



NOTICE OF PUBLIC MEETING
CITY OF ALBANY
CITY COUNCIL
 Council Chambers
 333 Broadalbin Street SW
 Wednesday, August 25, 2010
 7:15 p.m.

OUR MISSION IS

*"Providing quality public services
 for a better Albany community."*

OUR VISION IS

*"A vital and diversified community
 that promotes a high quality of life,
 great neighborhoods, balanced
 economic growth, and quality public
 services."*

AGENDA

Rules of Conduct for Public Hearing

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. SCHEDULED BUSINESS

a. Communication

1) Albany Municipal Airport, Fixed Base Operator. [Pages 1-2]

Action: _____

b. Adoption of Findings

1) HI-08-10, 808 Elm Street SW; appeal decision findings. [Pages 3-4]

Action: _____

c. Legislative Public Hearing

1) CP-01-10/DC-04-10, amending Ordinance No. 4447, which adopted the City of Albany Comprehensive Plan and map, and amending Ordinance No. 4441, which adopted the City of Albany Development Code by amending the Comprehensive Plan text and map and Development Code text relating to floodplain management, adopting findings, and declaring an emergency. [Pages 5-44]

Action: _____ ORD. NO. _____

d. Business from the Public

e. Adoption of Consent Calendar

1) Approval of Minutes

a) August 9, 2010, Work Session minutes. [Pages 45-47]

2) Authorizing a capital purchase for an additional K-9/traffic vehicle. [Pages 48-49] RES. NO. _____

3) Accepting a Target Corporation donation for \$700 for an Albany Police latent fingerprint dusting station. [Pages 50-51] RES. NO. _____

4) Authorizing appropriation of unappropriated beginning fund balance in the General Fund. [Pages 52-53] RES. NO. _____

5) Approving an extended property tax abatement agreement between the City of Albany, a cosponsor of the South Santiam Enterprise Zone, and EnerG2. [Pages 54-57] RES. NO. _____

Action: _____

f. Award of Bid

1) WL-10-03, Baker Street water line. [Pages 58-61]

Action: _____

- g. Report
 - 1) Human Relations Commission annual report. [Pages 62-66]
- Action: _____
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- 5. BUSINESS FROM THE COUNCIL
- 6. NEXT MEETING DATE: Regular Session September 8, 2010
Work Session September 20, 2010
- 7. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, please notify the Human Resources Department in advance by calling (541) 917-7500.

Tuesday, August 17,2010

From: Steve Geddes 541-990-7464/541-926-5676
To: Albany City Council and Mayor
cc. Tom Kopinski

First of all let me state that I am a pilot, aircraft owner, and hanger owner at the Albany airport. I am an acquaintance/friend/customer of Tom Kopinski and a customer of reliant aviation, but not a social/personal friend. I am pursuing this communication with city leadership solely for the purpose of keeping our airport community economically viable.

Running an FBO (FAA term for fixed base operator) is a difficult business to sustain profitably. This is common knowledge in the aviation community. The old joke about the farmer that wins the lottery, is asked what he is going to do with the money, and responds "keep farming until it is all gone" applies to an FBO operation as well.

Tom has had to run his business for the last 20+ years and face these obstacles:

1. Loss of revenue from outside/tarmac airplane tie down fees. This went away as a result of issues regarding cable/chain ground anchoring and vigorous hanger construction over the last 12 years or so. There are now very few airplanes stored outside now at the airport. Formerly there were 8-12 spaces @ \$25 mo. That fed his bottom line.
2. Loss of revenue due to the demolition of the 3 open hangers attached to the Reliant building. This resulted in a loss of \$300 mo.
3. Loss of revenue from gas sales-amount unknown.
4. Loss of revenue due to competition for repairs and flight instruction at the airport from individuals who are qualified but have none of the overhead associated with operating a full service FBO. Also, many of the airplanes based in Albany are "homebuilts" and do not require a licensed mechanic for repairs and maintenance.
5. Aviation and particularly recreational aviation is drastically affected by economic conditions. People's willingness to commit the \$6000 required to earn a pilot's license is directly related to the state of the local economy. Fuel prices as well affect pilot's use of their airplanes.

All of these factors have created an extremely difficult business environment in what is at best a difficult business environment in which to operate. Tom has withstood the economic downturns of the past, is struggling now, and needs the city to act reasonably in it's decision about the airport.

Reliant aviation provides family wage jobs for not just Tom, but also for a full time mechanic, parts person and a flight instructor—just brought into the area from back east. It is what is referred to as a full service FBO. That is, it provides service, repairs, parts and flight instruction. FBO's

are disappearing at many small airports nation-wide. When an FBO leaves an airport, in a sense the airport dies. I do not believe there is a pool of individuals waiting in the wings for an FBO business opportunity to present itself. The qualifications are too great—FAA licensing for repairs and instruction, the risk is too significant, and the chance for success too slim for people to be standing in line for the opportunity to run an FBO. My recommendation is that a settlement of some sort be reached with Tom based on his personal financial circumstances and that future rent/lease be re-negotiated that realistically reflects his bottom line. The alternative could very likely be an empty building with weeds growing in the cracks of the tarmac and no income stream to the city.



TO: Albany City Council

VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director

FROM: Anne Catlin, Community Development Planner

DATE: August 18, 2010, for the August 25, City Council Meeting

SUBJECT: 808 Elm Street SW Appeal Decision Findings (Planning File HI-08-10)

RELATES TO STRATEGIC PLAN THEME: ● An Effective Government
● Great Neighborhoods

Action Requested:

On August 11, 2010, you directed staff to prepare findings in support of your decision to approve replacing all of the windows on the house at 808 Elm Street with new wood windows. The following findings are suggested for your consideration and adoption. Conditions of approval of the window replacement follow the findings and conclusion.

Findings:

1. In accordance with ADC 1.540, the City Council opted to conduct a *de novo* hearing.
2. The June 2, 2010 Landmarks Commission decision was based, in part, on an evaluation of the condition of the windows through photographs provided with the application, staff evaluation, and a statement made by the contractor that the windows could be repaired.
3. The contractor submitted new evidence at the August 11, 2010 Council hearing, displaying a window that was not originally approved for replacement. He testified that the windows were beyond reasonable repair.
4. The applicant provided estimates for repairing and repainting the windows and testified that these costs were not economically feasible.

Conclusion:

The windows are beyond reasonable repair, and are approved for replacement.

Conditions of Approval:

1. Replacement windows shall match the original windows in dimensions and design details, including lamb's tongues on the top rail.
2. The window shall be wood in the interior and exterior, and the window trim shall match the trim dimensions of the original windows.
3. The window cap molding shall be installed over the windows to replicate the original finish details.
4. The glass shall be clear, untinted, and not treated with any reflective coating.

5. The contractor shall submit the window replacement order to the Community Development Director for review for conformance with the foregoing conditions prior to being purchased and installed.

alc

c: Planning File HI-08-10

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TO: Albany City Council
VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director *GB*
FROM: Heather Hansen, Planning Manager *HAH*
DATE: August 18, 2010, for the August 25, 2010, City Council

SUBJECT: Amendments to the Albany Comprehensive Plan and Albany Development Code Regarding Development in the Floodplain

RELATES TO STRATEGIC PLAN THEME: ● Great Neighborhoods; A Safe City; A Healthy Economy; An Effective Government

RELATES TO: ● National Flood Insurance Program Requirements

Action Requested: Adoption of the proposed amendments.

Budget Impact: None.

SUMMARY

Updated Floodplain Maps. FEMA recently updated their flood hazard maps with newer topographical data provided by the City. In the process, some properties were removed from the floodplain and some were added. The maps include the 100-year floodplain boundary, the floodways and base flood elevations, and are used to establish flood risk zones and calculate the cost of flood insurance premiums. FEMA sent the floodplain maps to the City of Albany on March 29, 2010. Federal regulations require the City to adopt a new floodplain development ordinance that references the new maps and brings our codes into compliance with the current National Flood Insurance Program (NFIP) requirements by September 29, 2010.

Updated Floodplain Regulations. In order to be in compliance with the NFIP requirements, the City of Albany has to update its existing floodplain regulations to meet the minimum criteria set by the State of Oregon and the NFIP. The intent of the regulations is to reduce loss of life and property and regulate activities that may obstruct or change the flow of water. If we do not adopt new regulations by September 29, 2010, residents and businesses will not be able to buy flood insurance and would have great difficulty getting financing for existing development in the floodplain.

Most of the proposed amendments clarify the intent of floodplain regulations that are already in the Albany Development Code. There are a few new regulations that are necessary to comply with NFIP, and a few that are above the minimum requirements of NFIP that would increase the discount on flood insurance rates for businesses and residences in the 100-year floodplain through the NFIP Community Rating System Program. The significant amendments can be summarized as follows:

6.082 Floodplain Development Permit Required is a minimum requirement of NFIP for development activities in the 100-year floodplain. Floodplain development is defined as any man-made change to real property, including but not limited to buildings, fences or other structures, mining, dredging, filling, grading, paving, land clearing, excavation, drilling operations, and continuous storage of materials and equipment.

6.083 Floodplain Development Permit Exemptions. Many small-scale development activities and residential accessory uses will be exempt from the floodplain development permit. But any development in the 100-year floodplain that could potentially divert or obstruct the flow of water, and create a danger or hazard to life or property, is not exempt from obtaining a floodplain development permit.

6.132 Recreational Vehicles. RVs placed in the 100-year floodplain must be on the site fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the elevation and anchoring requirements for manufactured homes.

Higher Regulatory Standards: There are three proposed regulations that exceed the NFIP minimum requirements, and relate to our participation in the CRS program of NFIP:

- *6.155 Critical Facility Standards.* New facilities would be required to be built outside the 100-year floodplain, and have their lowest floor 3 feet above base flood elevation, or to the height of the 500-year floodplain, whichever is higher. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, emergency responders and installations that produce, use, or store hazardous materials.
- *6.075 Definitions – Substantial Improvements.* The proposed amendment would change the definition of substantial improvement from 50% to 49% of assessed value and require tracking the improvements cumulatively over a 10-year period.
- *6.125(h) Flood Hazard Reduction Standards.* Property owners would be required to sign and record a nonconversion agreement to not improve, finish, or otherwise convert an area below the lowest floor that is less than a foot above the base flood elevation.

Planning Commission Hearing – August 9, 2010. Staff presented a summary of the proposed amendments and the Planning Commission held a public hearing. Jack Burrell (K & D Engineering, PO Box 725, Albany) testified. He was supportive of adopting the maps and the higher regulatory standards that would enable the community to get a higher discount on flood insurance, but he requested that the Floodplain Development Permit portion be pulled from the Ordinance and be put on a different timeline to enable a more thorough review.

Staff responded that the Floodplain Development permit is a minimum requirement of the NFIP, and if it were not included in the Ordinance adopted by September 29, 2010 the community is at risk of being suspended from the program. Staff noted that the proposed amendments have been posted online since July 19, 2010.

The Planning Commission closed the public hearing, discussed the proposed amendments, and requested some clarifying modifications to the Comprehensive Plan and Development Code text amendments. Those are included in the proposed amendments in your agenda packet.

Subsequent Staff Proposed Amendments. Since the time of the Planning Commission public hearing, staff has been working on implementation of the Floodplain Development Permit process so it is ready to go by September 29, 2010 including the permit application procedures for the various floodplain activities, the criteria for approval, how they would be logged and tracked, fees, etc. – basically starting at the planning counter through completed development. In this process, it became evident that sections of the proposed amendments needed clarification and refinement to improve customer service.

Early this week, staff learned of a newer version of the State's DRAFT Model Flood Damage Prevention Ordinance, which is intended to provide guidance to communities for compliance with

NFIP. The updated version includes language that helps clarify some of the NFIP requirements and procedures.

The proposed amendments in your agenda packet include additional amendments that are intended to address customer service improvements and clarifying language and procedures to comply with NFIP. They do not include any substantive changes that would further restrict use of land in the floodplain relative to the version reviewed and recommended by the Planning Commission

BACKGROUND

Floodplains are areas susceptible to inundation by flood waters. The "100-year" floodplain is commonly referred to and includes the area that would be inundated by a flood having a 1% chance of occurring in any given year. A "100-year" flood can occur during any given year if conditions are right. Floodplains perform a variety of functions, and in the process, prove valuable to both humans and fish and wildlife species. Important functions of Albany's floodplains include flood water storage, water quality maintenance, fish and wildlife habitat, and recreation/open space. What happens in the floodplain can have impacts on human uses and natural resources within Albany as well as in areas located downstream.

Floodplain Management aims to reduce flood losses to life and property while simultaneously protecting the natural resources and functions of floodplains. Development within floodplains is generally not prohibited in Albany, but floodplain management involves regulatory, construction, and public education measures designed to avoid and minimize potential risk to development from flood hazards. Floodplain management also entails implementation of mitigation measures or, in other words, specific actions that can be taken to prevent future damages and threats to human life and public health.

National Flood Insurance Program (NFIP) is a voluntary federal program that enables property owners in participating communities to purchase flood insurance protection against losses from flooding. NFIP has three basic components – flood hazard mapping, floodplain insurance, and floodplain regulations. The combination of the three all work together to reduce flood damages. NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments and private insurance companies must share roles and responsibilities to meet the goals and objectives of the NFIP. The City of Albany joined the NFIP in 1985. The community's role is of paramount importance. Residents and property owners can get federally-backed flood insurance only if the community carries out its responsibilities.

Community Rating System (CRS). The City also participates in the CRS program of NFIP. CRS is an optional program that rewards communities that implement programs that exceed the minimum standards of NFIP by providing discounts to residents in participating communities. The City of Albany joined the CRS program in 1991. The more the City does to protect the community from flooding, the higher the discount residents are able to get on their flood insurance (up to 45%). The City's current CRS classification is a 7, which translates into a 15% discount on flood insurance rates for floodprone properties in Albany. The City is working toward a classification of 5, which would result in a 25% discount on flood insurance rates.

Non-Participation in NFIP. If Albany decides **not to adopt** a NFIP compliant ordinance by the effective date of the maps (September 29, 2010), the community is immediately suspended from NFIP, thereby making flood insurance unavailable to Albany residents or businesses.

According to NFIP, if a community with mapped floodplains chooses NOT to participate, the following would occur:

- (1) Flood insurance would no longer be available. No resident or business would be able to purchase or renew a flood insurance policy.
- (2) No Federal grants or loans for buildings will be made in identified flood hazard areas. This includes all federal agencies such as HUD, EDA, Small Business Administration, HHS, etc.
- (3) No federal disaster assistance will be provided in the form of loans for repair or reconstruction of buildings in identified flood hazard areas.
- (4) No federal mortgage insurance will be provided in identified flood hazard areas. This includes FHA, VA, Farmers Home, etc.
- (5) No Fannie Mae, Freddie Mae, and GMNA purchase of mortgages in the secondary market will be made if the properties that are the subject of these mortgages are located in Special Flood Hazard Areas of non-participating communities.
- (6) Lenders of conventional loans must notify the buyer or lessee that property is in a flood hazard area; and must notify the buyer or lessee that property in flood hazard area is not eligible for federal disaster relief in a declared disaster.

FEMA's Map Change Process. The City cannot amend the maps; only FEMA can do that. There are several options for property owners who believe a property was incorrectly included in a floodplain zone. They can get an official determination, by letter, to amend or revise effective maps. The letters are issued in the following categories:

- (1) Letter of Map Amendment (LOMA) is a revision based on technical data showing that a property was incorrectly included in a designated floodplain.
- (2) Letter of Map Revision (LOMR) is based on technical data showing that flood elevations, floodplain delineations, or planimetric (horizontal) features have changed, usually due to manmade changes. One common type is a LOMR-F that is a determination that land has been elevated by fill above the base flood elevation and is excluded from the floodplain.
- (3) Conditional Letter of Map Revision (CLOMR) is a formal review and comment by FEMA as to whether a proposed project complies with the minimum criteria for a LOMR. It does not amend or revise the floodplain maps.

hah

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 4447, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN AND MAP, AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE COMPREHENSIVE PLAN TEXT AND MAP, AND DEVELOPMENT CODE TEXT RELATING TO FLOODPLAIN MANAGEMENT, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILES CP-01-10 AND DC-04-10).

WHEREAS, the State of Oregon has delegated the responsibility to local government units to adopt regulations designed to promote public health, safety, and the general welfare of its citizenry; and

WHEREAS, from time to time it is appropriate to amend the Comprehensive Plan and Development Code based on new data; and

WHEREAS, The City of Albany is a member in good standing of the National Flood Insurance Program (NFIP), which enables the community to be eligible for flood insurance through NFIP; and

WHEREAS, the Federal Emergency Management Agency (FEMA) has published a revised Flood Insurance Study for Linn County and accompanying Flood Insurance Rate Maps, dated September 29, 2010; and

WHEREAS, the current Albany Development Code does not meet the minimum requirements of the NFIP; and

WHEREAS, the City of Albany must adopt floodplain management measures that meet or exceed the minimum NFIP requirements, including reference to the new Flood Insurance Study and Flood Insurance Rate maps, by September 29, 2010 to avoid suspension from the NFIP; and

WHEREAS, if suspended from NFIP, the community becomes ineligible for flood insurance through the NFIP thereby precluding new insurance policies from being sold, and existing policies renewed; and

WHEREAS, the City of Albany also participates in FEMA's Community Rating System Program, whereby flood protection and mitigation activities above and beyond the minimum NFIP requirements enables properties in floodprone areas to receive discounts on their flood insurance premiums; and

WHEREAS, on July 19, 2010, the City mailed notice of the Planning Commission and City Council public hearings on the proposed amendments to all owners of property within the Special Flood Hazard Area (100-year floodplain); and

WHEREAS, on August 1, 2010, notice of the Planning Commission and City Council public hearings was published in the Albany Democrat Herald; and

WHEREAS, on August 9, 2010, the Planning Commission held a public hearing on the proposed amendments, and recommended City Council approval of the proposed amendments based on findings contained in the staff report and testimony presented at the public hearing; and

WHEREAS, on August 25, 2010, the City Council held a public hearing concerning the proposed amendments; and

WHEREAS, the City Council reviewed the amendments recommended by the Planning Commission, and subsequent amendments proposed by staff, heard testimony presented at the public hearing, and then deliberated.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Albany Comprehensive Plan Plate 5 is hereby amended as shown on attached Exhibit A.

Section 2: The Albany Comprehensive Plan text is hereby amended as shown on attached Exhibit B.

Section 3: The Albany Development Code text is hereby amended as shown on attached Exhibit C.

Section 4: The Findings of Fact contained in the staff report and attached as Exhibit D are hereby adopted in support of this decision.

Section 5: Adopt, by reference, the Linn County Flood Insurance Study and accompanying Flood Insurance Rate Maps specific to the City of Albany dated September 29, 2010.

IT IS HEREBY adjudged and declared that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, and an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect on September 29th, 2010 when signed by the Mayor.

Passed by Council: _____

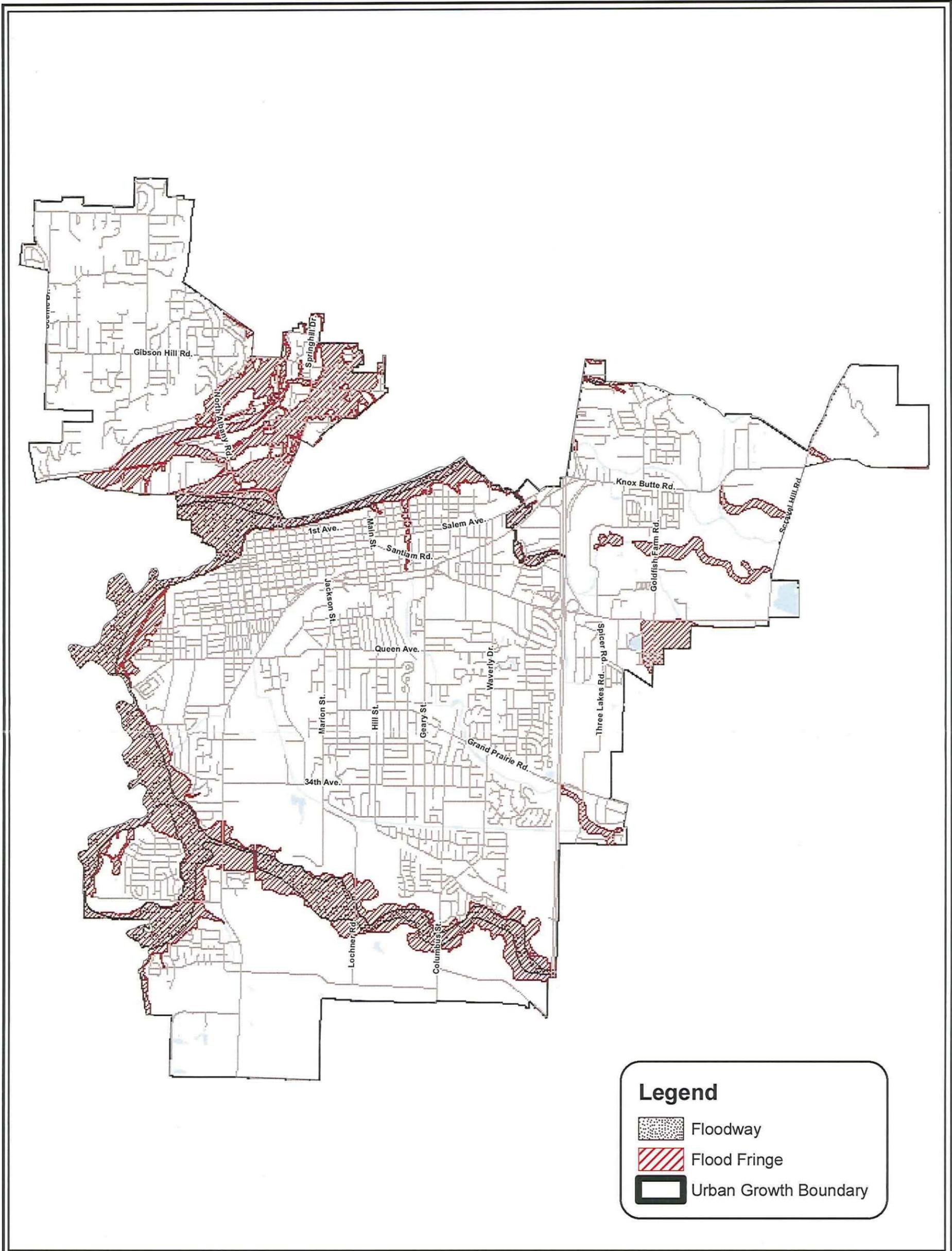
Approved by Mayor: _____

Effective Date: September 29, 2010

Mayor

ATTEST:

City Recorder



Legend

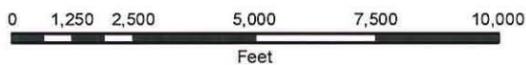
-  Floodway
-  Flood Fringe
-  Urban Growth Boundary

PLATE 5: 100-Year Floodplain

City of Albany - 333 Broadalbin St. SW Albany, Oregon 97321 (541 917-7676)

The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information contained within our records.

Project File Location: U:\Shared\GIS\Planning\Flood Plains.mxd



NOTE: Letters of Map Change (LOMRs and LOMAs) from FEMA supercede the floodplain boundaries shown on this map.

CHAPTER 2: SPECIAL AREAS

GOAL 7: FLOOD HAZARDS & HILLSIDES

HAZARDS
BACKGROUND SUMMARY

FLOOD HAZARDS

Flooding is ~~the most~~ a serious natural hazard in the Albany area with its effects ranging from simple annoyance to loss of life and property. The annual flood season extends from October to April with the majority of floods occurring during December and January when ~~soaked~~ **saturated** soils and rivers can no longer handle the overland runoff from the heavy winter rains.

Each of the three major waterways, the Willamette and Calapooia Rivers and Oak Creek, have experienced major floods and many smaller floods within the past century. Since 1878, there have been 13 major floods on the Willamette as high or higher than the 1964 flood elevation. Upstream flood control dams regulate the peak flood crest elevation but do not reduce the chances of major flooding, although the chances of smaller floods have been reduced.

Approximately 24 percent of the land within the Albany Urban Growth Boundary is within the 100-year floodplain. Floodplains within the Albany Urban Growth Boundary are mapped on Plate 5 in Chapter 4. A 100-year flood has a one percent chance of occurring in any one year and its floodplain is used to determine the base flood levels and flood prone area. The ~~Army Corps of Engineers~~ **Federal Emergency Management Agency** provides the City with mapped floodplain data which is periodically updated as circumstances change.

For floodplain management purposes, the floodplain is divided into the floodway and the flood fringe. The floodway is defined as the minimum area needed for the passage of flood waters in order that flood heights upstream are not increased beyond an acceptable amount. In Albany, the floodway is the channel and adjacent land areas which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot. The flood fringe is that area bordering the floodway subject to flooding but not contributing appreciably to the passage of flood flows.

The City of Albany ~~participates in~~ **joined** the National Flood Insurance Program (NFIP) of the **Federal Emergency Management Agency in 1985**, which NFIP requires participating communities to adopt land use controls ~~meeting Federal Emergency Management Agency~~ **that meet the minimum requirements of the program standards**. Participation in the program by local jurisdictions enables property owners to obtain federally subsidized flood insurance and makes the area eligible for federal disaster relief if extensive damages ever occur.

The City also participates in the Community Rating System (CRS) program of NFIP. CRS is an optional program that rewards communities that implement programs that exceed the minimum standards of NFIP by providing discounts to residents in participating communities. The City of Albany joined the CRS program in 1991. The more the City does to protect the community from flooding, the higher the discount residents and businesses are able to get on their flood insurance (up to 45%).

Historically, there have been three major flood hazard areas within the Urban Growth Boundary, each with different problems and characteristics. The east Albany area was subject to ponding because of flow restrictions occurring on Cox, Burkhart, and Truax Creeks. The Soil and Water Conservation District implemented flood control improvements on these drainageways which removed the flooding problem. The remaining problem areas are the floodplains along the Willamette River, particularly within North Albany and the floodplains along the Calapooia River and Oak Creek in South Albany. Improvement of the Oak Creek drainageway is being evaluated by the Soil and Water Conservation District but no project has been scheduled.

A large proportion (27 percent) of North Albany is within the floodplain, much of which ~~was~~ already developed

when it was annexed into the City in 1991. During flood times, emergency and service vehicles cannot reach areas in North Albany because access roads are flooded and inaccessible.

There is little development on the floodplains along the Calapooia River and Oak Creek in South Albany. Increased development costs and flooding have served as a sufficient deterrent; but as the community develops, these floodplains will see increased development pressure. (Note: no projects have been identified within the floodway, floodplain, or channel.)

Encroaching on the floodplain by filling or with buildings or with other structures decreases the area available for the conveyance of excess water. Such filling may increase both upstream and downstream flooding or displace floodwaters onto land which is not within the floodplain. Buildings and bridges within the floodway may dam floodwaters and cause higher flood stages and create upstream inundation. The removal of vegetation along riverbanks and in the floodplain increases the likelihood of erosion damage.

Future floodplain levels can never be exactly predicted and the Army Corps of Engineers periodically updates flood level information as new studies and information becomes available. As this information is provided, it will be incorporated into the City's information base and appropriate land use regulations will be applied.

HIGH WATER AND PONDING

The clay-rich soils and generally flat topography found within the Albany Urban Growth Boundary combine with the alternating wet/dry weather cycle to produce poor drainage conditions throughout the area. These soil conditions result in ponding, a high water table, and some localized flooding during the winter which poses limits to construction methods and septic tank use. Disturbance of the natural drainage patterns and the removal of protective vegetative ground cover by urban development and upstream agricultural and forest practices have aggravated these soil conditions and have increased surface runoff.

Generally, soils within the Albany area are of low permeability. The infiltration rate of rainwater is slow and flat surfaces provide no natural gradient for the resulting overland runoff. Ponding occurs when soaked soils can no longer absorb heavy amounts of rainwater or when the rising groundwater table has actually surfaced. Buoyancy associated with a high groundwater table can crack basements, lift swimming pools, and cause underground storage tanks to surface.

Nearly all of the area soils are subject to severe shrink-swell limitations. These clay soils dry out and crack in summer months and then with the first winter rains swell shut and become impermeable, thus increasing surface runoff. These shrinking and expanding soils provide poor foundations for large structures and promote caving-in of deep excavations. Building foundations must be designed to resist swell pressures.

There are fourteen drainage basins within the urban growth boundary area. Four of these basins are within the North Albany portion of the Urban Growth Boundary while the remaining ten encompass the remainder of the Urban Growth Boundary. The Oak Creek drainage area, containing four basins, extends into the foothills beyond the cities of Lebanon and Sodaville. Periwinkle Creek is one of the largest and most developed drainage areas within the Urban Growth Boundary area. This area is divided into four basins. The Truax, Burkhardt and Cox Creek basins are currently largely undeveloped, with the majority of the basins outside the Urban Growth Boundary. The Calapooia River Basin is located in the western area of the Urban Growth Boundary.

GOAL 7: FLOOD HAZARDS & HILLSIDES

GOALS, POLICIES, & IMPLEMENTATION METHODS

GOAL

Protect life and property from natural disasters and hazards.

POLICIES

1. Continue to participate in the National Flood Insurance Program and comply with applicable standards.
2. **Review any development that could potentially affect the floodway or increase the area subject to the Special Flood Hazard Area (100-year floodplain).**
Staff Comment: This is intended to clarify the purpose and need for a floodplain development permit, which is an NFIP requirement.
23. Restrict new development (**including grading, fill, and excavation**) from locating within floodways which **that** would result in an increase in base-year flood levels. If it can be determined that there will be no increase in base-year flood levels, then the following uses may be considered:
 - a. Public and private parks and recreational uses.
 - b. Other uses which would not involve the construction of permanent or habitable structures.
 - c. Water-dependent structures such as docks, piers, bridges, and floating marinas.
34. Concurrent with new development, and when appropriate, secure dedications and easements adequate for channel maintenance and conveyance of storm water along natural drainageways and where identified on adopted master plans, secure easements for public open space, and future recreation use along all floodways and natural permanent drainageways.
45. Recognize that development within areas subject to flooding is subject to regulations to protect life and property and that certain types of development may not be allowed.
56. Ensure that development proposals in the flood fringe and adjacent to drainageways are consistent with Federal Emergency Management Agency (FEMA) and other applicable local regulations in order to minimize potential flood damage. Development proposals in areas subject to flooding may be reviewed according to the following criteria:
 - a. Proposed development activities shall not change the flow of surface water during flooding so as to endanger property in the area. Special engineering reports on the changes in water flow and potential damage which may be caused as a result of proposed activities may be required. If necessary, local drainage shall be improved to control increased runoff that might increase the danger of flooding to other property.
 - b. Impacts on significant fish and wildlife habitat have been considered and appropriate protection measures included in project design.
 - c. Problems of ponding, poor drainage, high water table, soil instability, or exposure to other flood hazards have been identified and mitigated. Evaluations and mitigating measures shall be based on a base year flood and wet season characteristics.
 - d. If adjacent to a designated floodway, the development shall be designed to use the natural amenities of the floodway including open space, scenic views and vegetation in accordance with an approved site plan.

67. Locate and construct all public utilities and facilities such as sewer, gas, electrical, and water systems to minimize or eliminate flood damage. Require that new or replacement water supply systems and/or sanitary sewer systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located to avoid impairment of them or contamination from them during flooding.

8. **Locate and construct any critical facility to minimize or eliminate flood damage and to facilitate emergency operations. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and other emergency responders, and installations that produce, use or store hazardous materials. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. New critical facilities must be floodproofed to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.**

Staff Comment: An interdepartmental floodplain management team recommends restricting the siting of critical facilities in the floodplain because of the potential risk to public health and safety if such facilities and surrounding areas were to be flooded.

79. Ensure that any filling or construction within the floodplain meets the following criteria:

a. Require that a ~~fill~~ **floodplain development** permit is issued prior to any **grading (fill)** activity and all **grading (fill)** is engineered and compacted to applicable standards. **Grading (Fill)** areas for dwellings shall have engineering certification that loading rates are adequate for dwellings.

[Ord. 5042, 4/14/1993]

b. The lowest finished floor elevation shall be built at least one (1) foot above the base-year flood level. Special engineering reports or structural work may be required.

c. Require property owners or developers to file a elevation certification approved by the local community permit official, registered professional engineer, architect, or surveyor indicating elevation of the surrounding grade or lowest habitable floor (including basement) of all new residential structures. This information shall be maintained to indicate compliance with Federal Emergency Management Agency (FEMA) regulations.

810. For construction, remodeling, or major repairs to structures (including prefabricated and mobile homes) within the floodplain, review building permits to ensure that:

a. Building location and grading are designed to protect the structure during a base year flood.

b. Construction materials and utility equipment are resistant to flood damage.

c. Construction methods and practices will minimize flood damage.

d. Where appropriate, structures are designed or modified to prevent flotation, collapse, or lateral movement of the structure.

911. Development approval within the flood fringe shall be reviewed to protect property and public safety and significant natural values.

1012. The City may provide density bonuses which encourage the protection and preservation of flood fringe areas.

1113. Prior to annexation of hillside areas, adopt hillside development regulations for slope areas in excess of 12% in order to protect against geologic mass movement, excessive erosion and storm water runoff, and protection of important natural vegetation.

1214. Require land divisions and planned developments in slope areas to: [Ord 5042, 4/14/1993]

a. Minimize cut and fill requirements.

b. Ensure that the location and design of streets, structures, and other development give full consideration

to natural contours, drainage patterns, and vegetation features of the site.

- c. Protect against temporary and long-term erosion.
- d. Control storm drainage to minimize the amount and rate of storm water flowing onto adjacent property and city streets.

1315. The City may reduce standard densities (increases in minimum lot sizes and lot area per unit) and alternatively encourage cluster development through the PUD process, with greater slopes receiving the greater density reduction and cluster development incentive.

1416. Encourage open space alternatives to urban level development in areas subject to flooding such as park and recreation areas, agriculture, natural areas and wildlife habitat.

1517. Within the city limits portion of the Urban Growth Boundary, maintain regulations pertaining to excavation and grading.

1618. When approving development in the flood fringe follow FEMA guideline that states: "In mapping a floodway it is assumed that all floodplain areas outside the floodway will eventually be filled in or otherwise obstructed. Consequently there is no need for a case by case hydraulic analysis of each proposed development in the fringe areas." (Source: FEMA, The Floodway: A Guide for Community Permit Officials).

[Ord. 5042, 4/14/1993]

IMPLEMENTATION METHODS

1. Define floodway, floodplain, and open space zoning boundaries on 1" to 100' topographical maps and adopt them as the official floodplain maps.
2. **A floodplain development permit shall be obtained before construction or development begins in the Special Flood Hazard Area (100-year floodplain) that could result in an increase in base-year flood levels.**

Staff Comment: This is required by NFIP and intended to clarify the purpose and need for a floodplain development permit.

23. Periodically hold workshops involving local realtors, developers, government officials, and property owners to provide information about city and federal flood management regulations.
34. Adopt Chapter 70 of the Uniform Building Code, modifying the Code if necessary in minimal slope areas.
45. Require contractors to identify approved fill sites for disposing of material used for public works projects.
56. Require proposed hillside development to provide for the preservation and, if possible, enhancement of the site's natural features during all phases of the design and development process. This includes consideration of soils, vegetation, hydrology, wildlife habitat, views and visual orientation, both from the site and to the site, and unusual or unique natural features.
67. Revegetate any exposed soil not under continuous construction and on slopes which are greater than 20% slope with temporary or permanent vegetation such that it is not left exposed for more than 60 days in the period between October 1 and April 1.
78. Revegetate any exposed soil which is greater than 20% slope in a manner to re-establish vegetation within a 6-month period from issuance of a Certificate of Occupancy. If irrigation is not provided, then the exposed soil must be planted with species which can survive without irrigation. Vegetative cover or any alternative cover (rock, masonry, etc.) must be maintained in perpetuity.

- 89. In all slope areas, collect, control, and direct all impervious surface drainage from roofs, driveways, and parking areas to a City storm drain or other City-approved drainage system.
- 910. Require that all excavation and fill work and structural foundation work be approved by a registered engineer whenever the slope is greater than 30% or where there exists probability of geologic hazards such as perched water tables and/or landslide areas. Where appropriate, such approval shall include information from a soils engineer and engineering geologist.
- 1011. Increase minimum lot sizes (or minimum lot area per unit) on hillside areas, allowing higher densities for cluster developments approved through Planned Development as outlined in the following table:

<u>Slope %</u>	<u>Standard Dev.</u>	<u>(RS 6.5 Lot)</u>	<u>PUD Devel.</u>	<u>(RS 6.5 Avg)</u>
13 to 20	1.25	8125	1.00	6500
21 to 25	1.50	9750	1.15	7475
26 to 30	2.00	13000	1.40	9100
31 & above	3.00	19500	2.00	13000

- 112. Review development proposals in areas subject to flooding on the basis of adopted flood regulations. [Ord 5042, 4/14/1993]
- 1213. ~~When necessary~~ **If applicable**, apply conditions of approval for development within the flood fringe such as:
 - a. Regulations of site grading including measures to balance cut and fill.
 - b. Protection of significant open space areas, wildlife habitat, and existing vegetation.
 - c. Dedication of public access, rights of way, or easements.
 - d. Channel improvements and stabilization.
 - e. Special construction or construction measures such as flood proofing.
- 1314. As a part of a Storm Water Drainage Master Plan for North Albany, identify, as needing protection, key swales and drainages that serve a vital role in the overall storm water drainage and flood water management system in North Albany. [Ord 5042, 4/14/1993]

**ARTICLE 6
SPECIAL PURPOSE DISTRICTS
FLOODPLAIN**

6.070 Purpose. ~~The floodplain standards are intended to manage development in the floodplain in a way that promotes public and environmental health and safety and minimizes the economic loss and social disruption caused by impending flood events. It is the purpose of these regulations to promote the public health, safety and general welfare, and to minimize public and private losses to due flood conditions in specific locations~~

~~6.071 Development to Which These Regulations Apply.~~

Staff Comment: Replaced with Section 6.082.

6.075 Definitions. As used in this Code Article the following words and phrases have the following meanings:

Staff Comment: Moved from Section 6.085.

Base Flood or 100-year Flood: The flood having a one percent chance of being equaled or exceeded occurring in any given year. ~~Map designation always includes the letter "A" (e.g. A, AE, AO).~~

Base Flood Elevation (BFE): The BFE is the elevation, expressed in feet above sea level, that the base flood is expected to reach.

Continuous Storage Operations: Operations that continuously store equipment or materials, including, but not limited to lumber yards, automobile junkyards, logging or sawmill operations, storage yards for heavy equipment, automobile dealership lots, and other storage operations with similar impacts. These operations are included in the definition of floodplain development.

Critical Facility: A facility that needs to be operable during a flood, or for which even a slight chance of flooding might pose unacceptable risk to health and safety. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and other emergency responders, and installations that produce, use or store hazardous materials.

Datum: Until recently, the FIRMs have referenced the National Geodetic Vertical Datum of 1929 (NGVD 29). A newer more accurate vertical datum, the North American Vertical Datum of 1988 (NAVD 88), will be used for all FIRM updates. The 2010 Albany FIRMs reference the NAVD 88 datum.

NAVD 88 will be used for floodplain management purposes in the City of Albany. The conversion factor from NGVD 29 to NAVD 88 for all flooding sources in Albany is +3.38 feet. This represents an average conversion offset. This simplified uniform conversion procedure can be used for entire counties when the maximum error is not more than 0.25 feet (3 inches) for that county, which is the case for the City of Albany.

Federal Emergency Management Agency (FEMA): The federal agency charged with implementing the National Flood Insurance Program. FEMA provides floodplain maps to the City of Albany.

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

- (a) the overflow of inland or tidal waters; and/or
- (b) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Fringe: Those areas on either side of the floodway within the 100-year floodplain **Special Flood Hazard Area (100-year floodplain)**. This area is subject to inundation by the base flood but conveys little or no velocity flows. Zone designations on Flood Insurance Rate Maps include A, AE, and AO. Note Floodplain Relationships diagram Fig. 6-3.

Flood Insurance Rate Map (FIRM): The official map on which FEMA has delineated both the areas of **Base Flood Elevations, regulatory floodways, and Special Flood Hazard Areas** and the insurance risk premium zones.

Floodplain: The combined area of the floodway and the flood fringe. Also known as the **100-year floodplain, and the Special Flood Hazard Area**. Note Floodplain Relationships diagram in Figure 6-3.

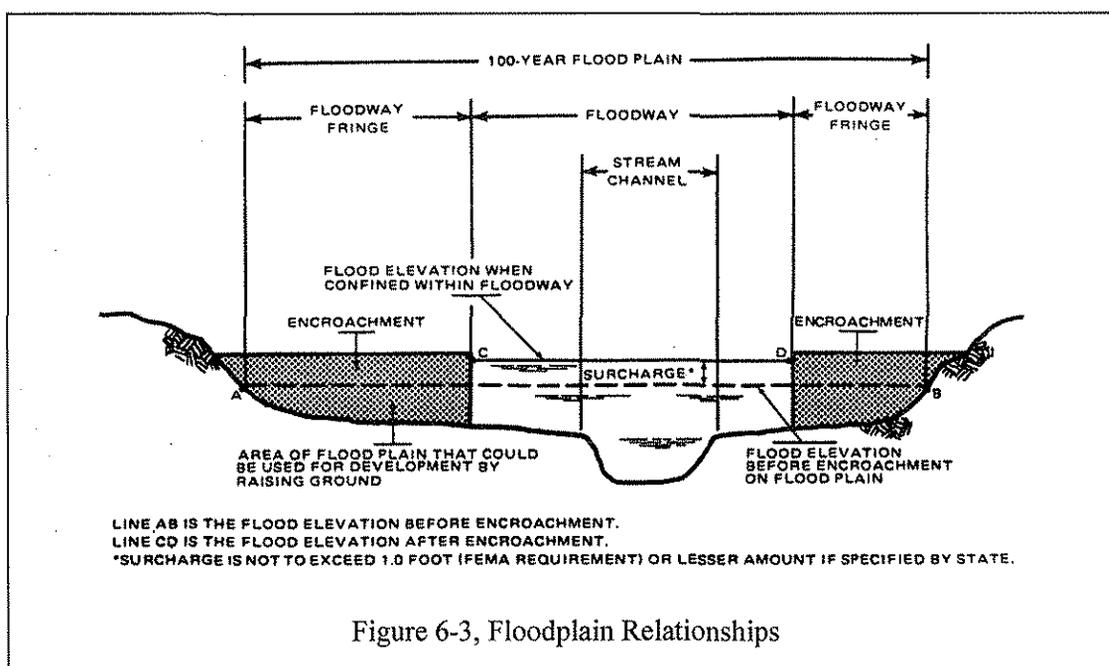


Figure 6-3, Floodplain Relationships

Floodplain Development: Any man-made change to real property, including but not limited to, construction or placement of buildings or other structures, fencing, mining, dredging, filling, grading, paving, excavating, land clearing, drilling, or Continuous Storage Operations in the Special Flood Hazard Area (100-year floodplain).

Floodproofing: Any combination of structural or nonstructural provisions, changes or adjustments to structures, land or waterway for the reduction or elimination of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents during a 100-year flood.

Floodway: The floodway includes the channel of the river or stream and the overbank areas adjacent to the channel. The floodway carries the bulk of the floodwater downstream and is usually the area where water velocities and forces are the greatest and most destructive. The floodway must be kept open so that flood flows are not obstructed or diverted onto other properties. The area must be reserved in order to discharge the base flood without increasing the water surface elevation more than one foot. Note Floodplain Relationships diagram in Figure 6-3.

Hazardous Material: Any item or agent (biological, chemical, physical) that has the potential

to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors, when transported, used incorrectly, or if not properly stored or contained.

The Oregon Department of Environmental Quality defines hazardous materials to include any of the following:

- (a) Hazardous waste as defined in ORS 466.005;
- (b) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under 469.605 and radioactive substances as defined in 453.005;
- (c) Communicable disease agents as regulated by the Health Division under ORS Chapter 431 and 433.010 to 433.045 and 433.106 to 433.990;
- (d) Hazardous substances designated by the United States Environmental Protection Agency under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;
- (e) Substances listed by the United States Environmental Protection Agency in 40 Code of Federal Regulations Part 302 -- Table 302.4 (List of Hazardous Substances and Reportable Quantities) and amendments;
- (f) Material regulated as a Chemical Agent under ORS 465.550;
- (g) Material used as a weapon of mass destruction, or biological weapon;
- (h) Pesticide residue;
- (i) Dry cleaning solvent as defined by ORS 465.200(9).

Letter of Map Change (LOMC) means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

Letter of Map Amendment (LOMA): A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area;

Letter of Map Revision (LOMR): A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric (horizontal) features. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the Base Flood Elevation and is excluded from the special flood hazard area;

Conditional Letter of Map Revision (CLOMR): A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Lowest Floor: The lowest floor of the lowest enclosed habitable area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in any area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable design requirements of this Article found in Section 6.134(1)25(1).

National Flood Insurance Program: FEMA's National Flood Insurance Program (NFIP) has three basic components – flood hazard mapping, flood insurance, and floodplain regulations. The combination of the three all work together to reduce flood damages. NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments and private insurance companies must share roles and

responsibilities to meet the goals and objectives of the NFIP. The City of Albany joined the NFIP in 1985. The community's role is of paramount importance. Residents and property owners can get federally-backed flood insurance only if the community carries out its responsibilities. The community enacts and implements the floodplain regulations required for participation in NFIP. The community's regulations must meet the regulations set by its state, as well as the NFIP criteria.

Nonresidential: For the purposes of development in the floodplain, FEMA defines nonresidential construction to include structures not used for human habitation. This includes parking, limited storage, and building access associated with residential uses, as well as commercial, industrial, and institutional uses. This differs from the definition of nonresidential in other Articles and Sections of this Code, and from the definition in the locally adopted State Building Codes.

Staff Comment: Clarification was needed since FEMA defines this differently.

Permanent Foundation: A natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

Residential: For the purposes of development in the floodplain, FEMA defines residential construction to include the entire habitable structure, including bathroom, laundry rooms, hobby rooms, workshops, etc. Residential accessory structures are considered non-residential construction. This differs from the definition of residential in other Articles and Sections of this Code, and from the definition of residential and habitable in the locally adopted State Building Codes.

Staff Comment: Clarification was needed since FEMA defines this differently.

Special Flood Hazard Area: Areas subject to inundation during the occurrence of the 100-year flood 1 percent annual flood. These areas include both the flood fringe and the floodway and are collectively commonly referred to as the "100-year floodplain."

Staff Comment: DLCD suggested changing to "1% annual flood".

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: For the purposes of this section, ~~and notwithstanding the provisions for nonconforming use and development in Sections 2.300 through 2.400395,~~ any and all repairs, reconstruction, additions or improvements of a structure occurring within the ten years prior to the date of the application for the current improvement, the cost of which, when cumulatively added to the costs of prior improvements, equals or exceeds ~~50~~ 49 percent of the market value of the structure before the start of construction of the improvement. Cumulative value will be computed by adding the valuations of all improvements within the ten-year period as calculated on the associated building permit plus the valuations that would have applied for improvements requiring permits but for which no permit was actually issued. This cumulative value shall be used in comparing the value of improvements against the current market value of the structure before the start of construction of the new improvement. The market value determination shall be based upon the county assessor's most recent computation of real market value at the time of the current application. This term includes structures which that 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 that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any ~~alteration~~ **restoration or rehabilitation** of a structure identified on the City's adopted Historic Inventory, ~~provided that the alteration will not preclude the structure's continued designation as a historic structure~~ (additions and new construction are not exempt);
- (c) **Maintenance, replacement, or repair of prior lawfully constructed improvements.**

Staff Comment: Recommended by interdepartmental floodplain management team. The language above is a higher regulatory standard that is not required by NFIP, but would allow for an additional 45 points in the NFIP's Community Rating System for adding language that requires the tracking of cumulative substantial improvement over ten years, and an additional 10 points for changing a substantial improvement from 50 percent to 49 percent.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks; including any adjacent area subject to inundation by reason of overflow or flood water. This also includes any topographic feature not meeting the above definition that is identified in the Storm Water Drainage Master Plan for North Albany as needing preservation.

6.080 Lands to Which These Regulations Apply. These regulations apply to all areas in the City of Albany that are subject to inundation from a 100-year flood. These areas have been identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study for ~~Albany (July 7, 1999), for Benton County (August 5, 1986), and for Linn County, Oregon and Incorporated Areas (September 29, 1986 2010), and associated Flood Insurance Rate Maps (FIRMs) with Community Number 410137.~~ These areas are depicted on the ~~Flood Insurance Rate Maps (FIRMs) and Floodway Maps~~ by the letter A, AE, or AO. **The Flood Insurance Study and FIRMs are on file at the City of Albany, Community Development Department at 333 Broadalbin Street SW.**

In addition, the City Council may adopt by resolution more current studies or boundary information approved by the Federal Emergency Management Agency (FEMA). **The most recent adopted FEMA information shall apply in the event of a conflict with prior studies or information.**

~~Precise floodplain district~~ **Special Flood Hazard Area (100-year floodplain)** boundaries may be difficult to determine from the maps referred to above due to their large scale and lack of site specific studies. In such instances, the Floodplain Administrator may apply FEMA base flood elevations to topographic maps or site surveys in order to determine actual boundaries. In the absence of FEMA base flood elevations, the Floodplain Administrator shall reasonably use other sources of floodplain and floodway data to determine base flood elevations and boundaries. However, when elevation data is not available through FEMA or another authoritative source and the development consists of 4 or more lots, 4 or more structures, or 4 or more acres, the applicant shall generate and have certified by a registered engineer the base flood elevation. ~~Any decision of the Director regarding a determination of a base flood elevation or interpretation of a district~~ **Special Flood Hazard Area** boundary may be appealed in accordance with Section 1.520 of this Code. [Ord. 5146, 9/14/94; Ord. 5410, 7/28/99]

Staff Comment: Moved to Section 6.087.

6.081 Variancees

Staff Comment: Moved to Section 6.089.

6.081 Warning and Disclaimer of Liability. The degree of flood protection required by this Article 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 as a result of failure of manmade structures and/or natural causes. This Article does not imply that the land outside the area of Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Article does not create liability on the part of the City of Albany or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

Staff Comment: Moved from Section 6.160.

6.082 Floodplain Development Permit Required. ~~Development to Which These Regulations Apply. Development~~, as defined in Article 22, includes, but is not limited to, residential and non-residential construction, manufactured housing, and land divisions. ~~Excavation, and fill (grading), is specifically excluded from the definition of development as used in this section. Grading is regulated by Albany Municipal Code Title 12. [Ord. 5647, 5/10/06]~~ **A Floodplain Development Permit is required prior to initiating floodplain development activities, as defined in Section 6.075, in the Special Flood Hazard Area. This Article cannot anticipate all development activities that may be located within the Special Flood Hazard Area. The floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter pursued to completion.**

Staff Comment: Needed to add fencing, mining, dredging, paving, drilling operations and storage of equipment and materials to comply with NFIP regulations. (Source: DRAFT Oregon Model Flood Damage Prevention Ordinance 2.0 Definitions and 5.1-5) Moved from Section 6.071.

All development activities that require a Floodplain Development Permit shall be processed in accordance with ADC Section 1.200, Land Use Application Procedures. When ambiguity exists concerning the appropriate classification of a particular activity, the use may be reviewed as a conditional use when the Floodplain Administrator determines that the proposed activity is consistent with other activities allowable within the subject district due to similar characteristics and impacts. When a development proposal involves a combination of activities, the more restrictive provisions of this Code shall apply.

- A. The following activities will be processed through a Type I procedure as established in ADC 1.320:**
- (1) Any structure over 200 square feet.**
 - (2) Any substantial improvement to an existing structure as defined in this code.**
 - (3) Placement of a recreational vehicle more than 180 consecutive days, as described in 6.132(3).**
 - (4) Fences that require a permit as listed in Section 6.160.**
 - (5) Retaining walls or other solid walls not associated with a grading, excavation, and fill review that could increase water surface elevations or flood damage potential.**
- B. The following activities will be processed through a Type I-L procedure as established in ADC 1.330:**
- (1) Any development in the floodway, allowed by Sections 6.100-6.110, that does not require a Site Plan Review Option A, will be reviewed through the Site Plan Review Option B process.**

- (2) Grading, excavation and fill that cumulatively impacts more than 50 cubic yards of the native elevation and contours of the site or that otherwise requires a permit per this Article, and any associated retaining walls.
 - (3) Mining and drilling operations that result in sledge, slag, or other materials remaining in the Special Flood Hazard area will be considered fill for the purposes of this Article, and will be reviewed through the applicable criteria in Section 6.095.
 - (4) Additions or expansions of Continuous Storage Operations pursuant to Section 6.096 will be reviewed through the Site Plan Review Option B process.
 - (5) New Continuous Storage Operations pursuant to Section 6.096 will be reviewed through the Site Plan Review Option A process.
- C. The following activities will be processed through a Type II procedure as established in ADC 1.350:
- (1) Any alteration of a Watercourse, pursuant to 6.110 and the applicable criteria in Section 6.095.
- D. The following will be processed through a Type III procedure as established in ADC 1.360:
- (1) Land Division and Planned Developments pursuant to Section 6.090 will be reviewed through the Planned Development or appropriate Land Division process.
 - (2) Manufactured home parks pursuant to Section 6.131 will be reviewed through the Manufactured Home Park application process.

6.083 Floodplain Development Permit Exemptions. The following development activities in the flood fringe do not require a Floodplain Development Permit (these exemptions do not apply to development in the floodway):

- (1) Structures less than 200 square feet (cumulative) that are adequately anchored to resist flotation.
- (2) Grading, removal, or fill less than 50 cubic yards (cumulative) that does not potentially increase areas subject to the 100-year flood. Associated retaining walls are not exempt.
- (3) Open barbless wire, pipe, or rail fences that meet the design guidelines in Section 6.160 of this Article.
- (4) Agricultural activities, not including structures.
- (5) Short-term storage of equipment or materials that in time of flooding could either be removed from the area, or would not cause harm to property, humans, animals or the environment by becoming buoyant or hazardous.
- (6) Signs, markers, aids, etc., placed by a public agency to serve the public.
- (7) Minor repairs or improvements to existing structures provided that the alterations do not increase the size or intensity of use, and do not constitute repair of substantial damage, or substantial improvement as defined in this Article.
- (8) Customary dredging associated with routine channel maintenance consistent with State or Federal laws and permits.

- (9) **Replacement of utility facilities that are necessary to serve established and permitted uses, and that are of equal or lesser size and impact.**

Staff Comment: Cities are allowed to exempt development from the required permit based on the type and magnitude of the activity as well as the location. However, any development that could affect the floodway, or potentially increase the floodplain area, requires a permit, (Source: A Summary of NFIP Policy for Local Officials, FEMA Region 10, January 2004)

6.084 General Information Requirements. In addition to the information required in other sections of this code, the application for any development proposed in the ~~floodplain district~~ **Special Flood Hazard Area (100-year floodplain)** must include the following information:

- (1) Elevations of the original contours.
- (2) Final elevations of proposed fills and excavations.
- (3) Base flood (100-year flood) elevations of the site.
- (4) Location of any designated floodway and base flood boundary. If no floodway is designated, estimate the location of the floodway boundary per Section 6.100
- (5) Location of any designated wetlands and/or wildlife habitat (if applicable).
- (6) Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures (if applicable).
- (7) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development (if applicable).
- (8) If floodproofing is required, the proposed description and elevation of floodproofing.

Staff Comment: Moved from Section 6.120.

6.085 Datum Conversion. The boundaries of the Special Flood Hazard Areas are determined by comparing flood elevations with digital elevation data. To ensure that all the elevations are based on a common reference system, the Flood Insurance Rate Maps (FIRMs) must reference a single vertical datum.

The vertical datum provides a starting point against which flood, ground, and structure elevations can be referenced and compared. The vertical datum is important because all elevations need to be referenced to the same system. Otherwise, surveys using different datums would have different elevations for the same point.

6.086 Flood Insurance Rate Map (FIRM) Revisions. Requirements to Submit New Technical Data:

- (1) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (2) Applicants shall be responsible for all costs associated with obtaining a Conditional Letter of Map Amendment (CLOMR) or Letter of Map Revision from FEMA.
- (3) The City of Albany shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application.
- (4) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA, or whose development modifies floodplain boundaries or Base Flood Elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM.

Staff Comment: Added to clarify process. (Source: DLCD)

6.087 Floodplain Administrator. The Community Development Director is appointed to administer and implement this Article in accordance with its provisions. Duties of the local floodplain administrator shall include, but are not be limited to:

- (1) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard.
- (2) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this Article.
- (3) Interpret flood hazard area boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist.
- (4) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file.
- (5) Review all development permit applications to determine if the proposed development is located in the floodway, and if so, ensure that the standards in Sections 6.100 through 6.110 are met.
- (6) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of this Article.
- (7) When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding.
Staff Comment: Oregon Residential Specialty Code R324.1.3 authorizes the building official to require the applicant to determine a Base Flood Elevation where none exists.
- (8) Where interpretation is needed of the exact location of the Special Flood Hazard Boundary, including regulatory floodway, the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 6.088.
- (9) Issue floodplain development permits when the provisions of this Article have been met, or disapprove the same in the event of noncompliance.
- (10) Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this Article.
- (11) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basement, of all new construction or

substantially improved buildings and structures.

(12) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect.

(13) Ensure that all records pertaining to the provisions of this Article are permanently maintained in the Community Development Department and shall be open for public inspection.

Staff Comment: Clarifies responsibilities of the Floodplain Administrator. Source: CFR 44 60.3

(14) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with a the floodplain development permit and this Article, and verify that existing buildings and structures maintain compliance with this Article.

(15) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure.

(16) Make Substantial Improvement or Substantial Damage determinations based on the definitions described in Section 6.075.

Staff Comment: Clarifies responsibilities of the Floodplain Administrator related to Building Codes. Source: CFR 44 59.24

6.088 **Appeals.** Appeals to the interpretations of the Floodplain Administrator shall be reviewed by the Hearings Board as a Type II procedure in accordance with Section 1.520 of this Code.

6.089 **Variances.** Variances from the terms of this section shall be granted only, when because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this section deprives such property of privileges enjoyed by other property in vicinity and under identical zoning classifications. **Variances as interpreted in the National Flood Insurance Program are based on the physical characteristics of the land and are not dependent upon the occupants, type, or use of a structure. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.**

Staff Comment: Existing language moved from 6.081. The bold language is required per NFIP (Source: DRAFT Oregon Model Flood Damage Prevention Ordinance 4.4-2)

No variance will be given to the standards for development in the floodway. Variances from the floodplain management regulations of this section shall be reviewed as a Type II procedure and shall be approved if the review body finds that all of the following criteria have been met:

- (1) The applicant can show good and sufficient cause; and
- (2) Failure to grant the variance would result in exceptional, ~~non-financial~~ hardship to the applicant; and

- (3) Issuing the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
- (4) The variance is the minimum necessary, considering the flood hazard, to afford relief; and

In addition, variances from the required lowest floor elevation may be granted if the review body find that the request meets the following criterion as well as those criteria listed above:

- (5) The parcel is one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.

Upon issuing the variance, the Floodplain Administrator will notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

~~6.090~~ ~~State and Federal Approval~~

Staff Comment: Moved to Section 6.087.

6.090 Land Division and Planned Development Standards. Land divisions and planned developments in the ~~floodplain district~~ **Special Flood Hazard Area (100-year floodplain)** shall be reviewed by the Planning Division as a part of the land use planning process. Notwithstanding other provisions of this code, all land division and planned development applications which propose actual development within a ~~floodplain district~~ **Special Flood Hazard Area** shall be processed under the Type III process. An application to develop property which has floodplain on it, but where no development is proposed in that floodplain will be processed as otherwise required in this Code. In the case of a land division, "no actual development" means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development (for example, as a public drainage right-of-way). In addition to the general review criteria for land divisions and planned developments in Article 11, applications which propose actual development within the ~~floodplain district~~ **Special Flood Hazard Area** shall also be subject to the following standards: [Ord. 5338, 1/28/98]

- (1) All land division proposals shall be ~~eonsistent with the need~~ **designed** to minimize flood damage.
- (2) All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Article.
- (5) Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.
- (6) All land divisions or planned developments in the ~~floodplain district~~ **Special Flood Hazard Area** shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. When elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the

recorded map or plat shall read as follows: "Development of property within the **Special Flood Hazard Area 100-year floodplain** as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City." [Ord. 5338, 1/28/98]

Staff Comment: Moved from Section 6.130.

6.095 Grading, Fill, and Excavation. A floodplain development permit is required for grading (including excavation and fill) in the Special Flood Hazard Area (100-year floodplain), except activities exempted in Section 6.083 of this Article. No grading will be permitted in a floodway, except when the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood. The permit will be approved if the applicant has shown that each of the following criteria that are applicable have been met.

- (1) Provisions have been made to maintain adequate flood-carrying capacity of existing watercourses, including future maintenance of that capacity.
- (2) The proposal will be approved only where adequate provisions for stormwater runoff have been made that are consistent with the Public Works Engineering standards, or as otherwise approved by the City Engineer.
- (23) The proposal will not increase the existing velocity of flood flows so as to exceed the erosive velocity limits of soils in the flood area.
- (34) No grading will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.
- (45) In areas where no floodway has been designated on the applicable FIRM, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than a maximum of one foot (cumulative) at any point within the community.
- (56) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading activity that will result in alteration or relocation of a watercourse.
- (67) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down spouts and diffusers or other devices.
- (78) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official or designee.

Staff Comment: Fill permits in the floodplain were moved from Albany Municipal Code (AMC) Title 12. Most of the language comes from the AMC.

6.096 Continuous Storage Operations. The regulation of storage in the flood fringe focuses on long-term storage activities associated with continuous operations as defined in this Article. A continuous storage operation is allowed if it can be shown that:

- (1) The materials or equipment will not be flammable, hazardous, explosive or otherwise potentially injurious to human, animal, or plant life in times of flooding; and

- (2) **The materials or equipment is not subject to major damage by flood and are firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.**

FLOODWAY STANDARDS

6.100 Floodway Restrictions. No development is allowed in any floodway except ~~where~~ **when** the review body finds that the development will not result in any increase in flood levels during the occurrence of the 100-year flood. The finding shall be based upon applicant-supplied evidence certified by a registered professional engineer and upon documentation that one of the following three criteria has been met:

- (1) The development does not involve the construction of permanent or habitable structures **(including fences).**
- (2) The development is a public or private park or recreational use or municipal utility use.
- (3) The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

If a floodway boundary is not designated on an official FEMA map available to the City, the floodway boundary can be estimated from available data and new studies. Proposed development along the estimated floodway boundary shall not result in an increase of the base flood level greater than one foot as certified by a registered professional engineer.

6.105 Storage of Material and Equipment. No storage of material or equipment is allowed within floodway areas, unless the storage can be approved upon determination that the following criteria have been satisfied:

~~(1) Site Plan approval has been received~~

- (1) **The material or equipment will cause no rise in the Base Flood Elevation.**

Staff Comment: DLCD staff noted "add that storage, such as propane tanks, will cause no rise in BFE-unless you think it's covered in your floodway paragraph."

- ~~(2) There is no~~ storage or processing of material will **not** be ~~buoyant,~~ flammable, ~~toxic~~ **hazardous**, explosive or otherwise ~~could be~~ **potentially** injurious to human, animal, or plant life in times of flooding.
- (3) The material or equipment is not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.

Staff Comment: Moved from Section 6.165.

6.110 ~~Alteration of the flood-carrying capacity of a Watercourse prohibited.~~ **A Watercourse is considered altered when any changes occur within its banks, including installation of new culverts and bridges, or size modifications to existing culverts and bridges.**

- (1) No development shall diminish the flood-carrying capacity of a watercourse.
- (2) Subject to the foregoing regulation, no person shall alter or relocate a watercourse **without necessary approval from the Floodplain Administrator,** ~~without having first provided~~
- (3) **Prior to approval, the applicant shall provide a 30-day written notice to the City, any adjacent community, the Natural Hazards Mitigation Office of the Program of the Oregon**

Department of Land Conservation and Development, and the Oregon Department of State Lands.

- (4) **The applicant shall maintain the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.**

FLOOD FRINGE STANDARDS

6.120 ~~General Information Requirements~~

Staff Comment: Moved to Section 6.084.

6.120 Building Standards. Applications for building permits ~~in the floodplain district~~ **within the Special Flood Hazard Area, as established in Section 6.080,** shall be reviewed by the Building Official pursuant to locally adopted state building codes. In addition to building code criteria, all development in the ~~floodplain district~~ **Special Flood Hazard Area,** except that exempted in Section 6.150 ~~below,~~ is subject to the following building standards:

- (1) Property owners or developers shall file with the City **two elevation certificates** ~~whose in a format that is acceptable to FEMA.~~ **These** certificates must be approved by the Building Official, prepared by a registered surveyor or professional engineer, architect or surveyor, and maintained for public inspection. **A Pre-Construction Elevation Certificate shall be submitted and approved prior to setback and foundation inspection approval. A Post-Construction Elevation Certificate shall be submitted and approved prior to final inspection approval for all building permits when the Pre-Construction Elevation Certificate shows the building site to be within a Special Flood Hazard Area and lowest adjacent grade to be at or below the base flood elevation (BFE).** The Post-Construction certificate must contain: 1) the actual elevation (in relation to mean sea level) of the lowest floor including basement of all new or substantially improved structures; 2) the elevation of any flood proofing; and 3) whether or not the structure contains a basement.

Staff Comment: The language above updates the code to the current procedures for elevation certificates.

- (2) The lowest floor, including basement, of any proposed structure (including **residential and manufactured homes** and non-residential structures) shall be placed at least one (1) foot above the 100-year flood as determined by the latest Federal Insurance Study.
- (3) **When elevation data is not available either through the Flood Insurance Study, FIRM, or from other sources of floodplain and floodway data as described in Section 6.080, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., when available.**

Staff Comment: DLCD staff noted the language above was needed. (Source: DRAFT Oregon Model Flood Damage Prevention Ordinance 5.1-5)

- (4) ~~(3)~~ All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (5) ~~(4)~~ All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (6) ~~(5)~~ 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 a flood.

- ~~(7) All manufactured homes shall be on an adequately anchored, permanent foundations, 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, over the top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional details).~~

Staff Comment: DLCD staff noted "you can delete all the language about existing and new manufactured dwelling parks. All installations, anywhere, are the same now. Again per 2010 Manufactured Dwelling Specialty Code."

- (7) ~~(6)~~All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement and shall be installed or constructed using materials, methods, and practices that minimize flood damage.
- (8) ~~(7)~~All new and replacement public water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (9) ~~(8)~~All new and replacement public sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood water. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- ~~(9) Property owners or developers shall file with the City a certificate whose format is acceptable to FEMA. This certificate must be approved by the Building Official, prepared by a registered surveyor or professional engineer, architect or surveyor, and maintained for public inspection. The certificate must contain: 1) the actual elevation (in relation to mean sea level) of the lowest floor including basement of all new or substantially improved structures; 2) the elevation of any flood proofing; and 3) whether or not the structure contains a basement.~~

Staff Comment: Now covered in 6.120(1)

- (10) If floodproofing methods are required as per Section 6.14025(2), the property owners or developers shall file with the City a certification by a registered professional engineer or architect that the floodproofing methods meet or exceed FEMA standards. **The City will maintain the certification available for public inspection.** [Ord. 5146, 9/14/94; Ord. 5281, 3/26/97]

Staff Comment: NFIP requires language that states a local administrator shall: "maintain the floodproofing certifications required...and maintain for public inspection" The language "that will maintain" is added to match DRAFT Oregon Model Flood Damage Prevention Ordinance 4.3-3(2)(ii). Moved from Section 6.133.

6.125 Flood Hazard Reduction Standards. All applicable flood hazard reduction measures are required and must be certified as required in 6.13320 ~~(9)~~(1) and (10) above to at least meet the following standards (these standards do not apply to structures exempted in Section 6.150 below):

- (1) In all structures **that will not be floodproofed, as described in 6.125(2)**, fully enclosed areas below the lowest floor (**crawl spaces, parking areas or building access**) and lower than 1 foot above the 100-year flood level must meet or exceed the following criteria:
- (a) At least two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (d) **The interior grade below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.**

- (e) **The height of the below-grade area, measured from the interior grade to the top of the foundation wall must not exceed four (4) feet at any point.**
- (f) **There must be an adequate drainage system that removes floodwaters from the interior area. The enclosed area should be drained within a reasonable time after a flood event.**
- (g) **It will be used solely for parking vehicles, limited storage, or access to the building and will never be used for human habitation.**

Staff Comment: DLCD staff noted "if Albany permits below grade crawlspaces then this language must be added to your flood hazard ordinance, otherwise the below-grade crawlspace will be considered a basement, and basements are not allowed in floodplain." (Source: DRAFT Oregon Model Flood Damage Prevention Ordinance 5.2-5)

- (h) **The property owner of the building shall sign and record on the title to the property a nonconversion agreement, guaranteeing not to improve, finish, or otherwise convert the enclosed area below the lowest floor and lower than 1-foot above the 100-year flood level and granting the City the right to inspect the enclosed area.**

Staff Comment: Recommended by interdepartmental floodplain management team. The language above is a higher regulatory standard that is not required by NFIP, but would allow for an additional 50 points in the CRS program.

~~Non-habitable~~ **Nonresidential** construction meeting the certification requirements of 6.13320 (91) and (10) can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the 100-year flood elevation if:

- (a) The structure is floodproofed so that areas lower than one foot above the 100-year flood level are watertight with walls substantially impermeable to the passage of water.
- (b) The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (c) The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.
- (d) The applicant files a certification 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. The certification shall be provided to the Building Official as set forth in 6.133(9)120(1). [Ord. 5146, 9/14/94; Ord. 5281, 3/26/97]

Staff Comment: DLCD staff asked for clarification regarding nonresidential versus non-habitable. This section was moved from Section 6.140.

~~6.130~~ **Land Division and Planned Development**

Staff Comment: Moved to 6.090.

6.131 **Manufactured Home Parks.** Manufactured home parks and manufactured home subdivisions proposed in the ~~floodplain district~~ **Special Flood Hazard Area (100-year floodplain)** shall be reviewed by the Planning Division. Notwithstanding other provisions of this code, all manufactured home park and subdivision applications which propose actual development within ~~the floodplain district~~ **a Special Flood Hazard Area** shall be processed under a Type III process. An application to develop property that has floodplain on it, but where no development is proposed in that floodplain, will be processed as otherwise required in this Code. In the case of a land division, "no actual development" means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later

development (for example, as a public drainage right-of-way). In addition to the general review criteria applicable to manufactured home parks in Article 10, applications which propose actual development within the ~~floodplain district~~ a **Special Flood Hazard Area** shall include an evacuation plan indicating alternate vehicular access and escape routes. [Ord. 5338, 1/28/98]

- (1) **New and replacement manufactured dwellings are within the scope of the Building Codes; and**
- (2) **All new manufactured dwellings and replacement manufactured dwellings shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.**

Staff Comment: DLCD staff noted "you can delete all the language about existing and new manufactured dwelling parks. All installations, anywhere, are the same now. Again per 2010 Manufactured Dwelling Specialty Code."

6.132 Recreational Vehicles. Recreational vehicles placed on sites within the flood fringe are required to either:

- (1) **Be on the site for fewer than 180 consecutive days; or**
- (2) **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**
- (3) **Meet the requirements of Section 6.131 and the elevation and anchoring requirements for manufactured homes.**

Staff Comment: Required per NFIP. (Source: DRAFT Oregon Model Flood Damage Prevention Ordinance 5.2-4)

~~6.133 Building Standards~~

Staff Comment: Moved to Section 6.120.

~~6.140 Flood Hazard Reduction Standards~~

Staff Comment: Moved to Section 6.125.

6.150 Accessory buildings in ~~floodplain districts~~ **Special Flood Hazard Areas (100-year floodplain) that represent a minimal investment are exempt from the standards of ADC 6.13320 and 6.14025. The following standards and all other regulations that apply to development in floodplain areas apply to those buildings. The definition of "minimal investment" for the purposes of this section is a building that costs less than \$10,000 in labor and materials to construct. The value of a proposed building will be the value stated on the application for building permits.**

- (1) Accessory structures shall not be used for human habitation.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (4) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) Service facilities such as electrical and heating equipment shall be elevated and/or floodproofed. [Ord. 5281, 3/26/97]

6.155 Critical Facility Standards. Construction of new critical facilities, and additions to critical facilities built after September 29, 2010, shall be, to the maximum extent feasible, located outside the limits of the Special Flood Hazard Area (100-year floodplain). Construction of new critical facilities shall be permissible within the Special Flood Hazard Area if no feasible alternative site is available. Critical facilities constructed within the Special Flood Hazard Area shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that hazardous materials will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Staff Comment: Recommended by interdepartmental floodplain management team. This regulation is worth up to 100 points in the CRS. (Source: DRAFT Oregon Model Flood Damage Prevention Ordinance 5.6)

~~6.160 Warning and Disclaimer of Liability~~

Staff Comment: Moved to Section 6.081.

~~6.165 Storage of Material and Equipment.~~

Staff Comment: Moved to Section 6.105.

6.160 Flood Fringe Fencing Standards. Certain types of fences may be allowed in the flood fringe of the Special Flood Hazard Area (100-year floodplain). All fences constructed within the flood fringe shall be of an open type, as identified below, and must not obstruct the free-flow of floodwaters, either through its construction or the collection of debris. Fencing that creates a solid wall by either design or the accumulation of debris is prohibited in the flood fringe. All fences are prohibited in the floodway.

The following table is provided to assist in selecting appropriate fencing in the flood fringe. All fences also must meet the fencing standards in other sections of the Code.

TABLE 1

Fence Type	Flood Fringe Areas
Open barbless wire (1)	Yes, no permit required
Open pipe or rail (2)	Yes, no permit required
Collapsible fence (3)	FDP required
Other wire, pipe or rail (e.g. field fence, chicken wire, etc.) (4)(5)	FDP required, must be open at and below BFE
Solid fence (5)	FDP required, must be open at and below BFE
Chain link (5)	FDP required, must be open at and below BFE

- (1) Open means no more than one horizontal strand per foot of height and no more than one vertical wire or post every six feet.
- (2) Open pipe or rail fencing (e.g. corrals). Open means rails occupy less than 10% of the fence area and posts are spaced no closer than 8 feet apart.
- (3) Acceptable are materials and installation methods that allow the fence material to lie down or swing up in a flood event, keeping the passage open for flows of water and debris. Ensure fence will collapse under anticipated base flood conditions, in no case more than 20 pounds per square foot. Debris must be considered. If top hinged gates are used, the top hinge must be placed at or above the base flood elevation.

- (4) Other wire, pipe or rail fencing shall include a minimum spacing not less than 6" X 6" square openings and less than 10 percent of the fence area. Posts are spaced no closer than 8 feet apart.
- (5) Fences constructed within Zone A, where the base flood elevation has not been determined, can use other sources of floodplain and floodway data to determine base flood elevations and boundaries as described in Section 6.080, or the openings can be placed within one foot of the finished grade along the fence alignment.

Staff Comment: Standards for fences were needed so it is clear which fences are allowed, which require a floodplain development permit, and how they need to be built. (Source: modified from DLCD and Colorado)

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Community Development Department

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STAFF REPORT

Comprehensive Plan and Development Code Amendments

HEARING BODY

CITY COUNCIL

HEARING DATE

Wednesday, August 25, 2010

HEARING TIME

7:15 p.m.

HEARING LOCATION

Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:

August 18, 2010

FILES:

CP-01-10; DC-04-10

TYPE OF APPLICATION:

Legislative amendments to the following:

(1) Comprehensive Plan (CP-01-10)

Plate 5: 100-Year Floodplain (Exhibit A) – Replace with new Federal Emergency Management Agency (FEMA) floodplain layers

Chapter 2 – Special Areas – Flood Hazards & Hillsides (Statewide Planning Goal 7) – Flood Hazards (Exhibit B):

- National Flood Insurance Program (NFIP) compliance: Text amendments that update information and add references to the required floodplain development permit.
- Community Rating System (CRS) activities: Adds rationale for siting critical facilities outside the 100-year floodplain; changes definition of 'substantial improvement'; and adds requirement for nonconversion agreement for portions of homes below base flood elevation.

(2) Development Code (DC-04-10) Article 6 – Floodplain (Exhibit C):

- NFIP compliance: Amendments to comply with the minimum requirements; Clarifying edits to existing code language: Additional definitions of terms.
- CRS Activities: Three additional amendments that will increase the discount on flood insurance available inside the Albany city limits – siting critical facilities outside the 100-year floodplain, changing definition of 'substantial improvements,' and requiring a nonconversion agreement for areas in homes that are below base flood elevation.

REVIEW BODY:

Planning Commission and City Council

APPLICANT:

City of Albany, Planning Division

APPLICANT REP:

Heather Hansen, Planning Manager

ADDRESS/LOCATION:

Applies to all properties within the 100-year floodplain, as designated by FEMA. Does NOT affect properties with floodplain boundaries revised through FEMA Letters of Map Revision or Letters of Map Amendment.

BACKGROUND INFORMATION

Floodplain Maps: FEMA recently updated their flood hazard maps with newer topographical data provided by the City. The maps include the base flood elevations, floodway, and 100-year floodplain boundary. In the process, some properties were removed from the floodplain and some were added. FEMA sent Albany the new floodplain maps on March 29, 2010. Federal regulations require the City to adopt a new floodplain development ordinance that references the new maps and brings our codes into compliance with the current minimum National Flood Insurance Program (NFIP) requirements by September 29, 2010.

Minimum NFIP Requirements: The intent of the regulations is to reduce loss of life and property and regulate activities that may obstruct or change the flow of water. In order to be in compliance with the NFIP requirements, the City of Albany has to update its existing floodplain regulations to meet the minimum criteria set by the State of Oregon and the NFIP. If we do not adopt new regulations by September 29, 2010, we will no longer be eligible to participate in the NFIP, and residents and businesses would not be able to buy flood insurance and would have great difficulty getting financing for existing development in the floodplain.

Community Rating System: Floodplain development regulations or management activities that are above the minimum NFIP requirements are assigned points through the CRS program of NFIP. The more points accrued, the higher the potential discount on flood insurance rates for businesses and residences in flood hazard areas. The City currently has a CRS classification of 7, which translates to a 15% discount. An interdepartmental team has been working toward a classification of 5, which would result in a 25% discount. In addition to our current level of points, we'd need about 900 more to achieve the level 5 classification. Most of the points will come from documentation of existing departmental policies and procedures. The points that would be gained by the three proposed amendments in this packet will result in approximately 200 additional points.

Oregon Department of Land Conservation and Development: DLCD serves as the state's coordinating agency for the NFIP through an agreement with FEMA. Oregon has 258 cities and counties that are subject to flooding, and all participate in the NFIP thereby making flood insurance available to their residents and businesses. DLCD reviewed our existing Development Code and Municipal Code and compared it to the Oregon Model Flood Damage Prevention Ordinance, which was developed to help Oregon communities comply with NFIP. Many of the proposed amendments come directly from that review.

NOTICE INFORMATION

A notice of public hearing was published in the *Albany Democrat Herald* August 1, 2010. Notices of public hearings were sent to over 1,000 property owners on July 19, 2010. The proposed Development Code amendments were posted on the City's Web site on July 20, 2010. At the time this staff report was completed, staff has received numerous phone calls and emails, but no written testimony.

The Planning Commission held a public hearing on the proposed amendments on August 9, 2010. One person, Jack Burrell, testified. He requested that the Floodplain Development Permit portion of the ordinance be pulled out and considered on a separate timeframe to enable for time for a more thorough review. Staff responded that the Floodplain Development Permit is one of the minimum requirements of the National Flood Insurance Program (NFIP). If it is not adopted with the Ordinance by September 29, 2010 we would not be considered to be in compliance with the NFIP and would risk suspension from the program.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND that the City Council APPROVE the proposed Comprehensive Plan and Development Code amendments.

SUGGESTED CITY COUNCIL MOTION

Adoption of the attached Ordinance that would amend Albany Comprehensive Plan Plate 5-Floodplain and Chapter 2-Special Areas-Flood Hazard, and Albany Development Code Article 6-Floodplain.

MOTION TO APPROVE

If the City Council wishes to approve the proposed amendments as written, the Council may approve the amendments based on the findings and conclusions of the staff report.

I MOVE that the City Council APPROVE the proposed Comprehensive Plan and Development Code amendments as summarized in the staff report (Files CP-01-10 and DC-04-10). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

OR

MOTION TO APPROVE AS MODIFIED

If the City Council wishes modify the proposed amendments, the Council may approve the amendments as modified based on the findings and conclusions of the staff report.

I MOVE that the City Council APPROVE AS MODIFIED (*Insert modification(s) here*) the proposed Comprehensive Plan and Development Code amendments as summarized in the staff report (Files CP-01-10 and DC-04-10). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

APPEALS

A City Council decision can be appealed to the Oregon Land Use Board of Appeals by filing a Notice of Intent to Appeal within 21 days of the Council decision.

STAFF ANALYSIS

Comprehensive Plan Amendment File CP-01-10

The Albany Development Code (ADC) contains review criteria for Albany Comprehensive Plan amendments. Amendments to the Comprehensive Plan will be approved if the City Council finds that the applicant has shown that the following applicable criteria have been met. NOTE: Code criteria are written in *bold italics* and are followed by the findings and conclusions.

(1) *A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.*

The applicable Comprehensive Plan goals and policies are identified in *italic* type.

FINDINGS OF FACT

1.1 Albany Comprehensive Plan, Chapter 2--Special Areas--Flood Hazards & Hillside (Statewide Planning Goal 7)--Flood Hazards:

Goal: Protect life and property from natural disasters and hazards.

The proposed amendments clarify the existing NFIP requirements and add a policy on restricting the siting of critical facilities in the floodplain.

Policy 1: Continue to participate in the National Flood Insurance Program and comply with applicable standards.

The proposed amendment to Plate 5-Floodplain updates the map with the new floodplain data provided by FEMA. Using the floodplain data provided by FEMA is a requirement for participation in NFIP.

Policy 4: Recognize that development within areas subject to flooding is subject to regulations to protect life and property and that certain types of development may not be allowed.

The proposed amendments add a policy on restricting the siting of critical facilities in the floodplain because

these facilities either need to be operable during a flood, or would pose unacceptable risk to health and safety during flood events.

Policy 9: Development approval within the flood fringe shall be reviewed to protect property and public safety and significant natural values.

The proposed text amendments correct information that is no longer current, clarify the NFIP requirements for development permits, acknowledge the City's participation in the Community Rating System program of NFIP, and describes the rationale for siting critical facilities outside the 100-year floodplain.

1.2 Albany Comprehensive Plan, Chapter 9 – Land Use Planning (Statewide Planning Goal 2) – Updating and Amending the Plan:

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan: (1) Remains current and responsive to community needs; (2) Retains long-range reliability; (3) Incorporates the most recent reliable information; (4) Remains consistent with state laws and administrative rules.

We received updated floodplain data from FEMA on March 29, 2010. We are required to adopt it by September 29, 2010, in order to remain in the National Flood Insurance Program.

Policy 2: Base approval of Comprehensive Plan Amendments upon consideration of the following: (a) Conformance with goals and policies of the Plan; (b) Citizen review and comment; (c) Applicable Statewide Planning Goals; (d) Input from affected governmental units and other agencies; (e) Short- and long-term impacts of proposed change; (f) Demonstration of public need for the change; (g) Demonstration that the proposed amendment will best meet the identified public need versus other available alternatives; (h) Any additional information as required by the Planning Commission or City Council.

The City currently regulates development in the floodplain. The new maps and regulations will not greatly impact development in the floodplain but should result in lower risk to life and property and lower insurance rates. The proposed amendments will enable us to comply with Statewide Planning Goal 7-Natural Hazards (see 1.3).

1.3 Statewide Planning Goal 7, C. Implementation (4) states *"Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements."*

The proposed amendments update and correct information on floodplains and NFIP in Comprehensive Plan, Chapter 2, Flood Hazards.

CONCLUSIONS

- 1.1 The proposed amendments are consistent with the goals and policies in Chapter 2 regarding flood hazards.
- 1.2 The proposed amendments are consistent with the goals and policies in Chapter 9 regarding updating the comprehensive plan.
- 1.3 The proposed amendments correct information regarding FEMA data and NFIP regulations and revise Plate 5 so it reflects the newer FEMA floodplain data, therefore they are consistent with Statewide Planning Goal 7.

(2) A legislative amendment is needed to meet changing conditions or new laws.

FINDINGS OF FACT

- 2.1 FEMA provided us with new floodplain data in the updated Flood Insurance Study (FIS) and associated Flood Insurance Rate Maps (FIRMs) on March 29, 2010.
- 2.2 We are required to adopt the new FIS and FIRMs by September 29, 2010 in order to continue participation in the National Flood Insurance Program.

- 2.3 The proposed revisions to Plate 5: 100-Year Floodplain, reflect the new floodplain data provided by FEMA.
- 2.4 Information related to FEMA and NFIP was updated and corrected to reflect current regulations and requirements.

CONCLUSIONS

- 2.1 The legislative amendment to Plate 5: 100-Year Floodplain is needed meet NFIP requirements.
- 2.2 The legislative amendment to Chapter 2 is needed to reflect current FEMA information and NFIP requirements.

Development Code Amendment File DC-04-10

The Albany Development Code (ADC) contains review criteria for Albany Comprehensive Plan amendments. Amendments to the Comprehensive Plan will be approved if the City Council finds that the applicant has shown that the following applicable criteria have been met. NOTE: Code criteria are written in *bold italics* and are followed by the findings and conclusions.

(1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.

The applicable Comprehensive Plan goals and policies are identified in *italic* type.

FINDINGS OF FACT

- 1.1 Albany Comprehensive Plan, Chapter 2–Special Areas–Flood Hazards & Hillides (Statewide Planning Goal 7)–Flood Hazards:

Goal: *Protect life and property from natural disasters and hazards.*

Policy 4: *Recognize that development within areas subject to flooding is subject to regulations to protect life and property and that certain types of development may not be allowed.*

The proposed amendments clarify and strengthen the existing floodplain regulations, add restrictions to the siting of critical facilities in the floodplain and are intended to manage development in the floodplain in a way that promotes public and environmental health and safety.

Policy 1: *Continue to participate in the National Flood Insurance Program and comply with applicable standards.*

The proposed amendments will bring the City into compliance with the NFIP requirements, and enable the City to continue participation in NFIP.

Policy 2: *Restrict new development (fill) from locating within floodways which would result in an increase in base-year flood levels. If it can be determined that there will be no increase in base-year flood levels, then the following uses may be considered: (a) Public and private parks and recreational use; (b) Other uses which would not involve the construction of permanent or habitable structures; (c) Water-dependent structures such as docks, piers, bridges, and floating marinas.*

The proposed amendments continue to restrict development in the floodway in a manner that complies with NFIP.

Policy 5: *Ensure that development proposals in the flood fringe and adjacent to drainageways are consistent with Federal Emergency Management Agency (FEMA) and other applicable local regulations in order to minimize potential flood damage. Development proposals in areas subject to flooding may be reviewed according to the following criteria: (a) Proposed development activities shall not change the flow of surface water during flooding so as to endanger property in the area. Special engineering reports on the changes in water flow and potential damage which may be caused as a result of proposed activities may be required. If necessary, local drainage shall be improved to control increased runoff that might increase the danger of*

flooding to other property; (b) Impacts on significant fish and wildlife habitat have been considered and appropriate protection measures included in project design; (c) Problems of ponding, poor drainage, high water table, soil instability, or exposure to other flood hazards have been identified and mitigated. Evaluations and mitigating measures shall be based on a base year flood and wet season characteristics; (d) If adjacent to a designated floodway, the development shall be designed to use the natural amenities of the floodway including open space, scenic views and vegetation in accordance with an approved site plan.

The proposed amendments clarify and strengthen the existing floodplain regulations and bring the City into compliance with NFIP.

Policy 7: *Ensure that any filling or construction within the floodplain meets the following criteria: (a) Require that a fill permit is issued prior to any fill activity and all fill is engineered and compacted to applicable standards. Fill areas for dwellings shall have engineering certification that loading rates are adequate for dwellings.[Ord. 5042, 4/14/1993]; (b) The lowest finished floor elevation shall be built at least one (1) foot above the base-year flood level. Special engineering reports or structural work may be required; (c) Require property owners or developers to file an elevation certification approved by the local community permit official, registered professional engineer, architect, or surveyor indicating elevation of the surrounding grade or lowest habitable floor (including basement) of all new residential structures. This information shall be maintained to indicate compliance with Federal Emergency Management Agency (FEMA) regulations.*

The proposed amendments clarify that a floodplain development permit is required for ANY development in the floodplain, including fill. They also clarify the requirements for elevation certificates.

Policy 8: *For construction, remodeling, or major repairs to structures (including prefabricated and mobile homes) within the floodplain, review building permits to ensure that: (a) Building location and grading are designed to protect the structure during a base year flood; (b) Construction materials and utility equipment are resistant to flood damage; (c) Construction methods and practices will minimize flood damage; (d) Where appropriate, structures are designed or modified to prevent flotation, collapse, or lateral movement of the structure.*

The proposed amendments include building standards and requirements that are consistent with this policy.

Policy 9: *Development approval within the flood fringe shall be reviewed to protect property and public safety and significant natural values.*

The proposed amendments include a new floodplain development permit process that will expand the types of development in the floodplain that will be reviewed relative to protection of property and public safety.

1.2 Albany Comprehensive Plan, Chapter 8–Urbanization (Statewide Planning Goal 14)–Development Review:

Goal: *Ensure that all new developments are reviewed expeditiously.*

Policy 3: *Give special attention to proposals in areas identified as in need of special review (greenway, floodplains, floodways, open space, airport, etc), ensuring that developments in these areas are specially designed in recognition of the particular concern for that area.*

The proposed amendments provide construction and design guidelines that are intended to minimize the impact of development in the floodplain.

1.3 Albany Comprehensive Plan, Chapter 8–Urbanization (Statewide Planning Goal 14)–North Albany Planning Area–Natural and Cultural Resources:

Policy 1: *Minimize potential impacts to riparian vegetations, stream hydrology, and adjacent land uses.*

Policy 2: *Protect wetlands, floodplains, riparian corridors and other critical natural resources.*

The proposed amendments are intended to minimize impacts to stream hydrology and protect floodplains to the extent possible by managing development in the floodplain.

CONCLUSIONS

- 1.1 The proposed amendments better achieve the goals and policies of Chapter 2 related to flood hazards by clarifying and strengthening existing regulations, ensuring the City is in compliance with NFIP, and expanding the types of development in the floodplain that will be reviewed relative to protection of property and public safety.
 - 1.2 The proposed amendments better achieve the goals and policies of Chapter 8 related to development review and North Albany by providing design guidelines and restrictions that minimize the impacts of development in the floodplain.
- (2) *The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.*

The applicable Development Code policies and purposes are identified in *italic* type.

FINDINGS OF FACT

- 2.1 ADC Article 1--General Administration--Section 1.020 says *the general purpose of this Code is to set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following:*

- (1) *Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.*

The proposed amendments are intended to manage development in the floodplain in a way that promotes public and environmental health and safety and minimizes economic loss and social disruption caused by flood events.

- (2) *Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.*

The proposed amendments bring us into compliance with NFIP and Statewide Planning Goal 7.

- (3) *Facilitate prompt review of development proposals and the application of clear and specific standards.*

The proposed amendments clarify NFIP requirements, provide exemptions for smaller scale projects, and include development standards for fences, other structures, fill, and the storage of materials.

- (4) *Provide for public information, review, and comment on development proposals that may have a significant impact on the community.*

On July 19, notices of public hearings were sent to over 1,000 owners of properties that contain the 100-year floodplain per the updated FEMA maps. The proposed Development Code amendments were posted on the City's Web site on July 20, 2010. A notice of public hearing was published in the *Albany Democrat-Herald* on August 1, 2010.

- (6) *Establish procedures and standards requiring that the design of site improvements and building improvements (are) consistent with applicable standards and design guidelines.*

The proposed floodplain development permit process will ensure that development in the floodplain will be reviewed against the floodplain standards as well as other applicable sections of the Code.

- (8) *Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.*

The intent of the proposed amendments is to manage development in the floodplain in order to promote public and environmental health and safety and to minimize the economic loss and social disruption caused by flood events.

(10) *Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.*

The proposed amendments include a description of the FEMA process for removing property from the floodplain, as well as provisions for exemptions and variances. The amendments are intended to minimize impacts of development in the floodplain to all properties in and near flood hazard areas. Above the minimum NFIP requirements, three additional amendments are included that will increase the discount on flood insurance available inside the Albany city limits – siting critical facilities outside the 100-year floodplain, changing definition of 'substantial improvements,' and requiring a nonconversion agreement for areas in homes that are below base flood elevation. The impact to property owners of these amendments is minimal, and the benefits will be passed on to all flood insurance holders through discounted insurance rates.

2.2 ADC Article 6–Floodplain–Section 6.070 states that *it is the purpose of these regulations to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.*

The proposed amendments strengthen existing regulations, which are intended to promote public and environmental health and safety and minimize the economic loss and social disruption caused by flooding.

CONCLUSIONS

2.1 The proposed amendments are consistent Article 1–General Administration–Purpose by protecting public health and safety, complying with the federal requirements of NFIP, providing standards for development in the floodplain, and notifying the public and property owners of the proposed amendments.

2.2 The proposed amendments are consistent Article 6–Floodplain–Purpose because they strengthen the existing floodplain development regulations, which are intended to promote public and environmental health and safety and minimize the economic loss and social disruption caused by flooding.

CITY OF ALBANY
CITY COUNCIL WORK SESSION
City Hall, Municipal Court Room
Monday, August 9, 2010
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Konopa called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Councilors Bill Coburn, Dick Olsen, Jeff Christman, Floyd Collins, Bessie Johnson, and Ralph Reid, Jr.

Councilors absent: None

BUSINESS FROM THE PUBLIC

No one wished to speak.

TAXI REGULATIONS REVIEW

City Attorney Jim Delapoer reviewed his discussion from the May 10, 2010, meeting. He referred to the memo in the agenda file, saying that regulations concerning drivers and safety would change with the recommendations. He explained the process staff used, including looking at other cities' taxi regulations, and presenting these proposed changes to the current ordinance, as they seemed the most applicable to Albany. Delapoer said that he remains of the opinion that Albany does not need new regulations.

City Manager Wes Hare said that he is concerned that if the City gets into the taxi regulating business, they won't be able to do it very well. It is time consuming and considering that the City will continue to have difficult staffing decisions, not very timely. He fears it will turn into an exercise of documentation rather than providing true safety. He said he worries that it would be a difficult program to administer.

Delapoer provided an example of the city of Eugene being sued for not guaranteeing that a particular taxi was complying with the City's insurance requirements. If the City of Albany isn't going to do something well, he would prefer that they not do it.

Councilor Bessie Johnson asked, how many taxi companies are there in Albany? City Manager Wes Hare said that it varies.

Johnson asked, does the City currently verify liability insurance? Delapoer said yes. Johnson said she would not want the City to become the police of taxi cabs. She would prefer to leave the ordinance as it is.

Konopa explained that a motion had been voted on at the May 10, 2010, Council Work Session, but the vote was 3-2. Per the City of Albany Charter, it takes four votes to resolve a motion. Therefore, the motion is returning to this meeting, since there is a full Council present, to be voted on.

RETURNING MOTION: Johnson moved to leave the current taxi cab language intact. Coburn seconded the motion.

Councilor Bill Coburn said that he still supports the motion. He agrees that there is a liability issue and doesn't believe the City can afford to police more regulations.

Councilor Ralph Reid, Jr. asked, do buses follow the Oregon Department of Transportation (ODOT) rules and regulations? Public Works Director Diane Taniguchi-Dennis said yes.

Councilor Floyd Collins said his concern is safety. The general public perceives that when they enter a taxi, the City somehow has screened the drivers and the vehicle. The Council has a responsibility to assure the safety of the public.

Coburn asked, what problem is the City solving with these regulations? Collins said he doesn't want felons driving children or grandparents around. Under these regulations, if the taxi company wants to hire a new employee, they would have to be screened.

Delapoer mentioned that felons do drive taxis. It is one of the few jobs available to them. Also, he said the taxi companies have screening available to them under state regulations.

Coburn asked, can Albany set standards above the Oregon law? Delapoer said yes.

VOTE: A vote was taken on the motion and it passed 4-2, with Reid and Collins voting no.

VALLEY VIEW DRIVE - TRAFFIC SAFETY COMMISSION RECOMMENDATION

Transportation Systems Analyst Ron Irish reviewed the memo in the agenda packet. He reminded the Council that any change to the street would be up to Benton County as they own the road. He said the recommendations from the Traffic Safety Commission are on page four of the memo and include: a) Remove the centerline stripe on the road at all locations except approaches to vertical curves with limited sight distance. In those locations use a double solid four-inch yellow stripe. b) Increase the width of the existing fog line stripes from four inches to six inches. c) If at all possible, use a highly reflective striping material such as thermoplastic for the striping changes as opposed to paint. d) Install custom supplemental traffic calming signs along the road. A total of four signs should be used; two for each direction of travel. If possible, involve the Valley View Drive neighborhood in decisions regarding the design and precise placement of the signs. e) Conduct a new speed study on the road several months after making any striping or sign changes. If the 85 percent speeds drops to 40 mph or less, submit a request to ODOT for a new speed study and revised speed zone order.

Irish suggested waiting six months to evaluate the speeds and if they drop then ask for a new study from ODOT. He said it doesn't cost the City for an ODOT study.

Johnson asked how removing the center line could possibly reduce speeds. Irish said that studies have found that by doing that, there is a decrease in speed. The reason why is uncertain, but speculation is that the center line gives a sense of security and raises the speed.

Johnson commended the Traffic Safety Commission for using common sense. She doesn't feel that there is a lot of traffic on Valley View Drive. She doesn't think the study is worthwhile, given the cost.

Collins said he would support items "a" through "e" as recommended by the Commission.

MOTION: Collins moved to inform Benton County that the Council supports "a-e". The motion died for lack of a second.

Konopa asked if staff had sent a letter to the neighbors with the Traffic Commission's recommendations. Irish said they haven't, because it is not a City street. He believes that would be up to Benton County.

Councilor Dick Olsen asked, can we recommend that Benton County have a neighborhood meeting? Irish said yes.

Councilor Jeff Christman asked, how much is the speed study? Irish said if the City asks ODOT to do it, there is no charge. Christman said he supports the recommendations; he was only concerned about the costs.

Reid expressed frustration with the North Albany neighborhood wanting both rural and urban rights. He doesn't support a speed study.

MOTION: Reid moved to recommend to Benton County the specific changes as proposed by the Traffic Safety Commission and listed as "a" through "d," but not "e", on page four of the Council memo dated July 23, 2010, for the August 9, 2010, City Council Work Session. Collins seconded the motion.

Coburn was concerned about doing too much. He would prefer to do only "a." He was concerned about the costs for thermoplastic striping.

Johnson was worried that having no center lane would end up being a safety issue at night.

Konopa reminded the Council that it would only be a recommendation to Benton County. They may not act on it.

Taniguchi-Dennis said Benton County performs regularly scheduled maintenance on the street. They could consider these changes at that time.

Collins said with this motion and staff's suggestion, the Council's recommendation would be for Benton County to consider the changes when they normally make changes to the street. The Council would be supporting the Traffic Safety Commission, not spending money, and perhaps getting something done on Valley View Drive.

Taniguchi-Dennis mentioned that the Benton County Commissioners are also receiving complaints from the citizens.

VOTE: A vote was taken on the motion and it passed 6-0.

DIGITAL-IMAGE-AS-ORIGINAL POLICY UPDATE

Deputy City Clerk Mary Dibble brought the Council up to date on the City's records management system and implementation of the Council approved Digital Image as Original (DIO) policy. She explained the process

and said the results have been that the City has less need for storage space, less filing is required, and less money is being paid for paper, ink, and energy consumption. The results, process, and policy are a success.

Collins was concerned about "as-builts" in the Public Works Department not being accessible in the future. Dibble said the Public Works Department's Records Information Management (RIM) Coordinator has participated in the process and has taken steps to guarantee accessibility and security. The Secretary of State's Office also required that there be a migration plan in place for technology changes. Thanks to the people in the City's Information Technology Department, Albany does have a plan and it was acceptable to the state and City departments.

Finance Director Stewart Taylor mentioned that Albany is only the third city in Oregon to implement the policy and other cities are using Albany's plan as an example when considering their own.

TRANSIENT ROOM TAX TASK FORCE

Konopa said the Council had asked her to appoint a citizen to the Transient Room Tax Task Force and she has asked Steve Terjeson. He accepted and she would like the Council to ratify the members. Konopa mentioned that the Task Force will only be looking at the transient room tax and how it should be allocated. She thinks it should take four to six meetings.

MOTION: Collins moved to ratify the Transient Room Tax Force members as presented. Coburn seconded the motion and it passed 6-0.

COUNCILOR COMMENTS

Christman said he had a call from a citizen that Linn County had said that Knox Butte Road from Dogwood Street to Highway 20 was a City street. He thought it was a County street. Taniguchi-Dennis will double check.

Coburn said he had a chance to visit with former Albany Fire Chief Kevin Kreitman while on vacation. The issues he faces in Redding California were very similar to Albany's.

Reid asked for the Council to consider vacating a portion of Jackson Street, where it joins Marion Street. He said it is a small portion and the neighbors are concerned the City isn't maintaining it. The City still owns right-of-way. Taniguchi-Dennis will return with information regarding the possibility of vacating a portion of Jackson Street.

CITY MANAGER REPORT

Hare reported that he had met with Mr. Soash regarding his concerns about his water bill. Hare said there wasn't much the City could do for him. He had a philosophical difference with the rate structure. He will probably be able to find like minded folks and come back to a Council meeting to discuss his issue.

Taniguchi-Dennis said the Water Task Force also had many discussions regarding this issue. They looked at several cities with differing rate structures. If customers are billed only on their consumption, potentially their charges could be greater and rates could be raised to meet maintenance and infrastructure demands. Another possibility is that the rate could have been fixed the same for everyone. But, that has historically led to much higher rates. Albany is in the middle with portions of both types.

There followed a discussion regarding water systems costs and fixed costs.

Taniguchi-Dennis mentioned that staff will be putting an interactive comparison tool on the website soon, for citizens to compare their water bills to what they would be in other cities with the same amount of consumption.

Hare praised the success of National Night Out.

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:38 p.m.

Respectfully submitted by,

Betty Langwell, MMC
City Clerk

Reviewed by,

Stewart Taylor
Finance Director



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: *Edward Boyd*
Edward Boyd, Chief of Police
DATE: August 3, 2010, for the August 25, 2010, City Council Meeting
SUBJECT: Approval of the Capital Purchase of a New K-9/Traffic Vehicle.
RELATES TO STRATEGIC PLAN THEME • An Effective Government.

Action Requested:

Staff is asking the Council to authorize the Albany Police Department to purchase a 2010 Dodge Charger for a K-9 Drug Detection/Traffic vehicle needed for the addition of a drug detection dog.

Discussion:

The Albany Police Department plans to augment the current Police K-9 program with the addition of a third dog and handler. In June 2010, the Albany Police Department became aware of a Police Drug Detection dog available for \$3,600, which is significantly less than the current market price. The dog was evaluated by our K-9 Officer Dan Kloss and with his recommendation; it was decided to purchase the dog.

Police dogs need to be transported in specially-designed police vehicles for their health and safety. The price and up fitting of a 2010 Dodge Charger police vehicle for K-9 purposes is \$39,100. The Albany Police Department will fund this vehicle from three areas of our Equipment Replacement Fund: Investigative Equipment, Equipment Reserve and Vehicle Emergency Equipment. The vehicle will have a five-year life expectancy and will be placed on the Vehicle Equipment Replacement schedule.

To ensure the Drug Detection Dog is accessible and to lessen the impact on patrol, the new K-9 handler will also be a Traffic Officer assigned to the Community Resource Unit.

Suggested Motion:

I move that the Council authorize the Albany Police Department to purchase and up-fit a 2010 Dodge Charger police vehicle to be used as a K-9/Traffic car.

Budget Impact:

Funds are available in the approved Fiscal Year 10-11 Police Equipment Replacement budget.

A RESOLUTION OF THE ALBANY CITY COUNCIL AUTHORIZING A CAPITAL PURCHASE FOR AN ADDITIONAL K-9/TRAFFIC VEHICLE.

WHEREAS, the City of Albany Police Department has been acquiring police vehicles through the State of Oregon bid process; and

WHEREAS, the Albany City Council has the authority to authorize the additional purchase of capital equipment.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City of Albany City Council adopts the following findings:

1. \$39,100 is available within the Police FY 10-11 Equipment Replacement Fund (217-10-1010-70005) for the purchase of a K-9/Traffic vehicle.

SECTION 2.

1. The Albany Police Department is authorized to expand their vehicle fleet by one by purchasing a new K-9/Traffic vehicle.

DATED AND EFFECTIVE THIS 25TH DAY OF AUGUST 2010.

Mayor

ATTEST:

City Clerk



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Edward Boyd, Chief of Police
DATE: August 10, 2010, for August 25, 2010, Council Meeting
SUBJECT: Accept Target Donation

RELATES TO STRATEGIC PLAN THEME:

- An Effective Government
- A Safe City

Action Requested:

City Council authorization for the Albany Police Department to accept a \$700 donation from the Target Corporation for a latent fingerprint dusting station.

Discussion:

Target provides donations to law enforcement agencies at no cost for between \$250 and \$2,000 for each program request.

We applied for \$2,000 to replace our twenty-year-old latent fingerprint dusting station that lacks a safe downdraft system to protect employees who are processing fingerprint chemicals. We were awarded \$700. The fingerprint station allows us to solve crimes that would otherwise go unsolved and allows us to make arrests; thus, deterring or preventing additional criminal activities. This donation will increase our General Fund Minor Equipment line item.

Budget Impact:

This will increase our General Fund Minor Equipment line item by \$700.

RESOLUTION NO. _____

A RESOLUTION IN SUPPORT OF ACCEPTING A TARGET CORPORATION DONATION FOR \$700 FOR AN ALBANY POLICE LATENT FINGERPRINT DUSTING STATION.

WHEREAS, the Target Corporation Law Enforcement Donation Program provides donations to law enforcement agencies at no cost for between \$250 and \$2,000 per program; and

WHEREAS, the City of Albany Police Department applied for and has received a donation; and

WHEREAS, donation acceptance will help solve crimes that would otherwise go unsolved, which allows us to deter future and additional criminal activity.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council does hereby state that solving crimes is a priority; and

BE IT FURTHER RESOLVED that the Albany City Council authorizes the Albany Police Department to accept the Target Corporation Donation; and

BE IT FURTHER RESOLVED that the following appropriations are made for Fiscal Year 2010-2011:

<u>General Fund</u>	<u>Line Item</u>	<u>DR</u>	<u>CR</u>
Donation – Target for Fingerprint Station	100-10-1002-46100	\$700	
Police General Fund – Minor Equipment	100-30-1301-61028		\$700

DATED AND EFFECTIVE THIS 25TH DAY OF AUGUST 2010.

Mayor

ATTEST:

City Clerk



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Stewart Taylor, Finance Director
Anne Baker, Senior Accountant
DATE: August 11, 2010, for the August 25, 2010, City Council Meeting
SUBJECT: Fire Shelter Purchase
RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

By Resolution, approve the appropriation of \$8,425 from the General Fund Beginning Fund Balance to pay for the purchase of 25 fire shelters.

Discussion:

Fire shelters are foil blankets that firefighters use to cover themselves when being overrun by fire. Each shelter costs \$337. The state of Oregon changed its requirements regarding fire shelters, requiring the purchase of 25 new shelters. The shelters were ordered in May 2010, but due to high demand they were not received until after the end of the 2009-10 fiscal year. According to generally accepted accounting principles, an item cannot be expensed until it has been received. The Fire Department does not have a budget for the purchase in the current fiscal year.

Budget Impact:

There will be a General Fund transfer of \$8,425 from Unappropriated Beginning Fund Balance to Fire Suppression.

AB:md
Attachment: Resolution

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RESOLUTION NO. _____

A RESOLUTION OF THE ALBANY CITY COUNCIL AUTHORIZING APPROPRIATION OF UNAPPROPRIATED BEGINNING FUND BALANCE IN THE GENERAL FUND.

WHEREAS, Oregon Local Budget Law provides that revenues received that were not planned for in the budget, and expenses to be paid that were not budgeted, may be made after adoption of a supplemental budget (ORS 294.480); and

WHEREAS, this supplemental budget will adjust a current budget fund by less than 10 percent of that fund's expenditures; and

WHEREAS, the City of Albany Fire Department is required by the State of Oregon to purchase 25 Fire Shelters; and

WHEREAS, the City of Albany Fire Department had \$8,425.00 appropriated in Fiscal Year 2009-10 to purchase the Fire Shelters; and

WHEREAS, the receipt of the Fire Shelters was not in time to record the expenditure in FY 2009-10.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Albany authorizes an \$8,425.00 increase in Beginning Fund Balance in the General Fund and an \$8,425.00 increase in expenditures in the General Fund, Fire Suppression for the current fiscal year.

BE IT FURTHER RESOLVED that the appropriation will be applied to the following account numbers.

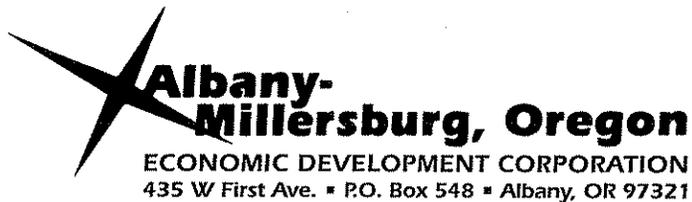
	<u>Fund/Dept/Prog/Object</u>	<u>Debit</u>	<u>Credit</u>
General Fund	100-10-1002-49905		\$8,425.00
	100-25-1201-62000	\$8,425.00	

DATED AND EFFECTIVE THIS 25TH DAY OF AUGUST 2010.

Mayor

ATTEST:

City Clerk



Memo

Date: June 3, 2010

To: South Santiam Enterprise Zone Co-Sponsors
Linn County, City of Albany, City of Lebanon, City of Millersburg

From: John Pascone, President

Subject: Request for Approval: enerG2
Agreement for Extended Enterprise Zone Benefits

Reason for Request

EnerG2 has submitted an Enterprise Zone Authorization Application and has requested Extended Benefits beyond the regular three year tax exemption. Regulations require that the company enter into an Agreement with the city and other enterprise zone sponsors. In order to qualify for the additional two years, the company must pay 150% of Linn County's Average Annual Wage to the new employees.

Description of Project

The project is \$28 million which includes \$7 million for building improvements and \$21 million for machinery and equipment. The investment is for commercializing material that will allow the manufacture of new ultra capacity capacitor and battery parts from nano carbon material. The company will be locating in Albany in the former Oregon Freeze Dry distribution center.

EnerG2 is joining forces with Oregon Freeze Dry, whose experience in sublimation (freeze drying) makes the nano carbon material viable for its intended use.

The company is new to the area. The projected number of new jobs created with this new investment is 30, but future phases could increase that number and it is possible to locate battery manufacturers in the area which could make batteries from the nano carbon produced here.

The approval of all co-sponsors is needed; the City of Albany will sign the Agreement.

Thank you for your support.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN EXTENDED PROPERTY TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF ALBANY, A COSPONSOR OF THE SOUTH SANTIAM ENTERPRISE ZONE, AND ENERG2

WHEREAS, enerG2 is upgrading a building and investing in equipment; and

WHEREAS, enerG2 intends to add 30 new employees; and

WHEREAS, enerG2 anticipates providing average pay and benefits to these employees equal to or greater than 150 percent of the Linn County average, as required under ORS 285C.160; and

WHEREAS, enerG2, which is locating in the city of Albany, has applied to extend the property tax abatement for which it qualifies through its inclusion in the South Santiam Enterprise Zone; and

WHEREAS, the City of Albany has requested support of this agreement from the other cosponsors of the South Santiam Enterprise Zone; and

WHEREAS, the City of Albany is a cosponsor of the South Santiam Enterprise Zone.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council hereby approves the attached Extended Abatement Agreement and authorizes the Albany City Manager to sign the agreement.

DATED AND EFFECTIVE THIS 25TH DAY OF AUGUST 2010.

Mayor

ATTEST:

City Clerk

Agreement for Oregon Enterprise Zone Extended Abatement

AGREEMENT WITH THE SOUTH SANTIAM ENTERPRISE ZONE SPONSORS TO EXTEND PROPERTY TAX EXEMPTION TO FIVE CONSECUTIVE YEARS IN TOTAL FOR CAPITAL INVESTMENT BY enerG2.

The sponsors of the South Santiam Enterprise Zone comprising the governing bodies of the Cities of Albany, Lebanon, Millersburg and Linn County (hereinafter "The Zone Sponsor") and enerG2 (hereinafter "The Firm") do hereby enter into an agreement for extending the period of time in which The Firm shall receive an exemption on its investment in qualified property in the South Santiam Enterprise Zone contingent on certain special requirements, under ORS 285C.160 (2003).

The Zone Sponsor and The Firm jointly acknowledge: that subject to submission and approval of an application for authorization and the satisfaction of other requirements under ORS 285C.050 to 285C.250, The Firm is eligible for three years of complete exemption on its qualified property; that nothing in this agreement shall modify or infringe on this three-year exemption or the requirements thereof, and that this agreement becomes null and void if The Firm does not qualify for these three years of the exemption.

The Zone Sponsor extends The Firm's property tax exemption an additional two years on all property that initially qualifies in the South Santiam Enterprise Zone in the assessment year beginning on January 1, 2011 and, thus, sets a total period of exemption of five consecutive years during which statutory requirements for the standard three-year enterprise zone exemption must also be satisfied and maintained.

CONFIRMATION OF STATUTORY PROVISIONS

In order to receive the additional two years of enterprise zone exemption granted herein, The Firm agrees herewith under 285C.160(3)(a)(A) that for each year of the entire exemption period, all of The Firm's new employees shall receive an average level of compensation equal to or greater than 150 percent of the county average annual wage, in accordance with the specific definitions and guidelines in Oregon Administrative Rules (OAR), Chapter 123, Division 65 (123-065-41##), which provides that:

1. Such compensation may include non-mandatory benefits that can be monetized;
2. The county average annual wage is set at the time of authorization, except as pursuant to ORS 285C.160(4), according to the 2008 Linn County average annual wage rate of \$ 35,170 for which 150 percent equals \$ 52,755.

- 3. Only employees working at jobs filled for the first time after the application for authorization but by December 31 of the first full year of the initial exemption and performed within the current boundaries of the South Santiam Enterprise Zone are counted; and
- 4. Only full-time, year-round and non-temporary employees engaged a majority of their time in The Firm's eligible operations consistent with ORS 285C.135 & 285C.200(3) are counted, regardless if such employees are leased, contracted for or otherwise obtained through an external agency or are employed directly by The Firm.

LOCAL ADDITIONAL REQUIREMENTS

For The Firm to receive the additional two years of enterprise zone exemption granted herein, The City of Millersburg, a Zone Sponsor and The Firm agree that there are no additional requirements, in addition to statutory requirements under ORS 285C.160(a)(B).

ACCEPTING FOR THE CITY OF ALBANY, A ZONE SPONSOR OF THE SOUTH SANTIAM ENTERPRISE ZONE:

Wes Hare, City Manager

_____ Dated: _____

ACCEPTING FOR enerG2:

Chris Wheaton, COO

_____ Dated: _____

The other Zone Sponsors; City of Millersburg, City of Lebanon and Linn County approve this Agreement by passing separate Resolutions. Copies of which are attached.



TO: Albany City Council

VIA: Wes Hare, City Manager
Diane Taniguchi-Dennis, P.E., Public Works Director *hrc*

FROM: Mark W. Shepard, P.E., City Engineer *MWS*
Staci Belcastro, P.E., Civil Engineer III *Staci*

DATE: August 12, 2010, for the August 25, 2010, City Council Meeting

SUBJECT: Award of Bid for WL-10-03 Baker Street Water Line

RELATES TO STRATEGIC PLAN THEME: A Safe City

Action Requested:

Staff requests that Council award this contract in the amount of \$172,545 to the low bidder, Pacific Excavation Inc. of Springfield, Oregon.

Discussion:

On Tuesday, August 10, 2010, bids were opened for WL-10-03, Baker Street Water Line. There were seven bids submitted for this project, ranging from a low bid of \$172,545 to a high bid of \$237,170. The Engineer's estimate was \$202,925. A bid summary is attached.

Project Description

This project includes construction of approximately 1200 linear feet of 12-inch and 150 linear feet of 4-inch ductile iron water line. The construction of the new water lines will replace existing two-inch, and four-inch water lines that frequently require maintenance to repair leaks. It will allow the abandonment of approximately 1400 feet of water line that is currently located in the bottom of the Thurston Canal ditch. The location inside the ditch makes it difficult to maintain and repair the water line. In addition to the new water line construction, this project will include construction of new water services and fire hydrants. These new water mains will significantly improve the available fire flows in the project area. Attachment 2 is a project vicinity map.

Summary of Total Estimated Project Costs

Based on the project bid and anticipated related costs, a summary of the total estimated project cost is shown in the table below. The amounts have been rounded to the nearest \$100.

Project Components	Estimated Cost
I. Costs	
a. Engineering	\$ 10,000
b. Construction Management	\$ 10,000
<i>Engineering Subtotal</i>	\$ 20,000
II. Construction Costs	
a. Construction Contract	\$ 172,500
b. Contingency (10%)	\$ 17,300
c. Other Construction Costs	\$ 9,000
<i>Construction Subtotal</i>	\$ 198,800
<i>Total Estimated Project Cost</i>	\$ 218,800
<i>Project Budget</i>	\$ 197,000
<i>Under/(Over) Project Budget</i>	(\$ 21,800)

Budget Impact:

The project is estimated to be over budget by approximately \$21,800 when a 10% contingency is included. This is due to additional work required as a result of the abandonment of the existing water line in the canal ditch between Lyon and Jackson Streets. The water line abandonment required some additional water line work on Montgomery Street and Eighth Avenue. However, another water line project, WL-10-01, Columbus Street Water Line, is expected to be approximately \$28,000 under budget. Therefore, any additional costs for this project are anticipated to be offset by the other project cost savings.

This project will be funded from the Water Bond Fund (615-50-2302).

SB:kw:prj
Attachment



CITY OF ALBANY, OREGON
Public Works Department
Construction Contract Bids

Project: WL-10-03, Baker Street Water Line

Bid Opening: Tuesday, August 10, 2010

Engineer's Estimate	Pacific Excavation	GVS Contracting	HSC	KIPCO Inc.	Wildish Construction	Alpine Construction	North Santiam Paving
\$202,925.00	\$172,545	\$189,050	\$205,677.60	\$209,175	\$213,099.00	\$215,896.00	\$237,170.00



WL-10-03, BAKER STREET WATER LINE - ATTACHMENT 1


 The City of Albany's infrastructure records, drawings, and other documents have been prepared over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily accessible format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchase or other investments based in full or in part upon the information provided, it is specifically advised that you independently verify the information contained within our records.



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**Albany Human Relations Commission
Annual Report (January 2009 – December 2009)**

The Human Relations Commission was established in 2007 “to promote harmonious relations among citizens of Albany” through recommendations of “programs, activities, ordinances, expenditures and other appropriate governmental activities which will serve the goal of maintaining respectful interactions within our community.” (Ord. 5671 § 1, 2007; Ord. 5665 § 1, 2007).

A brief review of Commission activities during 2009 is set forth below. A history of Commission membership and attendance is attached to this report.

January: To honor the birthday of Reverend Martin Luther King, Jr., the Commission and Linn-Benton Community College hosted a **panel discussion on diversity and cross-cultural understanding** at LBCC. Approximately two dozen attendees heard three panelists from various backgrounds from Linn-Benton towns speak on their life philosophies and experiences as a people of color living and working in our area.

February: To promote mental health awareness and wellness in Albany, Greater Albany Public Schools (GAPS) Superintendent’s office identified 20-30 key GAPS professionals to attend a **three-hour session on working with youth around mental health wellness** with the director of the National Mental Health Wellness Campaign, Ross Szabo. Speaker funding was secured by a HRC member and provided by Oregon State University.

Note: An article in the winter issue of *City Bridges* discussed Mr. Szabo’s upcoming presentations at OSU.

May: Partnered with Linn County Mental Health as a poster sponsor for Mental Health Month.

Summer: Used the summer issue of the *City Bridges* broad circulation to publish an article on the positive ways in which to **care for the mental health wellness of children** in recognition of Children’s Mental Health Awareness Day.

July: Following the death of former Mayor Gene Belhumeur, Mayor Konopa discussed the history of Everybody’s Neighborhood Day and invited the Commission to prepare a proclamation honoring August 26 as Everybody’s Neighborhood Day. The Commission drafted a proclamation, which Mayor Konopa read at the August 14, 2009, City Council meeting. This discussion also began planning for the Commission to host a National Night Out event that would include recognition of Everybody’s Neighborhood Day in 2010.

August: In order to increase community awareness of the Commission and its purpose and to increase the Commissioners’ understanding of citizens’ experience, the Commission sponsored a public forum at Ray’s Food Place Community Room in North Albany. More than 200 pieces of promotional literature were distributed through Neighborhood Watch leaders, businesses, churches, and personal contact, reading “*Come, Talk, Listen! The Human Relations Commission wants to hear about YOUR experience living in Albany!*” Posters were hung at City locations including the libraries, Senior Center, and City Hall.

Information was broadcast on radio and published in the *Democrat-Herald*. Thirteen community members attended the forum and spoke in response to questions that included:

- Why would you, or why would you not, recommend Albany as a good place to live?
- Have you attended a community event or activity in the past year? If yes, talk about the experience. If not, why not?
- How easy is it to get around in the city? What if you use a walker, wheelchair, or stroller?

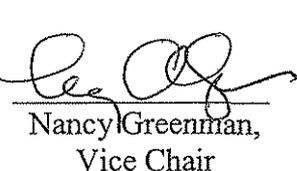
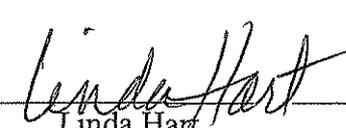
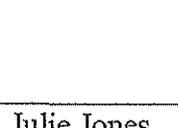
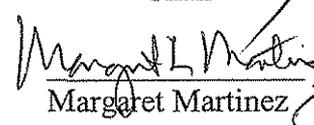
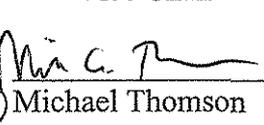
Participants shared examples of both positive and negative aspects to Albany life and shared information about resources and gaps in local services.

October: Initiated involvement with the Hispanic Advisory Council of Linn/Benton Counties. A member of the HRC attends monthly meetings to bring appropriate information and topics to the Commission.

Partnered with Linn County Mental Health as a poster sponsor for Mental Illness Awareness Month.

Conclusion: Looking back, the Commission is grateful for the opportunities available to further its purpose. It is especially grateful for the support and assistance of staff, including City Manager Wes Hare, Public Information Officer Marilyn Smith, and Administrative Assistant Diana Eilers; and of its collaborative partners, including Linn-Benton Community College, Greater Albany Public Schools, Linn County Mental Health, and Oregon State University. It is also grateful to City staff members who attended meetings to share information and answer questions, including Melanie Adams, Building Official; Lisa Bennett, Disability Access Coordinator; Jim Delapoer, City Attorney; and Stewart Taylor, Finance Director; and to Laura Hyde, Executive Assistant to the City Manager, for her work on preparing the Commission history that is attached to this report. We look forward to continuing these and other positive activities in the future.

Respectfully submitted,

 Kim Whitley, Chair	 Nancy Greenman, Vice Chair	 Linda Hart	 Julie Jones
 Margaret Martinez	 Michael Thomson	 Tina Dodge Vera	

Human Relations Commission

Commission Established

Council adopted Ordinance No. 5665, March 28, 2007, creating Albany Municipal Code Chapter 2.25, establishing the Human Relations Commission (HRC).

Council adopted Ordinance No. 5671, May 9, 2007, amending AMC 2.25.020 [*commissioners must reside within the Albany city limits*] and 2.25.030 [*initial terms to be staggered according to the appointee's surname beginning with three-year terms for those closest to the beginning of the alphabet*].

Purpose: The Human Relations Commission was established by the Albany City Council to promote harmonious relations among the citizens of Albany. It is created to recommend programs, activities, ordinances, expenditures, and other appropriate governmental activities which will serve the goal of maintaining respectful interactions within our community.

First Commissioners

Name	Appointed By	Appointment Date	Term Expiration Date	Comments
Rafael Palacios	Mayor Doug Killin	07-25-2007	12-31-2007	Resigned 08-08-2007; he relocated to California; Blanca Ruckert appointed as replacement.
Blanca Ruckert	Mayor Doug Killin	08-08-2007	12-31-2007	none
Jodi Nelson	Councilor Dan Bedore	07-25-2007	12-31-2007	none
Rick Hammel, Jr.	Councilor Dick Olsen	07-25-2007	12-31-2008	none
Delia Guillen	Councilor Ralph Reid, Jr.	07-25-2007	12-31-2008	none
C. Jeffery Evans	Councilor Sharon Konopa	07-25-2007	12-31-2009	none
Marian Anderson	Councilor Jeff Christman	07-25-2007	12-31-2009	none
Anna Anderson	Councilor Bessie Johnson	08-08-2007	12-31-2009	none

First Meeting/First Officers

HRC's first meeting was Tuesday, September 25, 2007. At the second meeting [October 23, 2007], the first Chair and Vice Chair were elected. C. Jeffery Evans was elected Chair and Blanca Ruckert as Vice Chair.

Subsequent Commissioners

Resignations/Reappointments/New Appointments

- Blanca Ruckert was reappointed 01-07-2008 by Mayor Killin; new term expires 12-31-2010.
- Jodi Nelson was reappointed 01-09-2008 by Councilor Bedore; new term expires 12-31-2010.
- Anna Anderson resigned 08-13-2008; Councilor Johnson appointed Kim Whitley on 08-27-2008, as her replacement for the term expiring 12-31-2009.
- Delia Guillen resigned 09-09-2008; Councilor Reid appointed John Hartman on 10-22-2008, as her replacement for the term expiring 12-31-2008.
- Margaret Martinez was appointed 01-14-2009 by Councilor Reid replacing John Hartman, whose term expired 12-31-2008. Margaret's three-year term expires 12-31-2011.
- Nancy Greenman was appointed 01-14-2009 by Councilor Olsen replacing Rick Hammel, Jr., whose term expired 12-31-2008. Nancy's three-year term expires 12-31-2011.
- Blanca Ruckert resigned 04-22-2009; Mayor Konopa appointed Michael Thomson on 06-24-2009, as her replacement for the term expiring 12-31-2010.
- C. Jeffery Evans resigned 06-24-2009; vacant term expired 12-31-2009. Councilor Coburn appointed Linda Hart on 06-23-10, for a new three-year expiring 12-31-2012.
- Marian Anderson resigned 09-09-2009; vacant term expired 12-31-2009. Councilor Christman appointed Tina Dodge Vera on 02-10-2010, for a new three-year expiring 12-31-2012.
- Kim Whitley was reappointed 01-13-2010 by Councilor Johnson; new term expires 12-31-2012.
- Jodi Nelson resigned 06-10-10; vacant term expires 12-31-2010. Councilor Collins appointed Julie Jones on 07-14-2010, for the term expiring 12-31-2010.

Current HRC Roster (as of July 14, 2010)

Name	Appointment By	Term Expiration Date
Julie Jones	Councilor Floyd Collins	12-31-2010
Michael Thomson	Mayor Sharon Konopa	12-31-2010
Nancy Greenman	Councilor Dick Olsen	12-31-2011
Margaret Martinez	Councilor Ralph Reid, Jr.	12-31-2011
Linda Hart	Councilor Bill Coburn	12-31-2012
Tina Dodge Vera	Councilor Jeff Christman	12-31-2012
Kim Whitley	Councilor Bessie Johnson	12-31-2012

Visit who have attended an HRC meeting in 2009

Sharon Gisler
Michael Thomson
Mayor Sharon Konopa
Gerald Gisler
John Phillips
Margo Coleman
Alice Fitzpatrick
Donna Copeland
Bill Root
June Hemmingson
Larry Eby
Penny Miltenberger
Dan Miltenberger
Phillipa Meehan
Dick Owen
Rosa Plascencia
Tina Dodge Vera

Visitors who have attended an HRC meeting in 2010

Clifford Hartman, Linn County Mental Health
Jim Bell, LBCC
Mary Zelinka, CARDV
Linda Hart