection.~~

~~c. Exceptions shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.~~

~~d. Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.~~

~~e. Exceptions shall only be issued upon:~~

~~i. a showing of good and sufficient cause;~~

~~ii. a determination that failure to grant the exception would result in exceptional hardship to the applicant;~~

~~iii. a determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~

~~f. Exceptions, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, exceptions from the flood elevations should be quite rare.~~

~~g. Exceptions may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other exception criteria except for Subsection 2.205.06(E)(9)(a), and otherwise complies with subsections 2.205.06(F)(1) and 2.205.06(F)(2) of the General Standards.~~

~~h. Any applicant to whom an exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

~~i. The City shall maintain the records of all exception actions and shall report any such exceptions to the Federal Insurance Administration upon request.~~

~~j. Exceptions may not be issued to increase the maximum allowed size of residential accessory structures within areas of special flood hazards.~~

~~10. Appeals of Planning Commission Actions~~

~~Planning Commission actions on Flood Plain Development Permits, and/or exceptions pursuant to 2.205.06(E)(8) and (9) above, may be appealed to the City Council in accordance with the appeal procedures set Section 3.104 of this ordinance.~~

~~F. General Provisions for Flood Hazard Reduction:~~

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

~~1. Anchoring:~~

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

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

~~2. Construction Materials and Methods:~~

~~a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~

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

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

~~3. Utilities:~~

~~a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;~~

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

~~c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

~~4. Subdivision Proposals:~~

~~a. All subdivision proposals shall be consistent with the need to minimize flood damage;~~

~~b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;~~

~~c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and~~

~~d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five (5) acres (whichever is less).~~

~~5. Review of Building Permits~~

~~Where elevation data is not available, either through a Flood Insurance Study or from another authoritative source (Subsection 2.205.06(E)(4)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes the use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.~~

~~G. Specific Standards for Flood Hazard Reduction:~~

~~1. Residential construction.~~

~~a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above base flood elevation.~~

~~b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered~~

~~professional engineer or architect or must meet or exceed the following minimum criteria:~~

~~i. A minimum of 2 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~

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

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

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

~~i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section 2.205.06(G)(1)(c)(ii). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.~~

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

~~iii. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.~~

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

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

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

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

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

~~d. Residential Accessory Structures. No single residential accessory structure located within areas of special flood hazard shall exceed 500 square feet in size. The size of residential accessory structures located within areas of special flood hazard is a non-variable standard.~~

~~2. Nonresidential construction.~~

~~New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:~~

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

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

~~c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans.~~

~~d. Nonresidential structures that are elevated but not floodproofed must meet the same standards for space below the lowest floor as described in Subsection 2.205.06(G)(1)(b).~~

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

~~f. Below-grade crawlspaces are allowed subject to the standards found in Section 2.205.06(G)(1)(c).~~

~~3. Manufactured Homes.~~

~~All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection 2.205.06(F)(1)(b).~~

~~4. Recreational Vehicles~~

~~Recreational vehicles placed on sites within Zones AH, and AE on the community's FIRM either:~~

~~a. Be on the site for fewer than 180 consecutive days,~~

~~b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions; or~~

~~c. Meet the requirements of Subsection 2.205.06(G)(3) and the elevation and anchoring requirements for manufactured homes.~~

~~H. Before Regulatory Floodway.~~

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

~~I. Floodways.~~

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

~~1. Encroachments, including fill, new construction, substantial improvements and other development, shall be prohibited unless certification by a registered engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~

~~2. If Subsection 2.205.06(I)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsections 2.205.06(F), and (G).~~

~~J. Uses Permitted~~

~~If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit may be allowed subject to approval of a Flood Plain Development Permit provided the following requirements are met:~~

~~1. The structure is not located within a floodway.~~

~~2. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.~~

~~3. The structures will be located on natural grade or compacted fill.~~

~~4. The lowest floor will be elevated to one foot above the level of the base flood elevation and the anchoring requirements in Subsection 2.205.06(F)(1).~~

~~5. The Building Official has determined that any construction and substantial improvements meet the requirements of Section 2.205.06.~~

~~6. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Subsection 2.205.06(E)(5).~~

~~7. A FEMA elevation certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the City Recorder prior to use of the structure.~~

~~8. No alteration of topography beyond the perimeter of the structure is proposed.~~

A. Purpose.

The purpose of this section is to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

1. Protect human life and health;

2. Minimize expenditure of public money for costly flood control projects;

3. Preserve natural and beneficial floodplain functions;

4. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

5. Minimize prolonged business interruptions;

6. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

7. 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;

8. Notify potential buyers that the property is in a special flood hazard area;

9. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;

10. Participate in and maintain eligibility for flood insurance and disaster relief.

B. Methods of Reducing Flood Losses.

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

1. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage;

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

6. Employing a standard of "no net loss" of natural and beneficial floodplain functions.

C. Definitions.

For development within the special flood hazard area, the following terms, words or phrases shown shall be interpreted so as to give them the meaning they have in common usage.

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

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

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

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

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

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

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

Fill: Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered "development."

Fish Accessible Space: The volumetric space available to fish to access.

Fish Egress-able Space: The volumetric space available to fish to exit or leave from.

Flood or Flooding:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
(1) The overflow of inland or tidal waters.
(2) The unusual and rapid accumulation or runoff of surface waters from any source.
(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

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

Flood Insurance Study (FIS): See "Flood elevation study."

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

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

Green Infrastructure: Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.

Habitat Restoration Activities: Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).

Hazard Trees: Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.

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

Historic structure: Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

Hydraulically Equivalent Elevation: A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

Hydrologically Connected: The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface: A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then "flushed" into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

Low Impact Development: An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

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

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

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

Mean Higher-High Water: The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Falls City and includes any subsequent improvements to such structures.

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

Reach: A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational vehicle: A vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

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

Riparian: Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent,

or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

Riparian Buffer Zone Fringe: The area outside of the RBZ and floodway but still within the SFHA.

Silviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area: See "Area of special flood hazard" for this definition.

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

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

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

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

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local

code enforcement official and which are the minimum necessary to assure safe living conditions; or

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

Undeveloped Space: The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

Variance: A grant of relief by City of Falls City from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

D. Applicability.

1. Lands to which this Ordinance applies: This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Falls City, Polk County, Oregon.
2. Basis for Establishing the Areas of Special Flood Hazard. The special flood hazard areas identified by the Flood Insurance Rate Map (FIRM) for the City of Falls City, dated December 19, 2006, is hereby adopted by reference and declared to be part of this chapter. The FIRM is on file at City Hall. The best available information for flood hazard area identification as outlined herein, shall be the basis for regulation until a new FIRM is issued.
3. Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Falls City administers and enforces the State of Oregon Specialty Codes, the City of Falls City does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.
4. Compliance. All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.
5. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of this ordinance are subject to enforcement by the City of Falls City.

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

7. Severability. This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

8. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
   a. Considered as minimum requirements;
   b. Liberally construed in favor of the governing body; and
   c. Deemed neither to limit nor repeal any other powers granted under state statutes.

E. Warning and disclaimer of liability

1. Warning. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

2. Disclaimer of liability. This ordinance shall not create liability on the part of the City of Falls City, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

F. Administration.

1. Designation of the Floodplain Administrator. The City Manager is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

2. Duties and Responsibilities of the Floodplain Administrator. Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

   a. Permit Review. Review of all floodplain development permits to:

      i. Determine that the permit requirements of this ordinance have been satisfied;

      ii. Determine that all other required local, state, and federal permits have been obtained and approved;

iii. Determine if the proposed development is in a floodway. If located in the floodway: (a) assure that the floodway provisions of this ordinance in subsection I are met; and (b) determine if the proposed development is in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available, then ensure compliance with the provisions of subsection I; and provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a floodplain development permit.

iv. Determine if the proposed development qualifies as a substantial improvement as defined in subsection C.

v. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in subsection I.

vi. Determine if the proposed development activity includes the placement of fill or excavation.

vii. Determine whether the proposed development activity complies with the no net loss standards in subsection K.

3. Information to be obtained and maintained. The following information shall be obtained and maintained and shall be made available for public inspection as needed:

a. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with subsection I (use of other base flood elevation data).

b. The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of subsections F and G are adhered to.

c. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).

d. Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.

e. Maintain all Elevation Certificates (EC) submitted to the community.

f. The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with subsection I.

g. All floodproofing certificates required under this ordinance.

h. All variance actions, including justification for their issuance.

i. All hydrologic and hydraulic analyses performed as required under subsection I.

j. All Substantial Improvement and Substantial Damage calculations and determinations as required under subsection F.

k. Documentation of how no net loss standards have been met (see subsection K).

l. All records pertaining to the provisions of this ordinance.

4. Requirement to notify other entities and submit new technical data.

a. Community Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

b. Watercourse Alterations. The Floodplain Administrator shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
   i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
   ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

   The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under subsection K. Ensure compliance with all applicable requirements in subsections I and K.

c. Requirement to Submit New Technical Data. A community's 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, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

i. Proposed floodway encroachments that increase the base flood elevation; and
ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

d. Substantial Improvement and Substantial Damage Assessments and Determinations. Conduct Substantial Improvement (SI) (as defined in subsection C) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with subsection F. Conduct Substantial Damage (SD) (as defined in subsection C) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in subsection E) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

G. Floodplain Development Permit

1. Floodplain Development Permit Required. A floodplain development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area. The floodplain development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in subsection C, including fill and other development activities.
2. Application for Floodplain Development Permit. Application for a floodplain development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

   a. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of subsection F.

b. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

c. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in subsection I.

d. Description of the extent to which any watercourse will be altered or relocated.

e. Base Flood Elevation data for subdivision proposals or other development when required.

f. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

g. The amount and location of any fill or excavation activities proposed.

H. Variance Procedure.

1. Eligibility. A variance as described in this section is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

2. Conditions that warrant Variance approval.

   a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

   b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

   c. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

   d. Variances shall only be issued upon finding:
      i. A showing of good and sufficient cause;
      ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
      iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

   e. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other

development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

f. Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section K and associated options in Table 1).

3. Variance Notification and Process. A proposal to vary Floodplain Management standards herein is subject to the Type III process and Variance fee established at the time of application submittal. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with subsection F.

I. Provisions for Flood Hazard Reduction.

1. General Standards. In all special flood hazard areas, the no net loss standards (see subsection K) and the following standards shall be adhered to:

a. Alteration of Watercourses. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with subsection F.

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

c. Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. All new construction and substantial improvements shall also be constructed using methods and practices that minimize flood damage.

d. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

e. Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air- conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section if replaced as part of a substantial improvement.

f. Tanks. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

g. Subdivision proposals and other proposed developments.

i. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals Base Flood Elevation data.

ii. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

(a) Be consistent with the need to minimize flood damage.
(b) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
(c) Have adequate drainage provided to reduce exposure to flood hazards.
(d) Comply with no net loss standards in subsection K.

h. Use of Other Base Flood Elevation Data.

i. When Base Flood Elevation data has not been provided in accordance with subsection D, the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer subsection I. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of subsection I.

ii. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

i. Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

i. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

ii. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

J. Specific Standards for Riverine Flood Zones.

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in subsection I of this ordinance and the no net loss standards (subsection K).

1. Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

a. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

b. Be used solely for parking, storage, or building access;

c. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

i. A minimum of two openings;

ii. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;

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

iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,

v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

2. Garages

a. Attached Garages. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

i. If located within a floodway the proposed garage must comply with the requirements of this section;

ii. The floors are at or above grade on not less than one side;

iii. The garage is used solely for parking, building access, and/or storage;

iv. The garage is constructed with flood openings in compliance with this section to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;

v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

vi. The garage is constructed in compliance with the standards in this section and,

vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

b. Detached Garages. Detached garages must be constructed in compliance with the standards for appurtenant structures.

3. For Riverine Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in subsection I, the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

a. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community and will not result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in Section K.

b. Residential Construction. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in subsection I.

c. Non-Residential Construction.

i. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:

(a). Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE); or

(b) Together with attendant utility and sanitary facilities: 1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and, 3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth subsection F.

ii. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in subsection J.

iii. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one (1) foot below.

d. Manufactured Dwellings.

i. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with this section.

ii. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

iii. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;

iv. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

e. Recreation Vehicles. Recreational vehicles placed on sites are required to:

i. Be on the site for fewer than 180 consecutive days, and

ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

iii. Meet the requirements of this section including the anchoring and elevation requirements for manufactured dwellings.

f. Appurtenant (Accessory) Structures. Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine flood zones may be granted for appurtenant structures that meet the following requirements:

i. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway.

ii. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

iii. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;

iv. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;

v. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

vi. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings.

vii. Appurtenant structures shall be located and constructed to have low damage potential;

viii. Appurtenant structures shall 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 installed incompliance with subsection I; and,

ix. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

4. Floodways. Where the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

   a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

      i. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

      ii. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in subsection K.

   b. If the requirements of this section are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of subsections I and K.

5. Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

   a. Standards for AH Zones. Development within AH Zones must comply with the standards in subsections I and J.

   b. Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirements herein.

i. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) or at least two (2) feet if no depth number is specified. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

ii. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) or at least two (2) feet if no depth number is specified; or

(b) Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

iii. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

(a) Be on the site for fewer than 180 consecutive days, and

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Meet the elevation requirements herein and the anchoring and other requirements for manufactured dwellings of subsection I.

iv. In AO zones, new and substantially improved appurtenant structures must comply with the standards herein.

v. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements herein.

K. Standards for Protection of SFHA Floodplain Functions

The standards described below apply to all special flood hazard areas as defined in subsection C.

1. No Net Loss Standards. No net loss of the three proxies for the floodplain functions is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:

    a. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);

    b. Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;

    c. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.

2. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.

3. No net loss must be provided within, in order of preference: 1) the lot or parcel that floodplain functions were removed from, 2) the same reach of the waterbody where the development is proposed, or 3) the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

4. Undeveloped Space.

    a. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.

    b. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.

    c. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which

the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).

i. Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:
(a) Ordinary High Water Mark to 10-year,
(b) 10-year to 25-year,
(c) 25-year to 50-year,
(d) And 50-year to 100-year

ii. Hydrologically connected to the waterbody that is the flooding source;

iii. Designed so that there is no increase in velocity; and

iv. Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.

5. Impervious Surfaces. Impervious surface mitigation shall be mitigated through any of the following options:

a. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or

b. Use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or

c. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to minimize pollutant loading.

6. Trees. Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.

a. Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.

b. Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.

7. Stormwater Management. Any development proposal that cannot mitigate as specified in this subsection (K) must include the following:

a. Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and

b. Retention facilities that must:

i. Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year peak flow using a continuous simulation for flows between 50 percent of the 2-year event and the 10-year flow event (annual series).

ii. Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.

iii. Be designed to not entrap fish and drain to the source of flooding.

iv. Be certified by a qualified professional.

c. Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:

i. Access to stormwater treatment facilities at the site by the City of Falls City for the purpose of inspection and repair.

ii. A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.

iii. For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.

iv. The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by the City of Falls City for five years.

8. Activities Exempt from No Net Loss Standards. The following activities are not subject to the no net loss standards herein; however, they may not be exempt from floodplain development permit requirements.

a. Normal 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;

b. Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include expansion of paved areas;

c. Routine maintenance of landscaping that does not involve grading, excavation, or filling;

d. 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 special flood hazard area or tilled into fields as a soil amendment;

e. Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;

f. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;

g. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;

h. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance 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.

i. Habitat restoration activities.

9. Riparian Buffer Zone (RBZ)

a. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. The riparian buffer zone is limited to the area of special flood hazard, as defined, and does not extend beyond.

b. Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.

c. Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.

d. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.

e. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.

Table 1 No Net Loss Standards

Basic Mitigate Ratios	Undeveloped Space (ft^3)	Impervious Surface (ft^2)	Trees (6"<dbh≤20")	Trees (20"<dbh≤39")	Trees (39"<dbh)
RBZ and Floodway	2:1*	1:1	3:1*	5:1	6:1
RBZ - Fringe	1.5:1*	1:1	2:1*	4:1	5:1
Mitigation multipliers					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5th field)	200% *	200% *	200% *	200%	200%

Notes (table above):
1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
    a. For example, if only 500 ft2 of the total 1000 ft 11802 of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft2 of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See Riparian Buffer Zone)