Benton County
OREGON

Board of Commissioners
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AGENDA

BENTON COUNTY BOARD OF COMMISSIONERS

Tuesday, August 17, 2021

GoToMeeting: https://global.gotomeeting.com/join/500478005
or Dial 1 (224) 501-3412; *Access Code* 500-478-005#
Livestream: http://facebook.com/BentonCoGov

(Chair May Alter the Agenda)

THE BOARD WILL TAKE A BRIEF RECESS BETWEEN THE WORK SESSION AND BUSINESS MEETING

9:00 A.M.

I. Opening:

A. Introductions

B. Announcements

II. Comments from the Public

Time restrictions may be imposed on public comment, dependent on the business before the Board of Commissioners. Individual comment may be limited to three minutes.

III. Review and Approve Agenda

IV. Work Session

4.1 9:00 a.m., 30 minutes - Update from Department Operation Center –*Suzanne Hoffman, April Holland; Health Services*

4.2 9:30 a.m., 30 minutes – Update Regarding the Justice System Improvement Program (JSIP) Project Timeline and Critical Decision Points – *Nick Kurth, JSIP Project Manager*

BUSINESS MEETING

V. Consent Calendar (The Consent Calendar is approved with one motion)

5.1 Appointment to the Chinook Road District: Maureen Puettmann

5.2 Approval of July 20, 2021 Tuesday Board Meeting Minutes

The Board of Commissioners may call an executive session when necessary pursuant to ORS 192.660. The Board is not required to provide advance notice of an executive session. However, every effort will be made to give notice of an executive session. If an executive session is the only item on the agenda for the Board meeting, notice shall be given as for all public meetings (ORS 192.640(2)) and the notice shall state the specific reason for the executive session as required by ORS 192.660.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the Board of Commissioners Office, (541) 766-6800.

5.3 Approval of July 27, 2021 Tuesday Board Meeting Minutes

5.4 Approval of August 3, 2021 Tuesday Board Meeting Minutes

Public Hearings

(Hearings are heard at 11:00 a.m., time certain or as soon thereafter as the matter may be heard)

Those wishing to speak should sign the "Public Comment" sign-in sheet – Thank you.

PH 1 In the Matter of a Public Hearing and First Reading Revising Floodplain Codes, Ordinance No. 2021-0304 – *Toby Lewis, Greg Verret; Community Development*

PH 2 In the Matter of a Public Hearing and Potential First Reading Extending Benton County Code Chapter 40 – Interim Vehicle Camping – *Rebecca Taylor, Greg Verret; Community Development*

PH 3 In the Matter of a Public Hearing Regarding the Annexation of Property Within the Dumbeck Lane Domestic Water District into the North Albany County Service *District – Vance Croney, County Counsel; Gary Stockhoff, Public Works*

PH4 In the Matter of a Public Hearing Regarding an Intent to Apply for a $250,000 Community Development Block Grant (CDBG) for Linn-Benton Food Share – *Mary Otley, Chief Finance Officer, Rachel Maddock-Hughes, Sequoia Consulting*

VI. Departmental Reports and Requests

6.1 Discussion and Decision to Accept a Segment of NW Stone Ridge Avenue into the County Road System – Public Road No. P04442 – *Gordon Kurtz, Public Works*

VII. Old Business

7.1 In the Matter of a Second Reading Amending Benton County Code Chapter 2 – Contracts, Ordinance No. 2021-0303 – *Vance Croney, County Counsel*

VIII. New Business

8.1 In the Matter of Naming the 4500 Research Way Building - *Joe Hahn, Equity, Diversity and Inclusion Coordinator; Lili'a Neville, Senior Strategic Programs Manager*

8.2 In the Matter of Approving Order No. D2021-062 Requiring Face Masks in Indoor and Outdoor Public Settings – *April Holland, Suzanne Hoffman; Health Services*

IX. Other

ORS 192.640(1)" . . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

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MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS
Tuesday, August 17, 2021
GoToMeeting link: ***https://global.gotomeeting.com/join/500478005***
Livestream: ***http://facebook.com/BentonCoGov***
9:00 a.m.

Present: **Xanthippe Augerot,** Chair; **Nancy Wyse,** Commissioner; **Pat Malone,** Commissioner; **Joe Kerby,** County Administrator

Excused: **Vance Croney,** County Counsel

Staff: **Teresa Farley, Joe Hahn, Lili'a Neville,** BOC Staff; **Suzanne Hoffman, April Holland, Bruce Thomson,** Health; **Nick Kurth,** Justice Systems Improvement Program Manager; **Gordon Kurtz, Gary Stockhoff, Debie Wyne,** Public Works; **Bryan Lee, John Pegg,** Emergency Management; **Toby Lewis,** Community Development; **Tracy Martineau,** Human Resources; **Erika Milo,** BOC Recorder; **Mary Otley, Debbie Parsons,** Finance; **Alyssa Rash**, Public Information Officer; **Greg Ridler, Jef Van Arsdall,** Sheriff's Office; **Matt Wetherell,** Juvenile Department

Guests: **Chris Bailey**, City of Albany; **Steve Clark,** Oregon State University; **Laura Hennum,** Good Samaritan Regional Medical Center; **Rachael Maddock-Hughes,** Sequoia Consulting; **Bo Price,** Dumbeck Lane Domestic Water Supply Special District; **Pam Vaughan,** Corvallis resident

Chair Augerot called the meeting to order at 9:03 a.m.

I. Opening:

A. Introductions
B. Announcements

Augerot acknowledged that Benton County is located on the lands of the Ampinefu and Chemapho peoples who were forcibly removed after signing the Willamette Treaty, and who are still present as part of the Confederated Tribes of Grand Ronde Community and the Confederated Tribes of the Siletz Indians. Benton County residents work to honor and sustain the natural environment.

Augerot also acknowledged that everyone is under stress these days, for reasons such as the Delta variant, mental health distress, or burnout from hard work, so patience and tolerance for everyone would be welcome.

II. Comments from the Public

No comment was offered.

III. Review and Approve Agenda

The following item was added to the agenda:

Executive Session under ORS 192.660(2)(d) – Labor Negotiations

IV. Work Session

4.1 Update from Health Department Operations Center (DOC) – *Suzanne Hoffman, April Holland, Health Department; Lili'a Neville, Senior Strategic Programs Manager; Debbie Parsons, Finance; Laura Hennum, Good Samaritan Regional Medical Center (GSRMC) Chief Executive Officer*

Hoffman shared that Hennum and team have been incredible partners in COVID-19 mitigation-response efforts, especially mass vaccination clinics held in partnership with GSRMC, Oregon State University (OSU), and the County.

Hennum also praised the partnership and wants to continue to support Benton County Public Health. The County was an early mover in community vaccination efforts and is still one of the most vaccinated counties in Oregon. Unfortunately, the COVID-19 Delta variant is moving quickly and intensely. Current Oregon Health Sciences University modeling indicates the current surge will not peak until the first week in September 2021. From August 2-8, 2021, there has been a 40% increase in COVID-19 cases statewide, the fifth consecutive week of case growth, with no downward trends. There were 40 COVID-19 related deaths that week, up from 25 the previous week. There were 322 new cases, up from 266 the prior week, and a 9.5% positive test rate (compared to a goal of 4%) indicating out-of-control spread and insufficient testing. Oregon is one of the hardest hit states after the southern states. Though Oregon has done an outstanding job at optimizing outpatient care, the unintended consequence is that Oregon has the lowest number of hospital inpatient beds in the country: 1.7 per 1,000 of population, whereas the top state, South Dakota, had 4.8 beds per 1,000 in April 2021. Hennum feels yesterday was a significant turning point, when 21 admitted COVID-19 patients set a new record at GSRMC; today, there are 25, and a total of 39 in the Samaritan Health Services (SHS) regional system. Statewide, 95% of admitted COVID-19 cases are due to Delta variant. At GSRMC, 9.9% of cases are fully vaccinated individuals; 90.1% are unvaccinated. System-wide, 94% of admitted COVID-19 patients are unvaccinated.

At the beginning of the pandemic, COVID-19 did not have a big impact on the GSRMC Emergency Room (ER), but ER use is now significantly higher than pre-pandemic levels, consistently over 100% of utilization. Yesterday the ER was at 119% capacity. Some hospitals are cancelling elective procedures due to the surge. Hennum prefers to say 'scheduled' rather than 'elective' procedures. Having to delay or cancel a scheduled procedure impacts patients with heart surgery, cancer, and major orthopedic problems. Bend Saint Charles Hospital will not take any scheduled cases through 2021. GSRMC staff meet twice daily to evaluate scheduled procedures and may delay or cancel depending on the severity of issue. That approach may need to change. GSRMC has gone from one to three dedicated COVID-19 units and may need a fourth. If so, staff will have to be much more aggressive about scheduled procedures. This causes pent-up health demand, where people ignore or delay dealing with a health issue until it sends them to the ER.

As part of GSRMC's surge plan, leaders are evaluating ER staffing and the need for temporary ER space in order to triage acuity, which will be decided later this week. On August 13, 2021, GSRMC had only 11 COVID-19 cases. There has been significant staffing impact across all job types, most acutely with nurses and Certified Nursing Assistants, but also housekeepers, technicians, case managers, and others. Three of the five skilled nursing facilities that GSRMC usually discharges to are under executive orders and can no longer accept less acutely ill patients. Staff are working on that problem with the State Hospital Association, and Governor Kate Brown is expected to announce additional hospital resources this week, possibly including greater flexibility of State regulations or policy. The State has mobilized 1,500 National Guard members to assist hospitals, with 500 already in central and southern Oregon. GSRMC has not

formally requested this assistance yet, but will continue to track needs. Staff fully support statewide and countywide mask mandates. Hennum emphasized the importance of anything community leaders can do to mitigate COVID-19 spread. Previous strains of COVID-19 had an R_0 (reproductive number) of 4; Delta has an R_0 of 8, meaning that each infected person will infect up to 8 other people. GSRMC has not changed its universal masking policies throughout the pandemic, and is assessing its visitor policy.

Holland presented a Delta update. Benton County had a 29% increase in confirmed or presumptive COVID-19 cases over the previous week, with an 18-fold increase since the low in late June 2021, when the mask mandate was lifted and Delta started to appear. From July 1 to August 18, 2021, over 20% of cases were among youth. Youth under 12 are about 9.7% of the County population and constituted 8.9% of cases (35 individuals). Thirty of those youth attended congregate settings such as school or summer programs. Public Health is monitoring 18 school and healthcare locations with current cases; staff are prioritizing settings now. In July 2021, fully vaccinated (breakthrough) cases were 35% of total cases. This illustrates the value of vaccines, which are more important than ever. The case rate in fully vaccinated people was 127 per 100,000 of population; the rate for people not fully vaccinated was 413 per 100,000. The rate of reported infections for unvaccinated people was 3.25 times greater than for vaccinated people.

Holland explained that the new Oregon Health Authority (OHA) county metrics designate low, moderate, substantial, and high transmission. This more closely aligns with the Centers for Disease Control (CDC) seven-day case rate, which provides more detail than the 14-day rate. Thirty-two out of 36 Oregon counties, including Benton, have high transmission. Statewide COVID-19 hospitalization rates are much higher than in December 2020. There are currently 752 hospitalized COVID-19 patients in Oregon, with 206 in Intensive Care Units (ICUs) and 112 on ventilator support. On August 11, 2021, to support the hospital system, OHA activated an Incident Management Team (IMT) to address discharge issues, staffing challenges, and strengthen system-wide capacity. Resources include nurse crisis teams, mobile hospitals, National Guard activation, assistance from other states, changes to licensing rules, and expanding the volunteer pool.

Holland reviewed that Delta is three times more transmissible than the original COVID-19 strain and may cause more severe outcomes. Unvaccinated and immunocompromised people are the most vulnerable. Vaccinated people can be infected with Delta and may transmit it to others. Vaccine effectiveness against Delta is lower in long-term care facility (LTCF) residents and the immunocompromised. Overall, vaccines protect very well against severe disease and death.

Public Health Officer Thomson shared that only 5 ICU beds are available today in hospital region 2 (Benton, Linn, Lincoln, Polk, Yamhill, and Marion Counties). Regions 5, 6, and 7 each have one ICU bed available. This is not the same virus as for the past year. Masking is clearly helpful. The Governor's masking rule did not include outdoor sites. It would be beneficial for Benton to require masking in crowded outdoor venues as well, especially concerts and sporting events. The rule of being in contact for 15 minutes while 6 feet apart is no longer accurate for Delta. The County must continue to lead with public health measures. Thomson expressed concern about schools that do not adhere to Brown's indoor masking mandate. Some schools are having to shut down again due to outbreaks. A school superintendent emailed parents and the State Legislature stating that parents could fill out a 504 plan to exempt their children from masks at school. This provision should be retained for the few children who have a physical or mental condition, but this email should not have been sent. Responding to Wyse, Thomson clarified that the email came from a school in Benton County.

Holland reviewed that on July 72, 2021, the CDC and OHA recommended universal masking. On July 29, 2021, the City of Corvallis required masking in City facilities, as did Benton County on August 3, 2021. On August 5, 2021, OSU required masking in public indoor settings. The statewide mandate went into effect on August 13, 2021, requiring masks in public indoor spaces for people ages 5 and up, regardless of vaccination status, with an exception for eating and drinking. The inclusion of a masking requirement in outdoor crowds when six feet of distancing cannot be reasonably maintained (such as fairs, festivals, farmers markets, and sporting events) would further decrease transmission. The Board could consider a gathering size threshold for outdoor masking, which would depend on the Board's risk tolerance for new cases. Holland presented data from the County epidemiologist estimating the number of new infections (not reported cases) that would result four weeks after certain sizes of gatherings of unmasked people. The estimates used an average number of contacts based on disease modeling and assumed 80% vaccine effectiveness. A gathering of 100 people with 70% vaccination would result in about 522 new infections. A group of 200 with 30% vaccination would result in about 1,800 infections, and a group of 300 with 70% vaccination would result in about 1,565 infections.

The Board should also consider the likelihood of smaller groups' compliance with an order that has no enforcement. There are few local orders with a specific threshold, and none in Oregon, but a threshold could be stated for ease of communication and compliance. The number of cases after a gathering will never be zero. Holland felt these are acceptable thresholds.

Kerby noted that the proposed face mask requirement (agenda item 8.2) has a placeholder of 'outdoor gatherings of 300 or greater'.

Augerot felt that the potential infection numbers were very sobering. A threshold around 200 or 300 people felt comfortable.

Malone asked how Public Information staff could best use this information to convince people, with a consistent theme of masking and vaccinations. The pace of vaccination is much slower than in spring 2021. School starts soon, where there is more chance for infection. A threshold of 200 or 300 would be fine, along with an explanation of the reasons.

Holland noted there is no magic threshold number. Everyone, regardless of vaccination status, needs to be masked, avoid crowds, and get vaccinated. The mask mandate can make a difference.

Responding to Malone, Neville commented that messaging is dependent on the Board's direction. The timeless message is to practice all prevention measures. This is an opportunity to share with the community that the situation is bad.

Malone felt the general public should be made aware of the hospital situation, with southern Oregon sending patients north because hospitals are full, and the National Guard being involved.

Neville agreed there is opportunity for messaging on hospitalization.

Thomson agreed with Malone that the general public is not aware of the situation, and encouraged messaging that younger people are being hospitalized nationally, with adolescents in some ICUs. The hospitalization situation is much worse than earlier this year, and continues to worsen. There is no guarantee Delta will 'burn out' in two months.

Wyse clarified with Holland that the threshold would indicate when masks need to be worn, not cap the size of the gathering. Wyse was not comfortable with the possibility of 522 cases resulting from a gathering of 100 people, and suggested a threshold of 50 people.

Holland noted that not all the estimated infections would be reported. Enforcement has never been a strong component in earlier mandates. A requirement encourages social norms. Complaints about indoor requirements can be referred to the state; for outdoor requirements, the County can have a complaint process, along with strong outreach and education. Holland suggested regularly evaluating the requirement but not setting a firm end date, as this measure will be needed at least through January 2022. It is estimated that vaccination of about 76%-85% of the population is necessary for herd immunity; Holland felt 85% was an effective number. Masking is simple, effective, and much less disruptive than earlier mandates, with no distancing or capacity limitations, creating minimal economic impact.

Malone emphasized that messaging should include avoiding large events and estimating how many more infections are not reported.

Augerot asked Holland to address alternative care sites.

Holland shared that the IMT was activated to relieve stress on the overall healthcare system. All counties are interconnected. There were conversations with GSRMC around potential alternate care sites; GSRMC has its own internal surge protocol for expansion within the campus.

Hennum added that SHS has already extended Urgent Care hours system-wide, and would welcome County collaboration to share that message. Urgent Care is a reasonable alternative care site for some needs, helping to decompress the ER. GSRMC has also discussed extending clinic hours with its primary care physicians. In-patient admissions across SHS: 41% are ages 60-79, 28% are ages 40-59, 22% are ages 20-39, and 6% are ages 0-19. Hennum cautioned that 6% is probably an undercount; a critically ill pediatric patient is usually transferred to a pediatric hospital. Even at GSRMC, the pediatric group has eclipsed the age 80 and over cohort, a change from the early pandemic. Generally, there is a much younger population (ages 20-49) in the ICU than previously.

Malone suggested primary care doctors as spokespeople endorsing masks and vaccination.

Holland added that Public Health has been sending health alerts to providers, pharmacies, and LTCFs, including one last night urging that patients be routed to Urgent Care instead of the ER if possible. Holland suggested that Public Health could help GSRMC with further surge planning.

Hennum would welcome the assistance and will contact Holland and Hoffman to integrate the County team with GSRMC's surge planning group. In messaging, keeping a human face on the pandemic is very important. The public has been inundated with data points; remember that each point represents an individual. The hospital has 3-4 ventilated COVID-19 patients in ICU. Caregivers are experiencing death and loss at a much higher rate than before the pandemic and are being accosted for trying to promote scientific medicine and care. These recommendations come from seeing patients, loved ones, and caregivers suffer in an unprecedented way.

Kerby stressed the importance of active planning and coordinated effort. The Governor's actions to pull together state resources for planning are new.

Augerot mentioned that Thomson has ongoing conversations with OSU Health and Athletics; OSU is realizing that athletics will need masking at some point. The County mask mandate will make a difference.

Chair Augerot recessed the meeting at 10:19 a.m.

Chair Augerot reconvened the meeting at 10:26 a.m.

4.2 Update Regarding the Justice System Improvement Program (JSIP) Project Timeline and Critical Decision Points – *Nick Kurth, JSIP Project Manager*

Kurth described the JSIP calendar through March 2022. Kurth learned this morning that School District 509J missed the filing deadline to hold its local option levy renewal in November 2021, and will move to May 2022, the same date as the JSIP bond measure. The following dates are driven by the 2022 local elections calendar to ensure timely filing:

- September 8, 2021: JSIP holds the first large public meeting without recommendations. Staff expect comments to come in for about another week.
- October 6, 2021: second large public meeting with draft recommendations.
- October 2021: issue a resolution for land acquisition reimbursement; Kurth and Otley are working on this document, which allows the County to reimburse itself for any purchases before the bond measure. There are two potential properties.
- October 31, 2021: decision on which suburban property to purchase; the County will potentially enter a Purchase and Sale Agreement with one seller. The County has a Letter of Intent for one property, and that seller cannot wait for the bond outcome.
- November 2, 2021: final recommendations made to architecture firm DLR Group, including which site, which facilities, location of the new courthouse, and whether the historic courthouse is part of the bond measure. DLR will perform final costing analysis in November-December 2021; this analysis will shape the bond documents.
- December 2021-January 2022: the County will work with underwriters to solidify bond amounts, strategy, timing, and type (e.g. full faith and credit borrowing versus general obligation). The Operations Team and the Board will discuss forming a Bond Oversight Committee.
- End of January 2022: staff will present DLR analysis and bond issuance strategy to the Board.
- February 15, 2022: Board will approve SEL-805 (ballot title).
- February 25, 2022: deadline to file title.
- March 1, 2022: Board will approve SEL-801 (notice of measure).
- March 17, 2022: deadline to file notice of measure.

Augerot noted that although decisions are typically not made at the Board's fourth Tuesday Information Sharing Meeting, it will be necessary to use that meeting for decisions during fall and winter 2021. Bond timing is a large upcoming decision. There is also the campaign timeline; Augerot is working with Representative Dan Rayfield's assistant on a date for the Board to meet with Rayfield regarding political campaigns. It is necessary to start laying out that calendar in the next 2-3 weeks. The Board needs to listen to the community and continue community engagement.

Malone asked if 509J's measure would definitely be on the ballot in May 2022.

Kurth confirmed that 509J was notified by James Morales, Records and Elections, that the November 2021 deadline had been missed. Kurth also received confirmation from the district's Chief Financial Officer after inquiring about the district's intentions.

Kerby shared that District Superintendent Ryan Noss reached out; Kerby to contact Noss.

Malone opined that having two funding measures on one ballot is a mistake and would dilute the JSIP message.

Kurth agreed. The County was advised to avoid that situation.

Wyse felt the County would be able to pivot and move JSIP to the November 2022 ballot if necessary, which would be an Operations Team decision. While momentum might slow, this would allow more time for public engagement.

Kurth agreed. Kurth noted that the Operations Team would meet later today.

Chair Augerot recessed the meeting at 10:48 a.m.

Chair Augerot reconvened the meeting at 11:00 a.m.

V. Consent Calendar

5.1 Appointment to the Chinook Road District: Maureen Puettmann

5.2 Approval of July 20, 2021 Tuesday Board Meeting Minutes

5.3 Approval of July 27, 2021 Tuesday Board Meeting Minutes

5.4 Approval of August 3, 2021 Tuesday Board Meeting Minutes

MOTION: Malone moved to approve the Consent Calendar of August 17, 2021. Wyse seconded the motion, which **passed 3-0.**

Public Hearings
PH 1 In the Matter of a Public Hearing and First Reading Revising Floodplain Codes, Ordinance No. 2021-0304 – *Toby Lewis, Greg Verret; Community Development*

Chair Augerot opened the public hearing at 11:01 a.m.

Staff Report
Lewis described the recommended floodplain code revisions. The revisions were approved by the Planning Commission on July 20, 2021 and were discussed at a Board Meeting on August 3, 2021. The changes were prompted by a Federal Emergency Management Agency (FEMA) five-year audit and are required in order to remain part of the National Flood Insurance Program community rating system. The revision will complete one State/FEMA requirement for community assistance; this is supposed to be performed every 3-5 years, but FEMA lacks capacity, so the process has been ongoing. County staff opted to revise Chapter 83 to align with the State model floodplain ordinance to make audit documentation easier, which mainly involved reorganizing and adding language to meet FEMA minimum standards. The key changes involve access and buildable area standards, emergency vehicle access standards, and flood elevation on accessory structures.

Lewis emailed the Board today regarding a slight change to Chapter 83.230, mainly subsection (3)(C), on conditional letter of map revision (CLOMR) requirements. Currently, an applicant must submit a CLOMR to FEMA for an official response on how a project will change floodplain elevations. An applicant may apply for multiple reasons, such as documentation of Endangered Species Act (ESA) compliance, in which case there is no reason to require a letter of map revision (LOMR). The recommended change is to no longer require a CLOMR, reducing applicant costs. Current code does not identify projects that need a FEMA LOMR but not a CLOMR, such as large culvert or bridge replacements, or projects where flood elevation would not be increased but the boundaries of the flood hazard area would widen. The proposed changes will clarify criteria for CLOMRs and LOMRs to align with current County policy.

Augerot asked how these changes would effect typical stream restoration projects by watershed councils in partnership with landowners, and if any of those projects currently have to go through the LOMR process.

Lewis replied that such projects usually must go through the process, although vegetation replacement does not. Alterations to the water course such as installing large woody debris, altering the flow of a creek, or culvert replacement may trigger a CLOMR, but definitely require an LOMR.

Augerot observed that this slows down restoration and requires additional engineering analysis.

Lewis affirmed. Hopefully in future FEMA will create an easier process for some ESA projects.

Public Comment
No comment was offered.

Chair Augerot closed the public hearing at 11:22 a.m.

MOTION: Malone moved to conduct the first reading for adoption of Ordinance No. 2021-0304, as modified at the public hearing, revising the Development Code as proposed in Planning File No. LU-21-032. Wyse seconded the motion, which **passed 3-0.**

Augerot read the Ordinance (short title) aloud. The second reading will occur on September 7, 2021, and the Ordinance will be effective October 7, 2021. Augerot read the amended language aloud as follows:

Benton County Code (BCC) 83.230 Requirement to notify other entities and submit new technical data, (2) Watercourse alterations, (c): The applicant shall be required to submit when required a CLOMR and an LOMR pursuant to BCC 83.230(3). As a condition of permit approval, the applicant shall be required to ensure compliance with all applicable components of BCC 83.230(3).

(3) Requirements to submit new technical data, (c): the Floodplain Administrator shall require an LOMR to be completed within 6 months of project completion for the following circumstances: (A) for projects that will expand the boundaries of the special flood hazard area regardless of their effect on the base flood elevation; or, (B) for bridge or large culvert installation or replacement projects regardless of their effect on the base flood elevation. (C) When an applicant has obtained a CLOMR, except as specified with subsections (i) and (ii) below: (i) if the

CLOMR is obtained for the purposes of documenting compliance with the ESA, and the project will not cause a rise as specified in BCC 83.230(3)(b,) then an LOMR is not required; or, (ii) if a CLOMR is obtained and the applicant subsequently alters the project in such a way that it no longer constitutes a rise as specified in BCC 83.230(3)(b), then an LOMR is not required. Note: the exceptions listed in subsections (i) and (ii) above do not apply to projects that meet the criteria in BCC 83.230(c)(A) or (B).

PH 2 In the Matter of a Public Hearing and Potential First Reading Extending Benton County Code Chapter 40 – Interim Vehicle Camping – *Rebecca Taylor, Greg Verret, Community Development*

Chair Augerot opened the public hearing at 11:35 a.m.

Staff Report
Taylor explained that on July 20, 2021, the Board discussed extending the ordinance in Chapter 40 for interim vehicle camping on religious institutions from December 31, 2021 to December 31, 2022. The extension will provide more time for staff to perform public outreach in order to be most responsive to community needs. The date is the only change.

Augerot noted that only one church has applied so far.

Public Comment
No comment was offered.

Chair Augerot closed the public hearing at 11:39 a.m.

MOTION: Malone moved conduct the first reading of the ordinance extending the sunset date of Benton County Code Chapter 40 from December 31, 2021 to December 31, 2022. Wyse seconded the motion, which **passed 3-0.**

Augerot read the Ordinance aloud. The second reading will occur on September 7, 2021.

PH 3 In the Matter of a Public Hearing Regarding the Annexation of Property Within the Dumbeck Lane Domestic Water District into the North Albany County Service District (CSD) – *Gary Stockhoff, Public Works*

Chair Augerot opened the public hearing at 11:26 a.m.

Staff Report
Stockhoff explained that Dumbeck Lane Domestic Water District requested annexation into the North Albany CSD due to inability to replace board members. County staff worked with Bo Price (Dumbeck Lane Board Member), Albany City Manager Peter Troedsson, and Chris Bailey (Albany Public Works). The district has an outstanding $425,000 loan with Business Oregon; it is proposed that the district compile remaining capital reserves, loan payment reserves, and cash to pay off as much as possible. This totals a little over $400,000 (plus funs to run the district until the transfer). The remainder of the loan would become the County's responsibility. The County has not decided whether to pay the loan off now, or assess the remainder to property owners who have not yet paid their obligation. Several people in the district have already paid their obligation. The County and Albany hope to make that determination in the next month or so, which will require an amendment to the Intergovernmental Agreement (IGA), after which Albany will formally adopt the district.

Malone stated this is a good example of cooperative process to solve a problem for the affected community. Congratulations to those involved.

Public Comment
Price agreed with Malone. Major renovations were performed in 2007 and the water system is running smoothly. Since the North Albany CSD surrounds Dumbeck Lane, annexation makes sense. Albany already manages district operations except billing customers.

Bailey shared that the updated IGA will return to the Board once approved by the Albany City Council.

Malone thanked Price for serving on the Dumbeck Lane Board for 20 years.

Chair Augerot closed the public hearing at 11:35 a.m.

MOTION: Malone moved to adopt Order No. 2021-61 to annex property within the Dumbeck Lane Domestic Water Supply Special District into the North Albany County Service District and hold a second public hearing as described in the Order on September 21, 2021. Wyse/Malone seconded the motion, which **passed 3-0.**

**Note: the motion incorrectly referenced Order No. 2021-60.

Augerot read the Order aloud.

PH4 In the Matter of a Public Hearing Regarding an Intent to Apply for a $250,000 Community Development Block Grant (CDBG) for Linn-Benton Food Share – *Mary Otley, Chief Finance Officer; Rachel Maddock-Hughes, Sequoia Consulting*

Chair Augerot opened the public hearing at 11:41 a.m.

Staff Report
Otley explained that grant funds would be transferred to Linn-Benton Food Share for food storage and transportation throughout both counties. The notice of intent to apply was published in the newspaper in English and Spanish and will be read in both languages, as required by the grant application. Otley read the notice aloud in English. Oral and written comments will be considered by the Board in deciding whether to apply.

Pegg read the notice aloud in Spanish.

Maddock-Hughes thanked the County for leadership in applying for these grants to support community members.

Public Comment
No comment was offered.

Chair Augerot closed the public hearing at 11:51 a.m.

MOTION: Malone moved to approve the application for a Community Development Block Grant in the amount of $250,000 to be used to support the programs of Linn-Benton Food Share. Wyse seconded the motion, which **passed 3-0.**

VI. Departmental Reports and Requests

6.1 Discussion and Decision to Accept a Segment of NW Stone Ridge Avenue into the County Road System – Public Road No. P04442 – *Gordon Kurtz, Public Works*

Kurtz recommended that the Board accept the segment of NW Stone Ridge Avenue into the County road system to create a contiguous County road. The majority of the road was accepted when built, about three years ago; this segment is an extension beyond the cul-de-sac, which was built within a reservation for future right-of-way dedication. The warranting period has passed.

MOTION: Malone moved to approve Order No. 2021-062 accepting the described portion of a Public Road within the Stone Ridge Estates Subdivision: NW Stone Ridge Avenue, Public Road No. P04442, into the County Road System. Wyse seconded the motion, which **passed 3-0.**

VII. Old Business

7.1 In the Matter of a Second Reading Amending Benton County Code Chapter 2 – Contracts, Ordinance No. 2021-0303 – *Vance Croney, County Counsel*

There was no discussion of the item.

MOTION: Malone moved to enact Ordinance No. 2021-0303 amending Benton County Code Chapter 2 and to conduct a second reading of the ordinance. Wyse seconded the motion, which **passed 3-0.**

Augerot read the Ordinance aloud (short title).

VIII. New Business

8.1 In the Matter of Naming the 4500 SW Research Way Building - *Joe Hahn, Equity, Diversity and Inclusion Coordinator; Lili'a Neville, Senior Strategic Programs Manager*

Hahn described the process of naming the 4500 SW Research Way Building (sometimes referred to as the "Fiserv Building"). Hahn was tasked to develop a name that reflected Equity, Diversity, and Inclusion. Many staff suggestions acknowledged local Indigenous cultures. Hahn recommended the name "Kalapuya Building", selected in consultation with David Harrelson, Cultural Resources Department Manager of the Confederated Tribes of Grand Ronde Community. The name honors the original caretakers of this land and acknowledges how the environment was shaped by Indigenous practices. A naming ceremony including members of the Confederated Tribes will take place depending on Public Health recommendations. Hahn also suggested names for rooms within the building that focus on people with marginalized identities. Room names can be discussed further in future.

Malone expressed appreciation for the thoughtful and worthwhile process ass a good way to acknowledge local history. Malone approved of the room name suggestions.

Augerot expressed gratitude for the opportunity to collaborate with the Confederated Tribes of Grand Ronde.

Wyse thanked Hahn and Neville for work on the project.

Hahn acknowledged other staff contributions.

MOTION: Malone moved to name 4500 SW Research Way the "Kalapuya Building". Wyse seconded the motion, which **passed 3-0.**

8.2 In the Matter of Approving Order No. D2021-063 Requiring Face Masks in Indoor and Outdoor Public Settings – *April Holland, Suzanne Hoffman; Health Services*

Holland recommended that the Board issue an order to mirror the State indoor masking order, and to also require masking in public outdoor spaces when distancing cannot be reasonably maintained. An outdoor gathering size threshold could be specified to determine when people must mask. A guidance document could illustrate exceptions. Holland revisited the estimated number of new infections resulting from different sizes of unmasked groups. Responding to a question from Malone, Holland provided examples of outdoor gatherings over 100 people, such as smaller concerts, church events, fundraising events, and weddings. It would be ideal to have the guidance be as straightforward as possible. There would be exceptions for bands, swimming, eating, and drinking, as in the OHA rule. The event organizer would determine if physical distancing is adequate.

Wyse asked what impact more widespread mask wearing would have on the estimates.

Holland indicated a general transmission reduction of 70-75% with universal mask wearing.

Clark shared that OSU supports face covering policies for indoor public spaces. OSU also supports the draft order for outdoor public settings and gatherings over 300 people, but strongly encouraged that the County apply OHA standards for indoor public gatherings by allowing exceptions for individuals at sporting events who are eating or drinking; athletes participating in practice or competition at any level (collegiate, recreational, intramural); and individuals actively participating in indoor or outdoor performances or public speaking. OSU agrees that personal and public health measures are essential to reducing the risk and spread of COVID-19, and supports the County's leadership.

Holland noted that the guidance document would note exceptions to the OHA rule, which also include sleeping, swimming, or confirming identity. The order is intended to be concise.

Kerby clarified that Counsel supports simplicity and clarity in such documents.

Hoffman agreed but noted that a guidance document is important. The County order can make clear that the County does not intend to be stricter than the OHA rule.

Holland showed the full table of estimated new infections arising from unmasked gatherings of 25, 50, 100, 200, or 300 people, and at 30%, 70%, and 100% vaccinated.

Augerot noted that the draft Order currently specified gatherings of 300 people.

Wyse would support setting a significantly lower gathering size, such as 50 people.

Holland clarified that new epidemiological models would be needed to show risk reduction with various levels of outdoor masking. Regardless, masking will cause a drastic reduction in transmission. Messaging and compliance could also be factors.

Malone felt comfortable with a 300-person threshold, plus messaging that more drastic measures may be required if cases continue to rise. Malone was not convinced that reducing the threshold would change results significantly.

Wyse opined that a rule tells people to take guidance more seriously. The Board should be more conservative in this matter and do everything possible to protect the hospital system and the public.

Augerot felt comfortable with a threshold of about 150 people.

Malone was comfortable with 150, along with messaging that people should wear a mask most of the time, with any size group.

Holland shared that another option is not to specify a gathering size. Other community orders say "in outdoor spaces where distancing cannot be maintained", but ensuring compliance or enforcement can be difficult.

Hahn recommended a lower gathering number because of danger to the immunocompromised population and to high-risk children who cannot be vaccinated; the expectation of widespread masking makes life easier for those community members.

Hoffman added that those more vulnerable individuals are more likely to be hospitalized due to COVID-19 infection whether vaccinated or not.

The Board decided to omit a threshold from the order and simply say "in outdoor spaces where distancing cannot be maintained".

Augerot noted the Order does not have an end date and is intended to be reviewed regularly. The Board's authority to put forth this order is based on the County Emergency Declaration, which expires September 30, 2021. The Board will consider extending that declaration, since a masking requirement will be needed for longer.

Kerby encouraged the Board to take action on the mask requirement today rather than waiting for the Emergency Declaration extension, with amended language as needed.

Neville was in the process of drafting an initial guidance document to be distributed with the press release today, and talking points to be provided to the COVID-19 Call Center.

After consultation with staff, the Board decided to reference the guidance document in the order, rather than including details and exceptions in the order language.

Clark encouraged County leadership to engage in an education campaign in collaboration with OSU, Chambers of Commerce, the City of Corvallis, and others to provide guidance to event

organizers on how to manage compliance. The goal is to create a community of responsibility, not a fear of being cited for failure to comply.

MOTION: Malone moved to adopt Order No. D2021-063 requiring use of masks or face coverings in indoor and outdoor public settings, with two changes: drop specific numbers for outdoor events and add a reference to the guidance document. Wyse seconded the motion, which **passed 3-0.**

Chair Augerot recessed the meeting at 12:43 p.m.

IX. Other

9.1 Executive Session

Chair Augerot resumed the meeting at 12:50 p.m. and immediately entered Executive Session under ORS 192.660(2)(d) – Labor Negotiations.

Chair Augerot exited Executive Session at 2:02 p.m. and immediately recessed the regular meeting.

9.2 Approve minutes for Linn-Benton Food Bank Community Development Block Grant

Vice-Chair Wyse resumed the meeting at 8:31 a.m. on August 18, 2021. Augerot was excused.

MOTION: Malone moved to approve the August 17, 2021 minutes for the Food Bank Community Development Block Grant. Wyse seconded the motion, which **passed 2-0.**

X. Adjournment

Vice-Chair Wyse adjourned the meeting at 8:32 a.m.

Xanthippe Augerot, Chair

Erika Milo, Recorder

Nancy Wyse, Vice-Chair

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS
Tuesday, August 17, 2021
GoToMeeting link: *https://global.gotomeeting.com/join/500478005*
Livestream: *http://facebook.com/BentonCoGov*
9:00 a.m.

Present: **Xanthippe Augerot,** Chair; **Nancy Wyse,** Commissioner; **Pat Malone,** Commissioner; **Joe Kerby,** County Administrator

Excused: **Vance Croney,** County Counsel

Staff: **Teresa Farley, Joe Hahn, Lili'a Neville,** BOC Staff; **Suzanne Hoffman, April Holland, Bruce Thomson,** Health; **Nick Kurth,** Justice Systems Improvement Program Manager; **Gordon Kurtz, Gary Stockhoff,** Public Works; **Bryan Lee, John Pegg,** Emergency Management; **Toby Lewis,** Community Development; **Tracy Martineau,** Human Resources; **Erika Milo,** BOC Recorder; **Mary Otley, Debbie Parsons,** Finance; **Alyssa Rash**, Public Information Officer; **Greg Ridler, Jef Van Arsdall,** Sheriff's Office; **Matt Wetherell,** Juvenile Department

Guests: **Chris Bailey**, City of Albany; **Steve Clark,** Oregon State University; **Laura Hennum,** Good Samaritan Regional Medical Center; **Rachael Maddock-Hughes,** Sequoia Consulting; **Bo Price,** Dumbeck Lane Domestic Water Supply Special District

These are minutes only for the public hearing held on August 17, 2021. Once approved, these minutes will be included with the minutes for the remainder of this public meeting, which will be approved at a later date.

Chair Augerot called the meeting to order at 9:03 a.m.

PH4 In the Matter of a Public Hearing Regarding an Intent to Apply for a $250,000 Community Development Block Grant (CDBG) for Linn-Benton Food Share – *Mary Otley, Chief Finance Officer; Rachel Maddock-Hughes, Sequoia Consulting*

Chair Augerot opened the public hearing at 11:41 a.m.

Staff Report
Otley explained that funds from the CDBG will be transferred to Linn Benton Food Share for storage facilities and food transportation throughout both counties. The application requires a public hearing and that notification be published in the local newspaper in English and Spanish, which has been done.

Otley read the notice aloud in English. Oral and written comments from the public will be considered by the Board in deciding whether to apply for the grant.

Pegg read the notice aloud in Spanish.

Maddock-Hughes thanked Benton County for leadership in applying for these funds, which will go far toward supporting community members.

Public Comment
No comment was offered.

Chair Augerot closed the public hearing at 11:51 a.m.

MOTION: Malone moved to approve the application for a Community Development Block Grant in the amount of $250,000 to be used to support the programs of Linn Benton Food Share. Wyse seconded the motion, which **passed 3-0.**

X. Recess

Chair Augerot recessed the meeting at 2:02 p.m. Meeting to reconvene tomorrow, August 18, 2021 at 8:30 a.m.

Nancy Wyse, Vice-Chair

Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

4.2WS

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * Work Session

Department * Board of Commissioners

Contact Name * Nick Kurth

Phone Extension * 6076

Meeting Attendee Name * Nick Kurth

Agenda Item Details

Item Title * Update Regarding the Justice System Improvement Program (JSIP) Project Timeline and Critical Decision Points

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☑ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Estimated Time * 30 minutes

Board/Committee Involvement *

- ○ Yes
- ◉ No

Advertisement* ○ Yes
● No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

Sharing information on timing/schedule related to public engagement, preparation of bond documents, and key decision points in preparation for a May 2022 capital bond measure.

Options *

None

Fiscal Impact *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Mandated Service? *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☑ Vibrant, Livable Communities
- ☑ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☑ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

The vision for the Justice System Improvement Program is a balance of safety, accountability, and treatment, which promotes vibrant, livable communities and includes resources to support people. The goal is to build an equitable, effective, and safe justice system.

Focus Areas and Vision *

Select all that apply.

- ☑ Community Safety
- ☑ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

The vision for the Justice System Improvement Program is a balance of safety, accountability, and treatment, which promotes vibrant, livable communities and includes resources to support people. The goal is to build an equitable, effective, and safe justice system. Additionally, one of JSIP's proposed facilities is an emergency operations center, as part of a new Sheriff's Office.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations*	No recommendation - information sharing only.
Work Session Motions*	I move to .... NA

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Step 5 6 Design Calendar (1).pdf 35.82KB

Comments (optional) Will update attached calendar to show milestones through bond document submission (or equivalent new document)

If you have any questions, please call ext.6800

Department Approver JOE KERBY

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- [x] Counsel
- [ ] Finance
- [ ] HR

Counsel Approver VANCE CRONEY

County Administrator Approver TERESA FARLEY

Comments

Counsel Approval

Comments

Signature



County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



4.2WS

Justice System Improvement Program

Board of Commissioners



Nick Kurth, Program Manager

August 17, 2021

Benton County OREGON

BOC Decisions on JSIP by Nov. 2, 2021

- What site(s)
- What facilities
- Location of New Courthouse
- Repurposing historic courthouse strategy

Bond Amount $$$

Benton County OREGON

BOC Decisions on JSIP by March 2022

- February 15 – approve SEL-805 (ballot title)
- March 1 – approve SEL-801 (notice of measure)
- Oct. - Land acquisition Reimbursement Resolution
- Dec./Jan. – Bond strategy (amount(s), timing, type, i.e. full faith and credit vs. general obligation)

Benton County OREGON

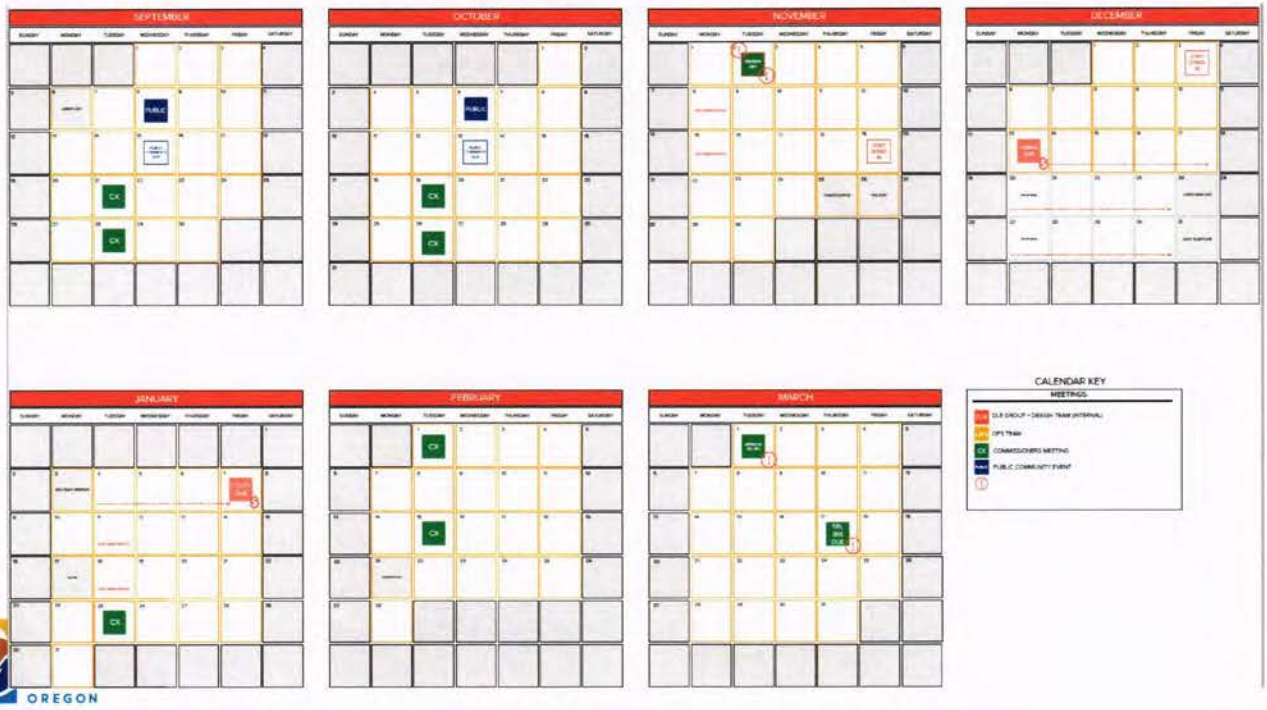
SOS 2022 Local Elections Calendar

Measures	March 8	May 17	September 20	November 8
Last Day for County, City or District Governing Body to File with Local Elections Official				
→ ballot title for publication of notice **or** → referral text for drafting of ballot title	December 17	February 25	July 1	August 19
Last Day for Local Governing Body to File with County Elections Official				
→ Form SEL 801 Notice of Measure Election - County	January 6	March 17	July 21	September 8
! Form may only be filed upon completion of the ballot title challenge process.				
→ Form SEL 802 Notice of Measure Election - City	January 6	March 17	July 21	September 8
! Form may only be filed upon completion of the ballot title challenge process.				
→ Form SEL 803 Notice of Measure Election – District	January 6	March 17	July 21	September 8
! Form may not be filed until after the deadline for the immediately preceding election has passed and only upon completion of the ballot title challenge process.				
Last Day to File with County Elections Official				
→ arguments for inclusion in county voters' pamphlet	January 10	March 21	July 25	September 12

ⓘ For resubmitted measures the deadline is 47th day before the election; the measure argument filing deadline is 2nd business day after deadline to resubmit measure, if the county includes the resubmitted measure in the county voters' pamphlet.

Benton County OREGON

2021/22 JSIP Engagement/BOC Milestones



OREGON

Justice System Improvement Program

Board of Commissioners

Nick Kurth, Program Manager

August 17, 2021

Benton County OREGON



JSIP Milestones by March 2022

- September 8 – 1st Large Public Meeting (no recommendations)
- ✓October 6 – 2nd Large Public Meeting (draft recommendations)
- ✓Oct. - Land acquisition Reimbursement Resolution
- ✓Oct. 31 – "chosen property" purchase decision
- ✓November 2 – Final recommendations to DLR
- ✓Dec./Jan. – Bond strategy (amount(s), timing, type, i.e. full faith and credit vs. general obligation)
- ✓February 15 – approve SEL-805 (ballot title)
- ✓March 1 – approve SEL-801 (notice of measure)

Benton County OREGON

BOC Decisions on JSIP by Nov. 2, 2021

- What site(s)
- What facilities
- Location of New Courthouse
- Repurposing historic courthouse strategy

Bond Amount $$$

Benton County OREGON

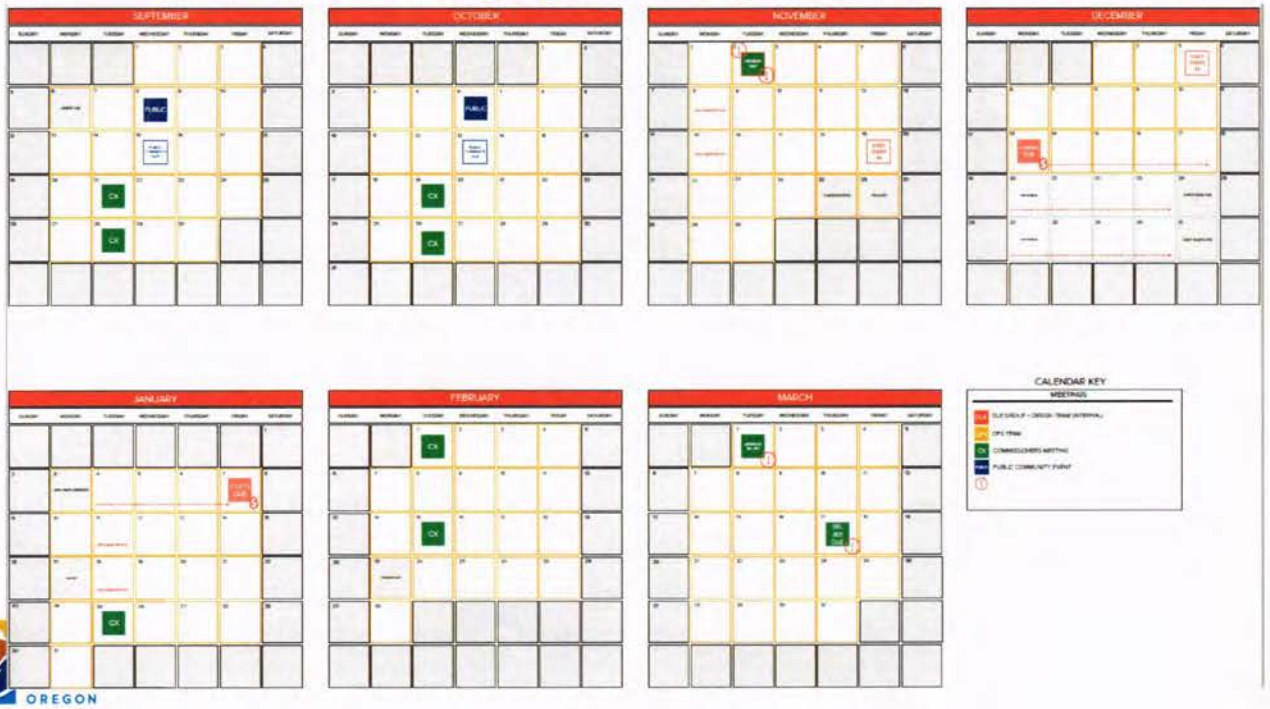
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→ Form SEL 802 Notice of Measure Election - City Form may only be filed upon completion of the ballot title challenge process.	January 6	March 17	July 21	September 8
→ Form SEL 803 Notice of Measure Election – District Form may not be filed until after the deadline for the immediately preceding election has passed and only upon completion of the ballot title challenge process.	January 6	March 17	July 21	September 8
Last Day to File with County Elections Official				
→ arguments for inclusion in county voters' pamphlet	January 10	March 21	July 25	September 12

For resubmitted measures the deadline is 47th day before the election; the measure argument filing deadline is 2nd business day after deadline to resubmit measure, if the county includes the resubmitted measure in the county voters' pamphlet.

Benton County OREGON

2021/22 JSIP Engagement/BOC Milestones



OREGON

83.230 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

* * *

(2) WATERCOURSE ALTERATIONS.

* * *

(c) The applicant shall be required to submit when required a Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) ~~when required~~ pursuant to **BCC 83.230(3)**. As a condition of permit approval, the applicant shall be required to ensure compliance with all applicable requirements of **BCC 83.230(3)**.

(3) REQUIREMENT TO SUBMIT NEW TECHNICAL DATA.

* * *

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

The Floodplain Administrator shall require a Letter of Map Revision (LOMR) to be completed within six (6) months of project completion for the following circumstances:

(A) For projects that will expand the boundaries of the special flood hazard area regardless of their effect on the base flood elevation; or

(B) For bridge and large culvert installation or replacement projects regardless of their effect on the base flood elevation.

(C) When an applicant has obtained a CLOMR, except as specified in subsections (i) and (ii) below:

(i) If a CLOMR is obtained for the purposes of documenting compliance with the Endangered Species Act and the project will not cause a rise as specified in **BCC 83.230(3)(b)**, then a LOMR is not required; or

(ii) If a CLOMR is obtained and the applicant subsequently alters the project in such a way that it no longer causes a rise as specified in **BCC 83.230(3)(b)**, then a LOMR is not required.

Note: The exceptions listed in subsections (i) an d(ii) above do not apply to projects that meet the criteria in **BCC 83.230(c)(A) or (B)**.

5.1

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Finance

Contact Name * Jennifer Fenn

Phone Extension * 6807

Meeting Attendee Name * Debbie Parsons

Agenda Item Details

Item Title * Appointment to the Chinook Road District

Item Involves * Check all that apply

- [x] Appointments
- [ ] Budget
- [ ] Contract/Agreement
- [ ] Discussion and Action
- [ ] Discussion Only
- [ ] Document Recording
- [ ] Employment
- [ ] Notice of Intent
- [x] Order/Resolution
- [ ] Ordinance/Public Hearing 1st Reading
- [ ] Ordinance/Public Hearing 2nd Reading
- [ ] Proclamation
- [ ] Project/Committee Update
- [ ] Public Comment
- [ ] Special Report
- [ ] Other

Board/Committee Involvement *

- ( ) Yes
- (•) No

Advertisement *

- ( ) Yes
- (•) No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

Benton County Board of Commissioners are responsible for appointing commissioners for Special Road Districts per ORS 371.338. Chinook Road District has submitted a name for a term to their respective Road District. Special Road District Administration (ORS 371.305 through 371.385)

Options *

1) Approval
2) Contact the respective Road District for submittal of a new nominee for the commissioner appointment.

Fiscal Impact *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Mandated Service?* ○ Yes ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values* Select all that apply.

- ☐ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☐ Equity for Everyone
- ☐ Health in All Actions
- ☑ N/A

Explain Core Values Selections* n/a

Focus Areas and Vision* Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☑ N/A

Explain Focus Areas and Vision Selection* n/a

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Approval

Meeting Motions * I move to ...

I move to approve appointing this individual to serve on the Chinook Road District listed in the attached Order.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

FIN_Chinook Rd Dist appt ORDER.doc 39KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver DEBBIE PARSONS

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- ☐ Counsel
- ☐ Finance
- ☐ HR

County Administrator Approver TERESA FARLEY

Comments

County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON

In the Matter of Appointment to the Chinook Road District	))	**ORDER #D2021-064**

THE ABOVE ENTITLED MATTER COMING NOW FOR THE CONSIDERATION OF THE BOARD AND,

IT APPEARING TO THE BOARD

THAT the following is a qualified and knowledgeable individual who has indicated a willingness to serve on this Road District:

Name	Address	Term & Position
Maureen Puettmann	8200 NW Chaparral Corvallis, OR 97333	12/31/2020 - 12/31/2022 Secretary

NOW, THEREFORE, IT IS HEREBY ORDERED that the above person is hereby appointed for a term on the Chinook Road District.

Adopted this 17th day of August, 2021.

Signed this 17th day of August, 2021.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Commissioner

Pat Malone, Commissioner

PH1

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * Toby Lewis

Phone Extension * 6296

Meeting Attendee Name * Toby Lewis, Greg Verret

Agenda Item Details

Item Title * Public Hearing - Floodplain Code Revisions

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☑ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Board/Committee Involvement *

- ◉ Yes
- ○ No

Name of Board/Committee Planning Commission

Advertisement*	(•) Yes ( ) No
Names/Dates of Publications	List each publication name and date Gazette Times 7/9/2021

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

This is a Public Hearing to adopt proposed Development Code revisions.

On July 20, 2021, Planning Commission voted unanimously (5-0) to recommend approval of the proposed floodplain code revisions.

The August 3, 2021 agenda checklist for the Board of Commissioners work session regarding this file included background information identifying the need to adopt the proposed floodplain code revisions in order to:
- Maintain compliance with minimum floodplain regulation requirements identified by Federal Emergency Management Agency (FEMA), the National Flood Insurance Program (NFIP), and the NFIP's Community Rating System (CRS);
- Be eligible for approval of two audits (a Community Assistance Visit and a CRS 5-year Cycle Verification) of the Benton County floodplain management program that are occurring simultaneously; and
- Avoid suspension from the National Flood Insurance Program which would result in lost of federally backed flood insurance for property owners as well as lost of eligibility for federal grants, loans, and disaster assistance.

The following documents are included as attachments to this checklist:
- Memorandum to the Board of Commissioners, dated August 17, 2021
- Staff report to the Planning Commission prepared for the July 20, 2021 Planning Commission hearing*
- Approved minutes from the July 20, 2021 Planning Commission hearing
- Table identifying quick references to proposed and existing code sections
- Proposed Development Code Chapter 83 (entirely new chapter; no edits shown)
- Existing Development Code Chapter 83 (to be replaced entirely; no edits shown)
- Proposed amendments to Development Code Chapters 51, 88, 94, 95, 97, and 99
- Proposed amendments to Development Code Chapter 57
- Ordinance No. 2021-0304

*Note: Attachments to the Planning Commission staff report are not included. The information contained in these attachments has been revised based on further review and comments from the state regarding compliance with FEMA and NFIP requirements. The revised versions are included as attachments to this agenda checklist packet as listed above.

Options *

1) Conduct the first reading of the ordinance.
2) Modify the proposed amendments and conduct the first reading of the ordinance.

Fiscal Impact *

(•) Yes
( ) No

Fiscal Impact Description *

Adopting the floodplain code revisions will ensure that the Benton County Development Code remains compliant with the FEMA-required code language which will ensure that federally backed flood insurance remains available in Benton County. This means that Benton County policy holders within the Special Flood Hazard Area will continue to receive an automatic discount – currently 15% – on their flood insurance premiums due to the County's floodplain development management and outreach program.

There are no identified significant costs associated with this proposal.

2040 Thriving Communities Initiative

Mandated Service?* ○ Yes ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values* Select all that apply.

- ☑ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☑ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☑ Community Resilience
- ☐ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections* The floodplain code revisions will ensure continued implementation and maintenance of the Benton County floodplain management program standards.

This will, in turn, ensure:
- Continued, correct application of county floodplain development regulations which result in continued safety and flood loss reduction for our communities [Vibrant, Livable Communities],
- Maintenance of code language that continues to limit and discourage development in areas subject to flood hazards; resulting in increased flood storage capacity of rural land [High Quality Environment and Access], and
- Continued ability of communities and individuals to minimize flood damage during and after flood events, which allows for improved ability to recover from flood events and other natural disasters [Community Resilience].

Focus Areas and Vision* Select all that apply.

- ☑ Community Safety
- ☑ Emergency Preparedness
- ☑ Outdoor Recreation
- ☑ Prosperous Economy
- ☑ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☑ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☑ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

The updated floodplain code will ensure continued compliance with the Community Rating System and the National Flood Insurance Program which will, in turn allow for Benton County to remain in good standing with both programs and allow Federal flood insurance and disaster assistance to be available to Benton County and county residents.

This will continue to ensure:
- Improved safety for county residents through continued application of compliant floodplain construction standards applied to structures in high flood risk areas [Community Safety],
- Decreased recovery time needed after flood events, improved ability to recover from these events, and improved recovery capacity due to application of compliant floodplain construction standards [Emergency Preparedness],
- Alignment with, and positive progress towards completion of, Priority Action Item Flood #2 of the Benton County Natural Hazard Mitigation Plan [see below for priority action item statement],
- Continued emphasis on reducing structural development in flood hazard areas and maintenance of this land for open space such as county parks and natural areas [Outdoor Recreation],
- Support of a sustainable economy due to decreased recovery time after flood events [Prosperous Economy],
- Continued protection of the natural resources dependent on floodplain functions within mapped flood hazard areas [Environment and Natural Resources],
- Accurate application of construction and elevation standards for dwellings in high risk areas resulting in decreased risk of damage and improved access to safe and stable housing during flood events [Housing and Growth], and
- Continued encouragement of agricultural use on farm zoned land in flood hazard areas which results in improved soil conditions due to deposition of nutrients during flood events [Food and Agriculture].

Natural Hazard Mitigation Plan Priority Action Item:
- Flood #2: Take steps to participate in, maintain, or improve Community Rating System (CRS) rating, as applicable.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations *

Conduct the public hearing and first reading.

Meeting Motions *

I move to ...

I move to conduct the first reading for adoption of Ordinance No. 2021-0304, revising the Development Code as proposed in Planning File No. LU-21-032.

Or,

I move to conduct the first reading for adoption of Ordinance No. 2021-0304, as modified at the public hearing, revising the Development Code as proposed in Planning File No. LU-21-032.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

1_2021-08-17_BOC Memo.pdf	462.13KB
2_LU-21-032_PC Staff Report_Floodplain Code Amendements_2021-07-20.pdf	862.97KB
3_Approved Minutes_PC Hearing #2 (LU-21-032)_2021-07-20.pdf	235.24KB
4_Table of Code Changes_2021-08-06_FINAL.pdf	757.29KB
5_FINAL_PROPOSED Revisions_BCC_Chapter 83_2021-08-06.pdf	1.37MB
6_FINAL_EXISTING_BCC_Chapter 83_Current Code_with comments_2021-08-06.pdf	486.81KB
7_FINAL_BCC_Chapter 51, 88, 94, 95, 97, 99_Proposed Revisions_2021-08-06.pdf	336.88KB
8_FINAL_BCC_Chapter 57_Proposed Revisions_2021-08-03.pdf	15.33KB
9_Ordinance 2021-0304, eff. 2021-10-07_complete_includes all attachments.pdf	3.03MB

Comments (optional) If you have any questions, please call ext.6800

Department Approver GREG VERRET

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- [x] Counsel
- [ ] Finance
- [ ] HR

Counsel Approver VANCE CRONEY

County Administrator Approver LILI'A NEVILLE

Comments

Counsel Approval

Comments

Signature



County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature

Teresa Fahley

Benton County
COMMUNITY DEVELOPMENT DEPARTMENT

Community Development Department
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360 SW Avery Ave.
Corvallis, OR 97333
co.benton.or.us/cd

MEMORANDUM

DATE: August 17, 2021

TO: Board of Commissioners

FROM: Toby Lewis, Floodplain Manager / Associate Planner

SUBJECT: **Planning Commission Recommendation to the Board of Commissioners**

FILE NO.: LU-21-032

This memorandum updates the attached staff report to the Planning Commission to inform the Board of Commissioners of the outcome of the Planning Commission's hearing. Please refer to the attached staff report for full analysis of the proposed amendments.

On July 20, 2021, the Benton County Planning Commission held a hearing regarding proposed Development Code amendments relating to floodplain regulations. The Planning Commission listened to the presentation by staff[1], discussed the proposed amendments, and then voted (5-0) to recommend adoption of the proposed text amendments, as modified at the hearing for typographical errors, to the Development Code as proposed and with the understanding that additional revisions were likely due to finalization of state requirements.

Questions from the Planning Commission, included requests for clarification of required language associated with the definitions of "critical facility" and "substantial improvement" as well as requests for clarification of required FEMA language relating to severability and anchoring requirements.

On July 29, 2021, CRS Specialist Teresa Alvelo confirmed via email that the proposed floodplain code revisions comply with the minimum Community Rating System requirements for maintaining Benton County's current Class 7 rating with the CRS program.

On August 2, 2021, State NFIP Coordinator Celinda Adair confirmed verbally that, with the modifications discussed that morning, the proposed floodplain code revisions comply with the minimum FEMA standards and that they retain Benton County's existing higher regulatory standards.

On August 3, 2021, staff discussed the proposed floodplain program, key elements of the current floodplain regulations, the factors leading to the current code revision process, and the proposed floodplain code revisions with the Board of Commissioners at a work session.

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[1] No written testimony was submitted prior to the hearing. No public testimony was heard because no members of the public attended the hearing for this file on July 20, 2021.

Benton County
COMMUNITY DEVELOPMENT DEPARTMENT

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FILE NO. LU-21-032

STAFF REPORT

TO THE PLANNING COMMISSION

PROPOSED ACTION:	**Amendments to the Benton County Development Code.** The majority of the amendments will be made to Chapter 83 (Floodplain Management); minor adjustments will also be made to Chapters 51 (Development Code Administration), 57 (Flood Plain Agriculture), 88 (Natural Features Overlay), 94 (Property Line Adjustments), 95 (Partitions), 97 (Subdivisions), and 99 (General Development Standards).
APPLICABLE CRITERIA:	Benton County Development Code Sections 53.605 through 53.625 (Text Amendment); Benton County Comprehensive Plan Section 7.1 (General Natural Hazards) and Section 7.2 (Floodplain)
AFFECTED PROPERTY:	**The proposed Development Code amendments apply to:** All land in unincorporated Benton County, located within the Special Flood Hazard Area, as identified on the Benton County Flood Insurance Rate Maps
STAFF CONTACT:	Toby Lewis, toby.a.lewis@co.benton.or.us or 541-766-6819

I. STAFF CONCLUSIONS & RECOMMENDATION

Staff concludes that the proposed amendments are consistent with the applicable provisions of the Benton County Code and the Benton County Comprehensive Plan. Staff recommends that the Planning Commission vote to recommend adoption by the Board of Commissioners.

Attachments:

A. Table identifying quick references to proposed and existing code changes.
B. Proposed Chapter 83 Development Code (no edits shown).
C. Existing Chapter 83 Development Code (no edits shown).
D. Draft Amendments to Development Code Chapters 51, 88, 94, 95, 97, and 99.
E. Draft Amendments to Development Code Chapter 57.

II. BACKGROUND

The proposed floodplain code revisions are prompted by a 5-year audit of Benton County's floodplain regulation program required for continued participation in the National Flood Insurance Program's (NFIP) Community Rating System (CRS). The audit is scheduled to conclude on October 14, 2021, and adoption of the proposed revisions is a required part of the audit approval process in order to maintain the county's current standing in the CRS program.

The purpose of the proposed floodplain code revisions is to bring the Benton County floodplain ordinance into compliance with the minimum standards of the Federal Emergency Management Agency (FEMA). The majority of the proposed revisions are administrative in nature and required in order to maintain a FEMA-compliant floodplain ordinance. However, at the recommendation of the State NFIP Coordinator, staff has also proposed a relaxation of the dry-land access standard for land division and property line adjustments in the floodplain. The amendments to the access provisions have been recommended due to both the impracticality of implementing this optional standard and the potential for unintended negative impacts to the functionality of the flood hazard area.

Adoption of the required code revisions will also satisfy one of the requirements of Benton County's ongoing Community Assistance Visit (CAV) through the Department of Land Conservation and Development (DLCD).

A summary of the amendments to Chapter 83 is listed in Section IV below.

Consequences of Not Adopting the Required Floodplain Code Revisions

The consequence of not adopting a revised, FEMA-compliant floodplain ordinance is suspension from the NFIP. Suspension from the NFIP means:

- Federally backed flood insurance will no longer be available. No property owner or renter within the community will be able to purchase a new federally backed policy, existing federal flood insurance policies will not be renewed, and lenders may call in mortgages.

  (Note: Although switching to a private flood insurance policy would be an option, doing so could render a property ineligible for current subsidized flood insurance rates in the future and private flood insurance companies are allowed to drop policies at their own discretion.)

- No federal grants or loans for development may be made in the Special Flood Hazard Areas (SFHA) of the community under programs administered by Federal agencies.

- No Federal disaster assistance may be provided to repair insurable buildings located in the community's SFHAs.

- Federally insured or regulated lending institutions, such as banks and credit unions, must notify applicants seeking loans for insurable buildings in SFHAs that:
  - No loan that requires Federally backed insurance is available, and
  - The property is not eligible for Federal disaster relief.

Floodplain Code Revision Adoption Process to Date

June 1, 2021 – Staff discussed the need for the proposed floodplain code revisions with the Board of Commissioners at a work session, and the Board directed staff to initiate the text amendment process for review and adoption of the proposed amendments.

June 22, 2021 – Staff discussed the proposed floodplain program, key elements of the current floodplain regulations, the factors leading to the current code revision process, and the proposed floodplain code revisions with the Planning Commission at a work session.

July 2, 2021 – Notice of the July 20, 2021 Planning Commission hearing was provided to Citizen Advisory Committees, Rural Fire Protection Agencies, the Fair Housing Council of Oregon, and to interested agencies. This notice was sent in conformance with the requirements for Notification of a Public Hearing. Note: The proposed amendments do not serve to rezone land or limit or prohibit a use of land that is currently allowed; therefore, notification to all property owners located within the SFHA is not required.

July 9, 2021 – Notice of the July 20, 2021 Planning Commission hearing was published in the Corvallis Gazette-Times newspaper.

III. COMMENTS

No comments regarding the code revisions had been received as of the date of preparation of this staff report.

IV. PROPOSED TEXT AMENDMENTS

The following is a summary of the amendments to Chapter 83 (Floodplain Management Overlay). The full text of the amendments is contained in Attachment A.

Summary of Changes:

- **Chapter 83 –**
  - Reorganization of the chapter to match Oregon Model Floodplain Ordinance format;
  - Addition of language required for compliance with the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program (NFIP);
  - Addition of language required for compliance with recent amendments to the NFIP's Community Rating System (CRS) program;
  - Addition of FEMA, NFIP, and CRS approved language to authorize wet-floodproofing for accessory structures.
  - Clarification of language relating to minimum non-floodplain area (as that relates to siting a dwelling and septic drainfield) required for land division approval.
  - Relaxation of language requiring the creation of dry-land access (for property reconfiguration and land division) that has been identified as having the potential to cause negative impacts to floodplain function.
- **Chapter 51 –** Amendment of floodplain-related definitions for compliance with NFIP requirements and adjustment of citations referencing specific floodplain code sections in Chapter 83.

- **Chapter 57 –** Correction of the term *Flood Plain* to *Floodplain*.
- **Chapters 88, 94, 95, 97, & 99 –** Adjustment of citations referencing specific floodplain code sections in Chapter 83.

V. FINDINGS APPLYING CODE CRITERIA

Development Code Provisions for Text Amendments:

BCC 53.605. On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.

Findings: The majority of the proposed amendments are required for continued compliance with the minimum floodplain regulation standards of the FEMA National Flood Insurance Program (NFIP) and to maintain Benton County's current Class 7 standing in the NFIP's Community Rating System (CRS)[1]. In order to more easily demonstrate compliance with FEMA and NFIP requirements, the entirety of Chapter 83 has been reorganized to match the format of the Oregon Model Flood Ordinance provided by the State NFIP Coordinator. Minor additional adjustments have been proposed at the recommendation of the State NFIP Coordinator as well as to update cross-references between Development Code chapters and to correct spelling errors.

Conclusion: Text amendments are required to in order to maintain continued compliance with minimum FEMA, NFIP, and CRS requirements. The proposed amendments meet the general criteria for consideration.

Process for Development Code Text Amendments:

BCC 53.610(1). The Board of County Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed amendment.

Findings: On June 1, 2021, the Board of Commissioners reviewed background information from staff, discussed the matter, and voted to initiate the amendments.

Conclusion: The proposed amendments were properly initiated.

BCC 53.620. The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the public hearing, the Planning Commission shall make a recommendation to the Board to approve, deny, or modify the proposed amendment.

Findings: The Planning Commission will conduct a hearing on July 20, 2021, and will forward a recommendation to the Board of Commissioners. Findings in support of the Planning Commission's decision will be included in the recommendation to the Board of Commissioners.

[1] As a result of Benton County's Class 7 standing in the CRS program, all federal flood insurance policy premiums for structures in unincorporated Benton County receive an automatic 15% reduction if located within the Special Flood Hazard Area (SFHA) and an automatic 5% discount if located outside of the SFHA.

Conclusion: The scheduled hearing will comply with the procedure stipulated in the above code sections.

BCC 53.625. The Board of County Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.

Findings: The Board of Commissioners will conduct a hearing on August 17, 2021 to consider the proposed text amendments and the recommendation of the Planning Commission. Findings supporting the Board's decision will be included in the Ordinance.

Conclusion: The scheduled hearing will comply with the procedure stipulated in the above code sections.

VI. APPLICABLE COMPREHENSIVE PLAN POLICIES

Staff has identified the following Comprehensive Plan policies as relevant to the proposed code amendments:

General Natural Hazards Policies

7.1.1 Benton County shall protect property and lives by encouraging or requiring homes, business, infrastructure, and critical facilities to be resistant to losses from natural hazards.

Findings: The proposed code amendments retain the existing Development Code protections relating to placement and construction of the items mentioned above (as they relate to flood hazards) already address this policy.

7.1.2 Benton County shall use the most current hazard assessment inventories to discourage development in hazardous areas and promote preventative measures for existing development to minimize risk to life, property, and the environment.

Findings: The proposed code amendments retain the existing Development Code requirements to use the most current flood hazard data for evaluation and conditioning of development within and near the Special Flood Hazard Area (SFHA).

7.1.3 Benton County shall increase public awareness of the risks associated with natural hazards.

Findings: Benton County floodplain management regulations require submission of a floodplain development permit application for all applicable development in and near the SFHA. Current regulations also require conditioning of development in the SFHA to meet specific design standards to ensure the reduction of risk due to potential flood hazards. The review and conditioning of proposed development in the SFHA will continue to serve as an additional method for increasing public awareness of the risks associated with flood hazards.

Floodplain Policies

7.2.1 Benton County's floodplain management policies and actions will continue to emphasize more preventive than corrective measures. Flood damage prevention methods shall be non-structural to the degree possible, and include a combination of land use and code regulations, non-regulatory practices such as incentives, and a comprehensive emergency preparedness program.

Findings: Benton County floodplain management regulations continue to emphasize more preventive than corrective measures. The proposed code amendments will not alter current the balance between preventive and corrective measures for floodplain management.

7.2.2 Benton County shall allow accessory structures to be constructed within the floodplain; however, new primary structures shall not be allowed within the floodplain unless a parcel has insufficient buildable land outside the floodplain. Accessory structures shall not be located in the floodway.

Findings: This issue is already addressed in the current floodplain code. Regulations relating to restrictions for new primary structures within the floodplain and for accessory structures in the floodway will not be altered by any of the proposed code revisions. However, additional options consistent with current FEMA guidance for some types of accessory and agricultural structure construction in the floodplain are proposed to be added.

7.2.3 Benton County shall only allow land divisions within the floodplain when it can be demonstrated that each buildable lot or parcel has a suitable site for development outside of the floodplain boundary. Non-residential uses shall be excepted.

Findings: This issue is already addressed in the current floodplain code and will not be altered by any of the proposed code revisions.

7.2.8 Benton County shall take measures to assure that wetland mitigation does not compromise existing stormwater functions of the land being used for the mitigation.

Findings: Any wetland mitigation proposed to be located within a Special Flood Hazard Area requires land use review pursuant to the provisions regulating land development activities in a floodplain. This issue is already addressed in the current floodplain code and will not be altered by any of the proposed code revisions.

7.2.10 Benton County shall restrict development for human occupancy in those areas where access by standard emergency vehicles such as fire or ambulance is prevented by flood waters of 100-year flood levels.

Findings: Section 83.605(2)(b) was added to the Benton County Development Code in 2011 with the intent of implementing this policy. However, comments received from the state National Flood Insurance Program coordinator indicate a strong recommendation to entirely remove or, at a minimum, amend this section. These comments are based on a significant concern that the existing language "...encourages fill to be placed [within the Special Flood Hazard Area] to create elevated roadways that may act as levee-like structures and trap floodwaters/exacerbate flooding issues".

The intent of establishing the standards identified in Section 83.605(2)(b) was to limit potential future hazards to development by ensuring that each created parcel had dry-land access from a road to the proposed building site. It was not the intent, when adopted, for this code section to encourage fill in the floodplain, nor was it intended to increase potential hazards to life and property by encouraging establishment of development (i.e. construction of elevated roadways) that would negatively impact the flow of flood waters or the functionality of flood storage areas.

Removal of Section 83.605(2)(b) is not a viable option because it would conflict with Comprehensive Plan policy 7.2.10. Therefore, staff is proposing a revision to this code section.

Two revision options were considered. The first (proposed by the state) was to prohibit land division approval for any parcel that could not demonstrate an existing natural grade higher than the Base Flood Elevation along the proposed access route(s). However, this could render some otherwise buildable parcels unbuildable and would need further analysis and public input. Additionally, such modification of the code would require notification to all owners of floodplain property (because it would be more restrictive than the existing code standard) – a type of notice known as a Measure 56 notice. Staff had provided the standard notice of legislative action, not a Measure 56 notice. The time necessary to provide analysis, gather public input, and issue Measure 56 notice would mean missing the mandatory deadline for adoption of an updated code. For these reasons, this option was not chosen.

Staff has proposed, instead, to require that a new residential parcel in the floodplain document the natural grade elevation of the access route and, if below the Base Flood Elevation (BFE), record a covenant acknowledging the risks and potential inaccessibility of the parcel during conditions of flooding. These revisions, while not specifically prohibiting land division for parcels with access below the BFE, will ensure that existing flood storage and function are maintained while also ensuring that existing and future property owners are informed of potential flood hazards with respect to property access during flood events.

Staff concludes that the proposed amendment to Section 83.605(2)(b) is consistent with the intent of Policy 7.2.10 by discouraging residential development in areas where the access would be below the BFE.

Conclusion Regarding Comprehensive Plan Policies: The proposed amendments to the Floodplain Management Overlay chapter of the Development Code will be consistent with the applicable Comprehensive Plan policies.

VII. CONCLUSIONS & RECOMMENDATIONS

Staff concludes that the proposed amendments are consistent with the applicable provisions of the Benton County Code and the Benton County Comprehensive Plan. Based on the findings presented above, staff recommends that the Planning Commission vote to: ***Recommend that the Board of Commissioners adopt the proposed text amendments to the Development Code as contained in Attachment A.***

VIII. MOTIONS

A. "Based on the information presented in the staff report and evidence received at the public hearing, I move that the Planning Commission **recommend that the Board of Commissioners adopt** the proposed text amendments to the Development Code **as contained in Attachment A**."

or,

B. "Based on the information presented in the staff report and evidence received at the public hearing, I move that the Planning Commission **recommend that the Board of Commissioners adopt** the proposed text amendments to the Development Code contained in Attachment A, **as modified at the hearing**."

DRAFT MEETING MINUTES
Benton County Planning Commission
July 20, 2021

A regular Meeting of the Benton County Planning Commission was called to order at 7:00 p.m. The meeting took place virtually via Go To Webinar, with Chair Ken Kenaston presiding. Members of the public were invited to attend.

The meeting was called to order at 7:03 pm

COMMISSION MEMBERS:
Present
John McEvoy
Ken Kenaston, Chair
Nicholas Fowler, Vice Chair
Evelyn Lee
Sean Scorvo

Absent: Christina White and Jennifer Gervais

STAFF:
Present
Greg Verret, Community Development Director
Inga Williams, Staff Planner
Toby Lewis, Floodplain Manager/Associate Planner
Linda Ray, Recorder

PUBLIC HEARING #2: FILE NUMBER: LU-21-032; PROPOSED ACTION: **Amendments to the Benton County Development Code.** The majority of the amendments will be made to Chapter 83 (Floodplain Management); minor adjustments will also be made to Chapters 51 (Development Code Administration), 57 (Flood Plain Agriculture), 88 (Natural Features Overlay), 94 (Property Line Adjustments), 95 (Partitions), 97 (Subdivisions), and 99 (General Development Standards) APPLICABLE CRITERIA: Benton County Development Code Sections 53.605 through 53.625 (Text Amendment); Benton County Comprehensive Plan Section 7.2 (Floodplain) AFFECTED PROPERTY: The proposed Development Code amendments apply to: All land in unincorporated Benton County, located within the Special Flood Hazard Area, as identified on the Benton County Flood Insurance Rate Maps

Planner Toby Lewis had a work session with the Planning Commission on July 6th to propose the edits and revisions that were made to the Floodplain Sections to the Benton County Code; Chapter 83.

The following were revisions suggested by the Planning Commissioners that they found in their review:

- Section 83.020 – Chair Kenaston asked about the definition of "critical facility" and if it referred to bridges. Planner Lewis clarified that the language is referring to structures on this point and that the term "structure" for floodplain regulation purposes does not include bridges.
- Chair Kenaston also pointed out on page 24 where it refers to "substantial improvement", he asked for clarification on the language "does not include A or B", and if that included a mandated condition, citing an example of needing to complete

improvements to current building code requirements that might be more expensive than what would have been required previous building code requirements. Planner Lewis replied that this portion of the definition is specific to improvements that are required to be made because they have been specifically cited as hazardous or otherwise non-compliant with building codes and are required to be brought up to current building code standards for safety or hazard issues. It does not refer to upgrading a structure due to voluntary improvements.

- Commissioner Scorvo asked why the severability language is required by FEMA to be included. Planner Lewis stated that, upon asking this question of the state, the response was that if one clause in the county's floodplain regulations is deemed unenforceable or needs to be removed, the severability language ensures that the rest of the ordinance remains in effect.
- Page 42 – Section 5.1.4: Commissioner Kenaston asked why a home in the floodplain is required to be anchored. Planner Lewis stated that the intent for anchoring is to keep structures on a property so they don't move, as in they don't lift up off the property and float away onto another property. This also applies to propane tanks. The wording in this part of the code is required by FEMA as is and cannot be changed; however, it is not intended to keep people from constructing structures such as house boats or houses that are designed to float up during flood conditions. Such structures can still meet the anchoring requirements if they are designed properly so that there are posts or piers of some sort that they are "anchored" to that allows the structure to float in place but keeps it from floating off the property.
- Page 44 – Section 5.1.8, paragraph 2: There is a typo in the highlighted section (last line of the paragraph); "exist", should be"exit".

After further review and no additional corrections, Commissioner Fowler made a **MOTION** to recommend that the Board of Commissioners adopt the proposed text amendments to the Development Code contained in Attachment A, as modified at the hearing that were limited to graphical error corrections. Seconded by Commissioner McEvoy, the **MOTION** passed unanimously.

The Floodplain Code Amendments will now be presented to the Board of Commissioners at the August 17th hearing. Information regarding the time of the hearing can be obtained from the Board of Commissioners office and website.

The meeting was adjourned at 10:32 pm.

QUICK-REFERENCE TABLE OF CODE CHANGES

(Planning File LU-21-032; Floodplain Code Amendments)

Flood Ordinance Section		**Status** • Added • Existing • Amended • Deleted	**Notes:** (Examples: language missing, minimum standard not met, minimum standard met but the language does not match, higher standard language utilized)
New Code	**Current Code**		
Statutory Authority, Findings of Fact, Purpose, and Methods			
83.005 Statutory Authorization	83.005	Amended	Added FEMA required language (primarily relating to Findings of Fact and Methods of Reducing Flood Losses).
83.020 Definitions	83.015 and BCC 51.020	Amended	Added the following terms and applicable definitions: - Appeal - Area of Special Flood Hazard - Building - Conditional Letter of Map Revision (CLOMR) - Conditional Letter of Map Revision – Based on Fill (CLOMR-F) - Flood Elevation Study - Floodplain Administrator - Highest Adjacent Grade - Hazardous Material / Hazardous Waste - Historic Structure - Letter of Map Amendment (LOMA) - Letter of Map Change (LOMC) - Letter of Map Revision (LOMR) - Letter of Map Revision – Based on Fill (LOMR-F) - Lowest Adjacent Grade - Manufactured Dwelling - Manufactured Dwelling Park or Subdivision - Mean Sea Level - Residential Structure - Vacant Land - Violation Amended the following terms and applicable definitions: - Agricultural Structure - Area of shallow flooding (Shallow Flooding Area) - Critical Facility - Elevated Building (changed to Elevated Structure) - Flood (added subsection (a)(C) "mudslides") - Flood Insurance Rate Map (FIRM - Flood Insurance Study - Flood-specific Venting - Lowest floor (Lowest Regulatory Floor) - New construction - Special Flood Hazard Area - Start of construction - Substantial Improvement - Variance

General Provisions			
83.100 Lands to Which This Ordinance Applies	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.110 Basis for Establishing the Special Flood Hazard Areas	83.010	Amended	Added required language (*scientific and engineering report*). Added LOMRs approved since last code revision.
83.120 Coordination with Benton County Building Codes	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.130 Compliance and Penalties for Noncompliance	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.140 Abrogation and Severability	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.150 Interpretation	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.160 Warning and Disclaimer of Liability	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
Administration			
83.200 Floodplain Administrator	Missing	Added	FEMA requires this language to be included in local floodplain regulations. **This section includes:** **- Designation of the Floodplain Administrator** **- Duties & Responsibilities of the Floodplain Administrator**
83.210 Information to be Obtained and Maintained	83.100 83.210(1) 83.405	Amended	Added reference to section BCC 83.260 for required language.
83.220 Permit Review	83.110	Amended	Added required language.

83.230 Requirement to Notify Other Entities and Submit New Technical Data	83.310	Amended	FEMA requires this language to be included in local floodplain regulations. Added missing language. **This section includes:** **- Community Boundary Alterations** **- Watercourse Alterations** **- Requirement to Submit New Technical Data** Also added language strongly recommended by the state for inclusion: • Information intended as a means of alerting applicants to their responsibilities when applying for a CLOMR/LOMR and managing expectations. • Information to assist in conveying that a community is not required to sign a CLOMR/LOMR application if it is determined that the project does not meet the requirements of the local code, or any state or federal laws.
83.240 Substantial Improvement and Substantial Damage Assessments and Determinations	Missing	Added	Added required substantial improvement evaluation language. Added required substantial damage assessment and evaluation language.
Establishment of Development Permit			
83.250 Floodplain Development Permit Required	83.110	Amended	Added required language (*any area horizontally within the special flood hazard area*). Adjusted for consistency with model ordinance language. **This section includes:** **- Application for Development Permit**
83.260 Information Required to be Obtained, Maintained, and Submitted	83.100 83.210(1) 83.405 83.800(4)	Amended	Added required language. Amended existing wording to match required language. Added language for mid-construction elevation certificate (for consistency with State of Oregon Specialty Codes). Adjusted organization of, and clarified, elevation certificate requirements and procedures.
83.270 Floodplain Development Permit Exemptions	83.110	Amended	Amended term "standard agricultural practices" as required by the state. Added and clarified information relating to small-scale activities that may be deemed exempt from floodplain requirements.
Interpretation of Floodplain Boundaries & Use of Other Base Flood Elevation Data			
83.300 Interpretation of Floodplain Boundaries	83.105(1) 83.105(3)		Current code wording adequately addresses the subdivision proposal requirement. Amended per recommendation by the state to clarify terminology in order to ensure that it is clear and objective.

83.310 Use of Other Base Flood Elevation Data	83.105(2) 83.205(2) 83.215(2) 83.225(3)(a)(A)	Amended	Added required language. Added language required to clarify that structures in Zone A must be elevated to the same standards as structures in Zone AE.
83.400 Variance Procedure	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.410 Minor Variance for Agricultural Structures	83.800(1) 83.225(2)(a)	Amended	Per state and FEMA requirements, amended existing minor variance criteria to apply only to agricultural structures.
83.420 Discretionary Variance	83.800(2)	Amended	Added FEMA required language.
83.430 Variance Notification	83.800(2)(B) 83.800(4)	Amended	Adjusted to match required language.
Provisions for Flood Hazard Reduction			
83.500 General Floodplain Development Standards	83.210 83.700	Amended	Added and amended language to be consistent with FEMA requirements. **This section includes:** **- Alteration of Watercourses** **- Structures Located in Multiple or Partial Flood Zones** **- Critical Facilities** **- Anchoring** **- Construction Materials and Methods** **- Utilities and Equipment** **- Electrical, Mechanical, Plumbing, and Other Equipment** **- Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems** **- Tanks** Notes: 1. The wording included in the *Electrical, Mechanical, Plumbing, and Other Equipment* section is required for continued eligibility for Class 7 standing in the Community Rating System. 2. Benton County has a higher regulatory standard (1 foot above base flood elevation) for these items. Benton County current exception to 1-foot requirement (allowing elevation of items to existing floor for pre-FIRM structures) is also a higher regulatory standard and allowed to remain.

83.520 Land Division and Property Line Adjustments	83.300 83.605	Amended	Current code wording adequately addresses the subdivision proposal requirement. **This section includes:** **- Major Development Proposals** **- Parcel and Lot Design Standards** Amendments to land division standards relating to buildable area, access, and drainfield approval areas include: • Clarification of language relating to "suitable and adequate land" for siting a primary structure. • Relaxation of dry-land access standards to address state's concern regarding potential for unintended negative impacts of current code language on floodplain function and hazards. • Relocation of non-buildable parcel language for consistency with original intent. • Clarification of intent relating to approval of septic drainfield feasibility areas.
Construction Standards			
83.600 Specific Construction Standards for Flood Zones	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.610 Non-Residential Construction	83.225 83.240		Current code wording adequately addresses the subdivision proposal requirement.
83.620 Residential Construction	83.215(1) 83.215(2) 83.215(3) 83.220	Amended	Current code wording adequately addresses the subdivision proposal requirement. **This section includes:** **- Manufactured Dwellings** Added required language to manufactured dwelling section.
83.630 Recreational Vehicles	83.215(4)	Amended	Amended to match required language.
83.640 Garages	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.650 Accessory Structures	83.225(2) 83.225(3)	Amended	Added language required to allow for construction of accessory structures in compliance with current FEMA guidelines for wet-floodproofing standards.
83.660 Enclosed Areas Below a Structure	83.015(7) 83.015(17) 83.220 83.225(3)	Amended	Amended to incorporate required language.
83.670 Below-Grade Crawlspaces	83.210(10)		Current code wording adequately addresses this requirement.
83.680 Standards for Shallow Flooding Areas	83.210(9)	Amended	Added required language.

83.700 Additional Standards in Corvallis Urban Fringe	83.505		Current code wording is a higher regulatory standard and is allowed to remain.
Floodways			
83.800 Regulatory Floodway Not Mapped	83.205(1)(b)	Amended	Adjusted to match required language.
83.810 Mapped Regulatory Floodway	83.205(1)(a) 83.205(3) 83.205(4) 83.210(8) 83.225(2)(a)	Amended	Added required language. Per recommendation from the state, Revised Code 83.810(4) is intended as a replacement of language currently in BCC 83.205(4). The purpose of this substitution is to allow for an increase of base flood elevation (typically caused by stream/habitat enhancement projects) through FEMA-approval of a Conditional Letter of Map Revision. [44 CFR 60.3(d)(4)] *Note: 83.205(4) is required to be removed due to the rescinded FEMA Region X policy (relating to fish enhancement projects in mapped floodways).* Per recommendation from the state, current code standards relating to construction of fences now apply only to areas mapped as floodway. This change is recommended pursuant to current FEMA guidance.

CHAPTER 83

FLOODPLAIN MANAGEMENT OVERLAY (/FP)

Note: For legislative history, refer to Ordinance 2021-0304, effective 10/7/2021.
The legislative history is documented in the following ordinance exhibits:

- *Exhibit 2 – Former code with references to the 2021 adopted code section numbers*
- *Exhibit 3 – 2021 adopted code with references to former code section numbers*
- *Exhibit 4 – Additional quick-reference in the form of a table that identifies 2021 adopted code section numbers and former code section numbers*

STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

Commented [LTA1]: New. This section is required to be added.

83.005 Statutory Authorization.

The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Benton County does ordain as follows:

Commented [LTA2]: New. This section is required to be added.

(1) Findings of Fact

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

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

Commented [LTA3]: New. This section is required to be added.

(2) Statement of Purpose

Commented [LTA4]: BCC 83.005

(a) The Floodplain Management Overlay Zone shall implement the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as well as the Benton County Comprehensive Plan.

(b) It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

(A) Protect human life, health, and property;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue, emergency services, and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions and unnecessary disruption of commerce, access and public service during times of flood;

(E) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants; water and gas mains; electric, telephone and sewer lines; streets; and bridges located in special flood hazard areas;

(F) Decrease the cost of flood insurance;

(G) Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas;

(H) Ensure that potential buyers are notified that property is in a special flood hazard area;

(I) Ensure that those who occupy the special flood hazard areas assume responsibility for their actions;

(J) Recognize and preserve the natural flood mitigation functions of floodplains;

(K) Preserve the ecosystem functions of floodplains; and

(L) Participate in and maintain eligibility for flood insurance and disaster relief.

Commented [LTA5]: New. This statement is required to be added.

(3) Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:

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

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

(c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(d) Controlling filling, grading, dredging, and other development which may increase flood damage;

(e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.

Commented [LTA6]: New. This section is required to be added.

83.020 DEFINITIONS. For the purposes of this chapter, the following definitions apply. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Commented [LTA7]: BCC 83.015

Commented [LTA8]: New. This statement is required to be added.

(1) "**1% Chance Floodplain**" has the same meaning as "Special Flood Hazard Area." It means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The 1% Chance Floodplain is also referred to as the "100-Year Floodplain".

(2) "**100-Year Floodplain**" has the same meaning as "Special Flood Hazard Area". Note: The Federal Emergency Management Agency (FEMA) discourages the use of the term "100-year floodplain" because it implies that a flood occurs only once every one hundred years, rather than the true statistical meaning of the term.

(3) "**Agricultural Structure**" means a nonresidential structure customarily provided in conjunction with farm use for which, except for the fact that the structure is located within the special flood hazard area, would be exempt from building code requirements pursuant to ORS 455.315. Any such structure located in a special flood hazard area is not eligible for exemption from building code requirements and must obtain approval for a structural permit.

Note: The term "agricultural structure" has an alternate meaning when used in **BCC 83.410**; the alternate meaning is defined in that section and is specific to granting a minor variance for structures associated with agricultural use.

Commented [LTA9]: Amended. This definition was originally added in 2013 at the request of the Planning Commission to clarify that an accessory structure within a designated floodplain cannot qualify for an exemption from building code requirements based on commercial agricultural use of the structure.

With the required adjustment to the minor variance standards and their application to agricultural structures, the proposed amendment of the term "agricultural structure" is required to reduce confusion.

These amendments clarify that the term "agricultural structure" (as used in the minor variance section BCC 83.410) is meant apply to a broader range of structures (i.e. any such structure that is used for agricultural purposes, even if it would not otherwise qualify for an Agricultural Exemption).

(4) "**Appeal**" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

(5) "**Area of Shallow Flooding**" See definition for "Shallow Flooding Area" below.

(6) "**Area of Special Flood Hazard**" See definition for "Special Flood Hazard Area" below.

(7) "**Base Flood**" See definition listed in BCC 51.020.

(8) "**Base Flood Elevation (BFE)**" See definition listed in BCC 51.020.

(9) "**Basement**" means any area of a building having its floor subgrade (below ground level) on all sides.

(10) "**Below-Grade Crawlspace**" means an enclosed area below the base flood elevation and with an interior grade below the lowest adjacent exterior grade of the structure in which:

Commented [LTA10]: New. This definition is required to be added.

Commented [LTA11]: New. This definition is required to be added.

Commented [LTA12]: New. This definition is required to be added.

(a) The interior grade is not more than two feet below the lowest adjacent exterior grade;

(b) The height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four (4) feet at any point; and

(c) The height, measured from the interior grade of the crawlspace to the lowest habitable floor does not exceed five (5) feet at any point.

(11) "**Building**" See definition for "Structure" below.

(12) "**Conditional Letter of Map Amendment (CLOMA)**" means FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

(13) "**Conditional Letter of Map Revision (CLOMR)**" means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

(14) "**Conditional Letter of Map Revision - Based on Fill (CLOMR-F)**" means FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

(15) "**Critical Facility**" means a facility which, if impacted by flooding, could have significant negative impact on the greater community. Consequently, even a slight chance of such a facility flooding carries a high risk to the community. Critical facilities include, but are not limited to schools; nursing homes; hospitals; police, fire, and emergency response installations; and installations which produce, use, or store hazardous materials or hazardous waste.

(16) "**Development**" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures; fences; bridges and culverts; mining, dredging, filling, grading, paving, excavation or drilling operations; or storage of equipment or materials located within the special flood hazard area.

(17) "**Elevated Structure**" means a non-basement structure which has a lowest habitable floor that is elevated above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

(18) "**Flood**" or "**Flooding**" means:

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

Commented [LTA13]: Added for clarification.
The "top of crawlspace foundation" is not measured on any documentation submitted for permit review.
Guidance provided for verification of the 4-foot maximum identified in subsection (b) is to verify that the distance (typically identified on an elevation certificate) between crawlspace elevation and lowest habitable floor does not exceed 5 feet.

Commented [LTA14]: New. The state recommends addition of this definition.

FEMA, NFIP, and CRS use the terms *building* and *structure* almost interchangeably throughout their documents (as demonstrated in the wording of the floodplain code language required to be added/amended) but with a variety of definitions.

Addition of this definition helps clarify that these two terms are meant to be the same throughout this ordinance.

Commented [LTA15]: New. The state recommends addition of this definition.

Commented [LTA16]: New. The state recommends addition of this definition.

Commented [LTA17]: New. The state recommends addition of this definition.

Commented [LTA18]: Amended. The state recommends this wording for the *critical facility* definition and inclusion of a separate definition for *hazardous materials/waste*.

Commented [LTA19]: Existing county definition that is allowed to remain. Revised slightly for consistency.

(A) The overflow of inland water;

(B) The unusual and rapid accumulation or runoff of surface waters from any source; and/or

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

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

(19) "**Flood Elevation Study**" See definition for "Flood Insurance Study" below.

(20) "**Flood Hazard**" See definition listed in BCC 51.020.

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

(22) "**Flood Insurance Study (FIS)**" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(23) "**Flood Proofing**" See definition listed in BCC 51.020.

(24) "**Floodplain**" See definition listed in BCC 51.020.

(25) "**Floodplain Administrator**" means the community official designated by title to administer and enforce the floodplain management regulations.

(26) "**Flood-specific Venting**" means two or more openings in the walls of an enclosed space below an elevated structure or the walls of a non-elevated structure. Such openings shall qualify as flood-specific venting if they meet the standards of either **(a)** or **(b),** or a combination of **(a)** and **(b)** such that the total vent area provided by the combination of prescriptive and pre-fabricated vents meets the venting required by **(a)(B)** and **(b)(A)**:

(a) Prescriptive flood-specific venting requirements:

Commented [LTA20]: New. These two subsections of the definition are required to be added.

Commented [LTA21]: New. This definition is required to be added.

Commented [LTA22]: Amended. This definition is required to match FEMA's wording exactly.

Commented [LTA23]: New. The state recommends addition of this definition.

(A) Underfloor vents as required to satisfy ventilation of crawlspace areas per applicable building code do not satisfy the standards for flood-specific venting;

(B) A minimum of two flood-specific openings having a total net area of not less than one (1) square inch for each square foot of enclosed area (measured on the exterior of the enclosure walls) subject to flooding shall be provided. Only the portion of a flood-specific opening that is below the base flood elevation shall be included in the calculation;

(C) Flood-specific openings shall be installed on at least two exterior walls of each enclosed space;

(D) The bottom of all flood-specific openings shall be no higher than one (1) foot above adjacent grade; and

(E) Flood-specific openings may be equipped with screens, louvers, or other coverings or devices provided that they:

(i) Permit the automatic entry and exit of floodwaters into and out of the enclosed areas, and

(ii) Are accounted for in the determination of the net open area.

(b) Pre-fabricated flood vents certified by the Federal Emergency Management Agency (FEMA):

(A) A minimum of two flood-specific openings having a total net area certified by FEMA as sufficient for the enclosed area subject to flooding shall be provided. Only the portion of an opening that is below the base flood elevation shall be included in the calculation;

(B) Flood-specific openings shall be installed on at least two exterior walls of each enclosed space; and

(C) The bottom of all flood-specific openings shall be no higher than one (1) foot above adjacent grade.

(27) "**Floodway**" See definition listed in BCC 51.020.

(28) "**Floodway Fringe**" See definition listed in BCC 51.020.

(29) "**Flow-through Construction**" means a structure that does not hinder or obstruct the movement of, or displace, surface floodwaters. An example of "flow-through construction" would be elevation of a structure on posts, piers, or piles. Neither flood-specific venting nor underfloor vents required to satisfy air ventilation requirements constitute "flow-through construction".

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

Commented [LTA24]: New. This definition is required to be added.

(31) "**Hazardous Material**" and "**Hazardous Waste**" mean substances defined by the Oregon Department of Environmental Quality as including any of the following:

Commented [LTA25]: New. The state recommends inclusion of this definition. (It is in conjunction with a proposed amendment to the definition of *critical facility*.)

(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 ORS 469.605 and radioactive substances defined in ORS 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 (EPA) under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;

(e) Substances listed by the United States EPA in section 40 of the 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; or

(i) Dry cleaning solvent as defined by ORS 465.200(9).

(32) "**Highest Adjacent Grade**" means the highest natural elevation of the ground surface prior to, during, and after construction next to the proposed walls of a structure.

Commented [LTA26]: New. This definition is required to be added.

(33) "**Historic Structure**" means any structure that is:

Commented [LTA27]: New. This definition is required to be added.

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(A) By an approved state program as determined by the Secretary of the Interior; or

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

(34) "**Letter of Map Amendment (LOMA)**" means FEMA's official amendment, by letter, of the Flood Insurance Rate Map (FIRM) based on technical data showing that an existing structure is located on naturally high ground (i.e. it has not been elevated by fill), or that an area of land consists of naturally high ground, this is equal to or higher than the base flood and was inadvertently included in the special flood hazard area.

Commented [LTA28]: New. The state recommends addition of this definition.

(35) "**Letter of Map Change (LOMC)**" means an official Federal Emergency Management Agency (FEMA) determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs: Conditional Letter of Map Amendment (CLOMA), Conditional Letter of Map Revision (CLOMR), Conditional Letter of Map Revision – Based on Fill (CLOMR-F), Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision – Based on Fill (LOMR-F), and Physical Map Revision (PMR).

Commented [LTA29]: New. The state recommends addition of this definition.

(36) "**Letter of Map Revision (LOMR)**" means FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. An approved LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report and, when appropriate, includes a description of the modifications. A LOMR approval is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

Commented [LTA30]: New. The state recommends addition of this definition.

(37) "**Letter of Map Revision - Based on Fill (LOMR-F)**" means FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Commented [LTA31]: New. The state recommends addition of this definition.

(38) "**Lowest Adjacent Grade**" means the lowest natural elevation of the ground surface prior to, during, and after construction next to the proposed walls of a structure.

Commented [LTA32]: New. This definition is proposed to be added because:
1. It is a key elevation point when determining the applicability of floodplain regulations to a project; and
2. The inclusion of a definition for *highest adjacent grade* is required by FEMA.

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

Commented [LTA33]: Amended. This definition is required to match FEMA's definition exactly.

Language required to be removed from the current definition was:
Lowest ~~Regulatory~~ Floor
and
~~...and maintained in accordance with the applicable design requirements of this chapter, as specified in BCC 83.220~~

(40) "**Lowest Habitable Floor**" See definition for "Lowest Floor" above.

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

(42) "**Manufactured Dwelling Park or Subdivision**" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

(43) "**Mean Sea Level**" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

(44) "**New Construction**" for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by Benton County and includes any subsequent improvements to such structures.

(45) "**Non-residential Structure**" means any structure other than:

(a) A dwelling; or

(b) A structure accessory to a dwelling.

(46) "**Physical Map Revision (PMR)**" means FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM), or a portion of an effective FIRM, or a Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

(47) **"Residential Structure"** means a dwelling (including an accessory dwelling unit), manufactured dwelling, or accessory living area in a separate structure on same property.

(48) "**Recreational Vehicle**" means a vehicle which is:

(a) Built on a single chassis;

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

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

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

(49) "**Shallow Flooding Area**" means a designated Zone AH on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an

Commented [LTA34]: New. This definition is proposed to be added for clarification because the term *lowest floor* is required to be added exactly as worded (with no alterations) but the term most commonly used is *lowest habitable floor*.

Commented [LTA35]: New. This definition is required to be added and required to match FEMA's wording exactly.

Commented [LTA36]: New. This definition is required to be added and required to match FEMA's wording exactly.

Commented [LTA37]: New. This definition is required to be added.

Commented [LTA38]: Amended. This definition is required to match FEMA's wording exactly.

Commented [LTA39]: New. The state recommends addition of this definition.

Commented [LTA40]: New. This definition is proposed to be added for clarification of the term as it is used in BCC 83.620 (Residential Construction), subsection (1).

Commented [LTA41]: Amended. This definition is required to match FEMA's wording exactly for all applicable shallow flood hazard zones. (Benton County has a Zone AH but not a Zone AO.)

average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(50) "**Special Flood Hazard Area (SFHA)**" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AE, AH, or A1-A30. This area includes both the floodway fringe and the floodway and is commonly referred to as the "100-year floodplain". "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

Commented [LTA42]: Amended. This definition is required to match FEMA's wording exactly for all applicable shallow flood hazard zones. (Benton County has the flood zones listed here but not Zones AO, AR, or any of the coastal Zone V areas.)

(51) "**Start of Construction**" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit.

Commented [LTA43]: Amended. This definition is required to match FEMA's wording exactly.

(a) The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation) or the placement of a manufactured dwelling on a foundation.

(b) Permanent construction does not include:

(A) Land preparation, such as clearing, grading, and filling;

(B) Installation of streets and/or walkways;

(C) Excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or

(D) Installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Commented [LTA44]: This is the section that was missing from the county's current definition.

(c) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(52) "**Structure**" means a building with a roof and two (2) or more rigid exterior walls, including a dwelling, a manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

(53) "**Substantial Damage**" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(54) "**Substantial Improvement**" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the

Commented [LTA45]: Amended. This definition is required to match FEMA's wording exactly.
(Note: Benton County's addition of reference to FEMA-480 was allowed to remain.)

market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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

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

In determining "substantial improvement," the Floodplain Administrator may refer to the most recent version of the FEMA Desk Reference for Local Officials (FEMA-480).

(55) "**Vacant Land**" means a parcel or lot on which:

(a) No dwelling is located; or

(b) A dwelling was previously located but the dwelling was removed more than one year prior to submission of a complete construction or placement permit application for a replacement dwelling.

(56) "**Variance**" means a grant of relief by Benton County from the terms of a floodplain management regulation.

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

Commented [LTA46]: Amended. This definition is required to match FEMA's wording exactly.

Commented [LTA47]: New. This definition was added for clarification of the term "vacant land" as used in BCC 83.620(3)(a).

Commented [LTA48]: Amended. This definition is required to match FEMA's wording exactly.

Commented [LTA49]: New. This definition is required to be added.

GENERAL PROVISIONS

83.100 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of Benton County.

Commented [LTA50]: New. This language is required by FEMA.

83.110 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

Commented [LTA51]: BCC 83.010

(1) The Floodplain Management Overlay Zone shall apply to all special flood hazard areas identified by the Federal Insurance Administrator in the scientific and engineering report entitled "Flood Insurance Study for Benton County, Oregon and Incorporated Areas," revised December 8, 2016, with accompanying Flood Insurance Rate Maps (FIRM), except as otherwise provided by this code, adopted effective June 2, 2011 and as revised by:

Commented [LTA52]: Updated list of revisions.

(a) Physical Map Revision (PMR) of Panels 41003 0094G, 41003C 0111G, 41003C 0112G, 41003C 0113G, and 41003C 0114G, effective December 8, 2016;

(b) Letter of Map Revision (LOMR) Case No. 13-10-0260P, effective November 29, 2013;

(c) LOMR Case No. 14-10-0472P, effective July 14, 2014;

(d) LOMR Case No. 17-10-1169P, effective June 29, 2018;

(e) LOMR Case No. 17-10-1546P, effective March 29, 2018; and

(f) LOMR Case No. 18-10-0715P, effective March 28, 2019.

The Flood Insurance Study (FIS) and accompanying maps are hereby incorporated by reference into the Development Code and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the Benton County Community Development Department office.

(2) The Floodplain Management Overlay Zone is divided into two subzones: the floodway and the floodway fringe. The boundaries of the floodway and the floodway fringe shall be those delineated on the Flood Insurance Rate Maps.

(3) Corvallis Urban Fringe. Floodplain and floodway boundaries within the Corvallis Urban Fringe (the unincorporated portion of the Corvallis Urban Growth Boundary) shall be determined pursuant to the following subsections. Furthermore, within the Corvallis Urban Fringe, in addition to the provisions of this chapter that apply to unincorporated Benton County in general, the restrictions and use limitations specified in **BCC 83.230(2)(d) and 83.700**. In the case of any conflicts between the additional provisions in **BCC 83.230(2)(d) and 83.700** and the provisions of this chapter that apply to unincorporated Benton County in general, the more restrictive shall apply.

(a) Floodway.

(A) General Determination. The floodway within the unincorporated portion of the Corvallis Urban Fringe shall be based upon a 0.2-foot rise standard for an increase in the base flood elevation as shown on the Flood Insurance Rate Maps identified in **BCC 83.110(1)** rather than a one foot rise standard.

(B) Map Refinements. For precise determinations when development activities are proposed near a mapped floodway, the applicant shall submit information prepared by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer, demonstrating the area that must be kept free from encroachments in order to discharge the base flood (100-year flood) without cumulatively increasing the water surface elevation more than 0.2 feet and demonstrating that the proposed activities will not impact the floodway.

(b) Floodplain (Floodway Fringe).

(A) General Determination. The floodplain boundaries shall be determined pursuant to **BCC 83.110(1)**.

(B) Map Refinement. For the purposes of **BCC 83.700(2)**, floodplain location and extent may be determined using FEMA-provided base flood elevation data combined with topographic mapping (2-foot or less contour interval) produced from a survey by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer. Alternatively, the official topographic mapping maintained by the City of Corvallis or Benton County and prepared at a 2-foot (or less) contour interval may be used. However, for purposes of siting structures, floodplain location shall be determined through an elevation survey performed by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer.

(C) Map Correction. Map corrections to the floodplain location shall be approved by the Planning Official to reflect a Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) approved by the Federal Emergency Management Agency (FEMA).

83.120 COORDINATION WITH BENTON COUNTY BUILDING CODES

Commented [LTA53]: New. This section is required to be added.

Benton County Building Code, as contained in Chapter 11 of the Benton County Code, aligns with State of Oregon Specialty Codes and contains certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Benton County Building Code.

83.130 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

(1) COMPLIANCE. All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

(2) PENALTIES FOR NONCOMPLIANCE. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be enforced subject to the provisions of Chapter 31 of the Benton County Code. Nothing contained herein shall prevent Benton County from taking such other lawful action as is necessary to prevent or remedy any violation.

Commented [LTA54]: New. This section is required to be added.

83.140 ABROGATION AND SEVERABILITY

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

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

Commented [LTA55]: New. This section is required to be added.

83.150 INTERPRETATION

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Commented [LTA56]: New. This section is required to be added.

83.160 WARNING AND DISCLAIMER OF LIABILITY

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

(2) DISCLAIMER OF LIABILITY. This ordinance shall not create liability on the part of Benton County, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Commented [LTA57]: New. This section is required to be added.

ADMINISTRATION

83.200 FLOODPLAIN ADMINISTRATOR

(1) DESIGNATION. The Planning Official, the Floodplain Administrator, and their designee, are hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

Commented [LTA58]: State highly recommends addition of the words "and their designee" this allows that position to designate others within the agency that can act as the Floodplain Administrator in case of vacation or for other reasons.

(2) DUTIES AND RESPONSIBILITIES. Duties of the Floodplain Administrator, or their designee, shall include, but not be limited to the provisions of **BCC 83.210** through **BCC 83.240**.

Commented [LTA59]: New. This section is required to be added.

Commented [LTA60]: New. This section is required to be added.

83.210 INFORMATION TO BE OBTAINED AND MAINTAINED

The Floodplain Administrator shall obtain, maintain, and make available for public inspection the following information specified in section **BCC 83.260**.

Commented [LTA61]: BCC 83.100 & BCC 83.405

83.220 PERMIT REVIEW

(1) An application shall be reviewed by the Floodplain Administrator and County Engineer to determine the following:

(a) The applicability of the provision of this chapter;

(b) Compliance with the applicable provisions of this chapter;

(c) All other required local, state, and federal permits have been obtained and approved. Alternatively, a permit may be issued with the condition that all necessary permits required by Federal or State law or County Ordinance will be secured prior to initiation of development activities approved by the permit;

Commented [LTA62]: New. This section is required to be added.

(d) The location of the proposed development in relation to a floodway. If any portion of the proposed development is located within the floodway, compliance with the floodway provisions of this ordinance in section **BCC 83.800** is required;

Commented [LTA63]: BCC 83.110(5)

Commented [LTA64]: BCC 83.205(1))

(e) The proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of section **BCC 83.310**; and

(f) Provide to building officials the Base Flood Elevation (BFE) and applicable freeboard elevation requirements for any structure requiring a floodplain development permit and required to be elevated.

(g) Whether or not the proposed development qualifies as a substantial improvement as defined in section **83.020**. If a proposed development is a substantial improvement, compliance with the provisions of section **BCC 83.240** is required.

(h) Whether or not the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, compliance with the provisions of **BCC 83.230(2)** is required.

(i) Whether or not the proposed development activity includes the placement of fill or excavation. Any placement of fill or excavation shall comply with applicable standards.

Commented [LTA65]: New. Language addressing these items is required to be added.

(j) The proposed development will not cause an increase of the flood risk to surrounding properties, by changing the flow of floodwaters in a way that increases risk to existing structures or by increasing flood elevations in the immediate vicinity;

(2) The County Engineer may require the design and installation of mitigative measures necessary to comply with **BCC 83.220(1)(j)**.

(3) Issuance or denial of a floodplain development permit that requires the exercise of discretion shall include notification of the decision pursuant to **BCC 51.625**.

83.230 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

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

(2) WATERCOURSE ALTERATIONS.

(a) The Planning Official shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(b) The applicant shall notify the Federal Insurance Administration through submission of a Letter of Map Revision (LOMR) along with either:

(A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

(c) The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required pursuant to **BCC 83.230(3)**. As a condition of permit approval, the applicant shall be required to ensure compliance with all applicable requirements of **BCC 83.230(3)**.

(d) Within the Corvallis Urban Fringe, the following shall also apply:

(A) Water course alteration by artificial means is prohibited, with exceptions only for:

(i) Emergency management purposes;

(ii) As mandated by State or Federal actions that supersede local authority; or

Commented [LTA66]: BCC 83.110(4)

Commented [LTA67]: BCC 83.110(6)

Commented [LTA68]: New. Language addressing these items is required to be added.

Commented [LTA69]: BCC 83.310

Commented [LTA70]: New. This language is required to be added.

(iii) To restore to its natural channel a stream whose course has been altered through human action.

(B) Prior to the alteration or relocation of a watercourse, the applicant for such authorization must notify the Oregon Department of State Lands (DSL) and submit copies of such notification to the Planning Official.

(C) The applicant shall submit certification provided by an Oregon-registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

(3) REQUIREMENT TO SUBMIT NEW TECHNICAL DATA.

(a) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

(b) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(A) Proposed floodway encroachments that increase the base flood elevation; and

(B) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

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

(d) The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

(e) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal permits.

Commented [LTA71]: New. This language is recommended by the state.

83.240 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

(1) The Floodplain Administrator shall conduct Substantial Improvement (SI) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section **BCC 83.260(2)**.

(2) Substantial Damage (SD) assessments shall be conducted by the Floodplain Administrator, other qualified county staff, or their designee when structures are damaged due to a natural hazard event or other causes. The Floodplain Administrator shall make SD determinations whenever structures within the special flood hazard area are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Commented [LTA72]: New. This language is required to be added.

ESTABLISHMENT OF DEVELOPMENT PERMIT

83.250 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

Commented [LTA73]: BCC 83.110(1)

(1) A floodplain development permit shall be obtained prior to construction of a new structure, substantial improvement to any structure, the placement of a manufactured dwelling, or the initiation of other land development activities including, but not limited to, fencing, mining, dredging, filling, grading, paving, excavation or drilling operations within any area horizontally within the special flood hazard area established in section **BCC 83.110**.

Commented [LTA74]: New. This language is required to be added.

(2) APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT. An application for a permit shall be submitted on a form provided by the Floodplain Administrator. Documentation to be provided with the application form may include, but is not limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; locations of existing and/or proposed structures, fill, storage of materials drainage facilities; engineering calculations; and other information determined to be necessary for the review of the application by the Floodplain Administrator and County Engineer.

Commented [LTA75]: BCC 83.110(2)

83.260 INFORMATION REQUIRED TO BE OBTAINED, MAINTAINED, AND SUBMITTED

(1) The following information is required to be submitted with a floodplain development permit application if applicable to the proposed project:

(a) Proposed project cost (used for determination of substantial improvement calculation) shall be submitted by the applicant for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

Commented [LTA76]: New. This language is required to be added.

(b) Elevation data for structural construction and alterations shall be submitted by the applicant and maintained by the Floodplain Administrator. This data shall be

submitted in the form of Elevation Certificates and/or Letters of Map Change as follows:

(A) A Pre-Construction Elevation Certificate approved for inclusion in the permit record prior to start of construction and prior to issuance of a building permit for all new construction, substantial improvements, and non-substantial improvements within the Special Flood Hazard Area (SFHA) or within 50 feet of the SFHA.

(B) For all building permits where a Pre-Construction Elevation Certificate shows the building site to be (a) within the SFHA, regardless of the lowest adjacent grade (LAG) shown on the Pre-Construction Elevation Certificate or (b) at or below the Base Flood Elevation if the site is within 50 feet of the SFHA:

(i) A Mid-Construction Elevation Certificate approved for inclusion in the permit record after placement of the lowest habitable floor but prior to further vertical construction and prior to approval of underfloor inspection (for site-built structures), setup inspection (for manufactured dwellings), or slab inspection (for pole barn construction if a slab is poured); and

(ii) A Post-Construction Elevation Certificate approved for inclusion in the permit record upon completion of all construction activities (including utility installations and final grading) and prior to approval of final inspection.

(C) All Elevation Certificates shall:

(i) Be prepared and sealed by an Oregon-registered Professional Land Surveyor or an Oregon-licensed Civil Engineer.

(ii) Document the elevation (in relation to mean sea level) of the Base Flood Elevation, the natural grade of the building site for a structure prior to start of construction, the finished grade of the building site after completion of all construction, the placement of any fill, the lowest habitable floor (including basement) of the structure, the interior grade of any enclosure below the lowest habitable floor, all attendant utilities, and all other elevation information applicable to the project.

(iii) Be submitted to, and approved by, the Floodplain Administrator.

(iv) Be maintained by the Floodplain Administrator and made available for public inspection.

(D) Alternatives to submission of one or more Elevation Certificates:

(i) Letter of Map Amendment (LOMA)

Commented [LTA77]: New. Added for consistency with the requirements of the State of Oregon Specialty Codes.

A mid-construction elevation certificate, although not currently required to be submitted per Chapter 83 of the Benton County Development Code is required to be submitted per State of Oregon Specialty Codes. (This requirement has been in effect since at least 2017.)

Commented [LTA78]: BCC 83.210(1)

Commented [LTA79]: BCC 83.405(1)

Commented [LTA80]: BCC 83.100(1) & BCC 83.405(2)

Commented [LTA81]: New. This language is required to be added.

Commented [LTA82]: BCC 83.405(3)

1. May be submitted in place of a Pre-, Mid-, or Post-Construction Elevation certificate.

2. If the LOMA was issued specific to an existing structure footprint and is submitted for a lateral addition to that structure, then submission of either Mid- and Post-Construction Elevation Certificates or a new LOMA approved for the expanded footprint area is required to document that the finished grade at the addition site remains higher than the Base Flood Elevation.

(ii) Conditional Letter of Map Revision – Based on Fill (CLOMR-F) and Letter of Map Revision – Based on Fill (LOMR-F)

1. May be submitted in place of a Pre-Construction Elevation certificate for a building site proposed to be elevated through placement of fill.

2. If a CLOMR-F is approved, then submission of either a LOMR-F (for a building site fully elevated in compliance with the CLOMR-F approval) or submission of Mid- and Post-Construction Elevation Certificates (for a building site not fully elevated as proposed in the CLOMR-F approval) is required.

(E) All Letters of Map Change (i.e. LOMA, CLOMR-F, and LOMR-F) shall be:

(i) Approved by the Federal Insurance Administrator.

(ii) Submitted to, and approved for inclusion in the permit records by, the Floodplain Administrator.

(iii) Maintained by the Floodplain Administrator and made available for public inspection.

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

(d) Certification by an Oregon-licensed Civil Engineer that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section **BCC 83.610**.

(e) Description of the extent to which any watercourse will be altered or relocated.

(f) Base Flood Elevation data for subdivision proposals or other development when required per sections **BCC 83.220** and **BCC 83.520(1)**.

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

Commented [LTA83]: New. Added for clarification and documentation of alternatives to submission of Elevation Certificate data for structural construction projects. (This language documents the current process that has been in place for at least the past ten years.)

Commented [LTA84]: BCC 83.100(2)(a) & BCC 83.405(2)

Commented [LTA85]: New. This language is required to be added.

(2) The Floodplain Administrator shall obtain, maintain, and make available for public inspection the following information:

(a) All submitted and approved Elevation Certificates;

(b) All floodproofing certificates required under this ordinance;

(c) All variance actions, including justification for their issuance;

(d) All hydrologic and hydraulic analyses performed as required under section **BCC 83.800**;

(e) All substantial improvement and substantial damage calculations and determinations as required under section **BCC 83.240**; and

(f) All records pertaining to the provisions of this ordinance.

Commented [LTA86]: New. This language is required to be added.

Commented [LTA87]: BCC 83.100(2)(b) & BCC 83.405(2)

Commented [LTA88]: BCC 83.800(4)

Commented [LTA89]: New. This language is required to be added.

Commented [LTA90]: BCC 83.100(3) & BCC 83.405(3)

Commented [LTA91]: BCC 83.110(7)

83.270 FLOODPLAIN DEVELOPMENT PERMIT EXEMPTIONS

(1) The following development activities in the flood fringe require application for a floodplain development permit, but may be deemed exempt from floodplain development regulations upon submission of the application form and appropriate supporting documentation. These exemptions do not apply to development in the floodway. (Note: Federal and State laws and regulations, including Oregon Drainage Law, may still apply to exempted development activities.)

(a) Agricultural activities (not including structures; placement of fill or excavation that impounds, relocates, or redirects the flow of floodwaters; or creation of berms or dikes) of a recurring character on land located outside of the Corvallis Urban Growth Boundary that are considered accepted farming practices (as that term is defined in **BCC 51.020**).

Commented [LTA92]: BCC 83.110(1)

(b) Placement of fill within the floodway fringe, provided all of the following are met:

(A) The fill is used solely for purposes such as construction of a sandbox, raised gardening bed, or similar landscaping feature;

(B) The fill does not occupy an area that is greater than 500 square feet or 10 percent of the area of the subject parcel that is within the floodway fringe, whichever is less; and

(C) The average depth of the fill does not exceed six inches over the area described in **subsection (B)** above.

(c) Maintenance, repair, and/or replacement of existing electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities provided the facilities:

(A) Are in-kind maintenance, repair, and/or replacement;

(B) Do not constitute a substantial improvement or repair of substantial damage, as defined in **BCC 83.020**; and

(d) Maintenance, minor repair, and/or improvement of existing structures, provided these activities do not:

(A) Result in an increase in size or intensity of use; or

(B) Constitute substantial improvement or repair of substantial damage, as defined in **BCC 83.020**.

(e) Short-term storage of equipment or materials. Short-term storage means storage occurring outside of flood season or for a period of not more than 180 days during any portion of flood season. Equipment or materials stored during flood season shall be able to be either be easily removed from the area, or shall be items that would not cause harm to property, humans, animals or the environment by becoming buoyant or hazardous.

(f) Public agency placement of signs, markers, aids, etc.; and

(g) Customary dredging associated with routine ditch maintenance to maintain existing ditch capacity, provided it is consistent with State and Federal laws and permits.

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

(i) Transportation facility rehabilitation and maintenance projects that will not result in modifications to existing topography.

(j) Subsurface public utility projects that will not ultimately result in modification to existing topography.

Commented [LTA93]: BCC 83.110(7)(a), (b), & (c)

Commented [LTA94]: New. Proposed to be added for storage that will result in minimal to no impact on existing floodplain conditions. (This wording is based on code from City of Albany floodplain ordinance.)

Commented [LTA95]: BCC 83.110(7)(d) & (e)

Commented [LTA96]: New. Proposed to be added for ease of allowing public utility and transportation projects that will result in minimal to no impact on existing floodplain conditions. (This wording is copied from City of Albany floodplain ordinance.)

INTERPRETATION OF FLOODPLAIN BOUNDARIES & USE OF OTHER BASE FLOOD ELEVATION DATA

83.300 INTERPRETATION OF FLOODPLAIN BOUNDARIES

(1) If it is uncertain whether any proposed development described in **BCC 83.250(1)** is located in the floodplain (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall determine the applicability of floodplain regulations to the site in question based on the adopted Flood Insurance Rate Maps and any additional relevant data.

(2) Any person contesting the location of the floodplain boundary shall be given a reasonable opportunity to appeal the interpretation by submission of a Letter of Map Amendment or

Letter of Map Revision approved by the Federal Insurance Administrator for the site in question.

Commented [LTA97]: BCC 83.105
Amended to reflect recommendation from the state to make this standard more clear and objective.

83.310 USE OF OTHER BASE FLOOD ELEVATION DATA

(1) For special flood hazard areas (such as Zone A) where base flood elevations have not been provided in accordance with section **BCC 83.110**:

(a) The Floodplain Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer the provisions of this chapter.

(b) Development proposals shall be reasonably safe from flooding. The test of reasonableness includes use of historical data, high water marks, FEMA-provided Base Level Engineering data, and photographs of past flooding, etc. where available.

Commented [LTA98]: New. This language is required to be added.
Note: It is similar to wording in BCC 83.215(2) & BCC 83.225(3)(a)(A).

(c) The applicant shall be responsible for providing sufficient information to the Floodplain Administrator to document:

(A) The base flood elevation and, if applicable, the floodway for the proposed project site; or

(B) That the entire proposed project site has been removed from the special flood hazard area through submission of an approved Letter of Map Amendment or Letter of Map Revision.

Commented [LTA99]: BCC 83.105(2)

(d) All authorized structural development occurring in special flood hazard areas where base flood elevations have not been developed shall be elevated consistent with the elevation standards for such structures in Zone AE special flood hazard areas. It is the applicant's responsibility to submit elevation documentation in accordance with section **BCC 83.260** that accurately identifies the base flood elevation for the proposed site.

Commented [LTA100]: New. Required to be added for documentation that structural development in Zones A and AH must be elevated to the same standards as structural development in Zone AE.

(e) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section **BCC 83.520(1)**.

(f) The applicant shall derive base flood elevation data in accordance with standard engineering and FEMA practices for floodplain mapping and modeling to ensure alignment with "The Flood Insurance Study for Benton County, Oregon and Incorporated Areas". The County Engineer and the Federal Emergency Management Agency may provide technical assistance. The applicant shall provide for certification by an Oregon-licensed professional engineer or architect that the proposed development complies with provisions of this section.

Commented [LTA101]: BCC 83.205(2)

VARIANCES

83.400 VARIANCE PROCEDURE. The issuance of a variance to the requirements of this chapter is for floodplain management purposes only and may be granted pursuant to either **BCC 83.410** or **BCC 83.420**, and subject to the notification requirement of **BCC 83.430**. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

83.410 Minor Variance for Agricultural Structures. A minor variance from elevation and floodproofing standards may be granted in limited circumstances for agricultural structures by means of a ministerial review, pursuant to **subsections (1) through (5)** below. In this section only, an "agricultural structure" is determined not by the definition in **BCC 83.020** but instead by the provisions of **subsection (3)** below.

(1) Establishment of new agricultural structures within a floodway is prohibited per section **BCC 83.810(2)**; therefore, a variance shall not be issued for siting a new agricultural structure within any mapped regulatory floodway.

(2) A variance shall not be issued for replacement or substantial improvement of an agricultural structure within any floodway if any increase in flood levels during the base flood discharge would result.

(3) A variance for siting a new or replacement agricultural structure, or for substantial improvement of an existing agricultural structure, may be authorized pursuant to the following standards:

(a) The structure shall be a structure that requires a building permit.

(b) The structure will be a free-standing, detached structure.

(c) The structure will be used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. For clarification:

(A) Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

(B) Because agriculture is an industry and therefore farms are places of work, it is understood that entry into agricultural structures is necessary. The limitation that an agricultural structure be "used exclusively for agricultural purposes or uses" is satisfied when the principal use of an agricultural structure does not include occupation by people over extended periods of time (e.g., office or communal area for farm workers).

(C) For the purposes of this standard, the term "agricultural commodities" means agricultural goods, products, commodities, and livestock. Examples of

Commented [LTA102]: BCC 83.800.

Commented [LTA103]: New. This section is required to be added.

Commented [LTA104]: New. Guidance from the state is that agricultural structures may be permitted with wet-floodproofing (instead of requiring elevation or dry-floodproofing) but only by specifically granting a variance for each structure.

Unlike accessory structures that may be wet-floodproofed if they are 600sq.ft. or less, agricultural structures do not have a maximum building footprint size.

Because Benton County already has a minor variance process in place [BCC 83.800(1)] that allows authorization of agricultural structure placement with floor elevations below the Base Flood Elevation, this process has been retained but the conditions have be modified to be specific to agricultural structures and to be consistent with current FEMA guidelines* for authorizing wet-floodproofing of agricultural structures.

* https://www.fema.gov/sites/default/files/2020-09/fema_agricultural-structures_policy-guidance_08-20-20.pdf).

Note: A variance for agricultural structures is not required if:
(1) They comply with the accessory structure standards identified in Section 83.650; or
(2) They have a finished floor elevation that is at least 18 inches above the Base Flood Elevation.

Commented [LTA105]: BCC 83.225(2)(a)

Commented [LTA106]: BCC 83.800(1)(a)(B) & (C) Modified per FEMA requirements to refer only to agricultural structures because accessory structures are addressed in Revised Code section 83.650 (Accessory Structures).

agricultural commodities include, but are not limited to, harvested crops, aquaculture products, livestock, and animal products.

(d) No portion of the structure will be used for human habitation and or as a place of employment or entertainment. For clarification:

(A) Agricultural structures with multiple or mixed purposes, are not considered to be used exclusively for agricultural purposes and are, therefore, not agricultural structures for the purposes of this standard.

(B) Human habitation, such as a permanent or temporary residence or seasonal living quarters for workers, is not considered an agricultural purpose or use.

(C) Processing and production of agricultural commodities (outside of harvesting, storage, raising, or drying) are not considered agricultural purposes or uses.

(D) Examples activities not considered to be exclusively for agricultural purposes or uses include activities such as distilling, brewing or fermenting beverages, baking or cooking, leather tanning, packaging, and similar production processes. Structures used for these types of processes are considered places of employment and are eligible for a minor variance for an agricultural structure.

(4) The applicant shall submit the following items along with an application form and fee:

(a) Although Benton County cannot require flood insurance, the applicant shall submit a signature from a licensed insurance professional verifying the applicant has discussed flood insurance options and potential requirements for the proposed agricultural structure if a flood insurance policy were to be purchased for the structure;

(b) Acknowledgement by the property owner that structure will be built with the lowest floor below the Base Flood Elevation, the structure will be wet flood-proofed, and that the contents of the structure might not be insurable against flood loss;

(c) Building plans showing:

(A) Flood-specific venting designed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood-specific venting in **BCC 83.660**;

(B) Flood damage-resistant construction materials for all portions of the structure that are below the Base Flood Elevation. Standards for flood damage-resistant construction materials are found in FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements for Buildings Located in special flood hazard

Commented [LTA107]: The standards identified in this section have been adjusted to include FEMA guidelines for authorizing wet-floodproofing for agricultural structures based on FEMA Floodplain Management Bulletin P-2140, July 2020 (*Floodplain Management Requirements for Agricultural Structures and Accessory Structures*).

areas in accordance with the National Flood Insurance Program (or successor document); and

(C) All electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated in accordance with **BCC 83.500(6)**;

(d) A pre-construction elevation certificate specific to proposed building site; and

(e) A site plan of the property clearly identifying the proposed building location.

Commented [LTA108]: BCC 83.800(1)(b)

(5) Upon satisfactory completion of the items listed in **subsections (3) and (4)** above, the minor variance will be granted ministerially in conjunction with the issuance of the building permit and the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure location and the dimensions of the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. Construction of an agricultural structure to be used only for agricultural use has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.020, at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy.

This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

Commented [LTA109]: BCC 83.800(1)(c)

83.420 Discretionary Variance. In cases other than those listed in **BCC 83.410**, a variance may be granted pursuant to the standard variance procedure and criteria specified in Chapter 53 and the provisions of this section.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, in conformance with the provisions of sections **BCC 83.420(3) and (5),** and **BCC 83.430**. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

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

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

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

Commented [LTA110]: BCC 83.800(2)(a)(A)

(5) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section **BCC 83.420(2) through (4)** are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Commented [LTA111]: BCC 83.800(2)
Revised. This wording is required by FEMA.

(6) Upon consideration of the factors of **subsections (1) through (5)** above and the purposes of this chapter, the Planning Official may attach such conditions to the granting of a variance as deemed necessary to further the purposes of this ordinance. Conditions of approval may be imposed to reduce or mitigate flood hazard conditions or to otherwise ensure compliance with the purpose and provisions of this chapter and may address, but are not limited to:

Commented [LTA112]: BCC 83.800(2)(b)(A)

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Commented [LTA113]: BCC 83.800(2)(a)(B)

83.430 Variance Notification.

(1) Any applicant to whom a variance from the elevation standard is granted shall be given written notice that:

(a) The issuance of a variance to construct a structure with the lowest floor below the Base Flood Elevation will result in increased premium rates for flood insurance; and

(b) Such construction below the base flood elevation increases risks to life and property.

Commented [LTA114]: BCC 83.800(2)(b)(B) Revised. This wording is required by FEMA.

(2) Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with **BCC 83.260**.

Commented [LTA115]: BCC 83.800(4)

PROVISIONS FOR FLOOD HAZARD REDUCTION

83.500 GENERAL FLOODPLAIN DEVELOPMENT STANDARDS

The following standards shall apply in all special flood hazard areas:

(1) Alteration of Watercourses. The flood carrying capacity within the altered or relocated portion of a watercourse shall be maintained pursuant to the standards identified in section **BCC 83.230(2).**

(2) Structures Located In Multiple Or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

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

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

Commented [LTA116]: New. This section is required to be added.

(3) CRITICAL FACILITIES. Construction of new critical facilities shall be, to the extent possible, to the extent possible, located outside the limits of the special flood hazard area (SFHA). Construction of new critical facilities shall be permissible within the SFHA only if no

Commented [LTA117]: BCC 83.700

feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the Base Flood Elevation (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 toxic substances will not be displaced by or released into floodwaters. Access routes elevated, to the extent possible, to or above the level of the BFE shall be provided to all critical facilities.

(4) ANCHORING

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

(b) All manufactured dwellings shall be anchored per **BCC 83.620(4)**.

(5) CONSTRUCTION MATERIALS AND METHODS. All new construction and substantial improvements shall be constructed:

(a) With materials and utility equipment resistant to flood damage; and

(b) Using methods and practices that minimize flood damage.

(6) UTILITIES AND EQUIPMENT

(a) Electrical, Mechanical, Plumbing, And Other Equipment shall comply with the following:

(A) All new electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated a minimum of one (1) foot above the Base Flood Elevation (BFE).

(B) All electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities that are installed or replaced as part of a substantial improvement shall be elevated a minimum of one (1) foot above the Base Flood Elevation (BFE).

(b) Exceptions are allowed for the following situations:

(A) Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities serving a structure constructed prior to August 5, 1986, and not substantially improved since that date, and not part of a current substantial improvement, may be installed at the same elevation as the top of the lowest habitable floor. (A basement shall not be considered a habitable floor for this purposes of this exception.)

Note: It is still strongly recommended that all such items be elevated a minimum of one (1) foot above the BFE whenever possible.

Commented [LTA118]: New. This language is required to be added.

Commented [LTA119]: BCC 83.210(2)

Commented [LTA120]: BCC 83.210(3)

Commented [LTA121]: BCC 83.210(4)

Commented [LTA122]: Amended. This language is required and was approved by CRS Specialist Teresa Alvelo on 7/29/21 as compliant with current minimum CRS Class 8 Freeboard requirements.

Notes:

1. The wording of this section is required for continued eligibility for Benton County's current Class 7 standing in the Community Rating System (CRS).

2. Benton County has a higher regulatory standard (1 foot above base flood elevation) for these items.

3. Benton County's current exception to 1-foot requirement (requiring elevation of items to existing floor for pre-FIRM structures instead of allowing placement at grade) is also a higher regulatory standard and is allowed to remain.

(B) Electrical systems, equipment and components; heating, ventilation, and air-conditioning; plumbing appliances and plumbing fixtures; duct systems; and other service equipment that are specially designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to an elevation that is at least one (1) foot above the BFE.

(7) Water supply, sanitary sewer, and on-site waste disposal systems shall comply with the following:

(a) All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.

Commented [LTA123]: BCC 83.210(5)

(b) On-site wastewater treatment systems shall be located outside of the special flood hazard area (SFHA) on properties where land outside the SFHA is comparable to or better than land located within the SFHA with regard to soil conditions, topography, and unencumbered area in accordance with the Oregon Department of Environmental Quality rules

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

Commented [LTA124]: BCC 83.210(6)

(8) TANKS

(a) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

(b) Above-ground tanks shall be installed a minimum of one (1) foot above the Base Flood Elevation (BFE) or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

Commented [LTA125]: New. This section is required to be added.

83.520 LAND DIVISION AND PROPERTY LINE ADJUSTMENTS

(1) MAJOR DEVELOPMENT PROPOSALS

(a) Where the primary zone permits a subdivision, mobile home or manufactured dwelling park, or mobile home or manufactured dwelling subdivision, such use may be allowed in the Floodplain Management Overlay Zone if:

(A) Such use is consistent with the need to minimize flood damage;

(B) The applicant demonstrates that public utilities and facilities such as water supply, sewage disposal, natural gas and electrical systems are located and constructed to minimize flood damage; and

(C) The applicant demonstrates that adequate drainage has been provided to reduce exposure to flood damage.

(b) Where base flood elevation data have not been provided by FEMA or are not available from another authoritative source, the applicant shall provide such data if the proposed subdivision or park equals or exceeds fifty (50) lots or parcels or if it exceeds five (5) acres. Such data shall be derived in accordance with standard engineering and FEMA practices for floodplain mapping and modeling to ensure alignment with "The Flood Insurance Study for Benton County, Oregon and Incorporated Areas".

(c) Subdivisions shall also be subject to the provisions of **BCC 83.520(2)**.

Commented [LTA126]: BCC 83.300

Commented [LTA127]: BCC 83.605

(2) PARCEL AND LOT DESIGN STANDARDS. Parcels or lots resulting from subdivisions, partitions, and property line adjustments of land in the Floodplain Management Overlay Zone shall comply with the requirements of this section.

(a) Parcels and lots shall be designed such that existing and future uses and development activities allowed by the underlying zone can be carried out in conformance with the regulations contained in this chapter. Creation of lots or parcels that do not meet this requirement is prohibited, with the exception of lots or parcels created for public park or open space purposes.

(b) For each lot or parcel, other than those designated for non-residential use (such as a parcel in a resource zone and containing no dwelling right), open space use, or designated as otherwise unbuildable, the applicant shall:

(A) Demonstrate a proposed building site for the primary structure that is:

(i) Located entirely outside the floodplain;

(ii) At least 10,000 square feet in size; and

(iii) No less than 50 feet in any dimension.

(B) Sign for recording a deed restriction acknowledging that the primary structure must be sited outside the floodplain.

Commented [LTA128]: "Suitable and adequate land" terminology previously identified as 83.605(2)(a) was subjective and provided no guidance for appropriate quantification.
This terminology has been replaced with language that clarifies the minimum amount of land that must be retained for each parcel subject to this requirement.

(c) For each parcel or lot designated for non-residential use (such as a parcel in a resource zone and containing no dwelling right), open space use, or designated as otherwise unbuildable, the applicant shall either:

(A) Comply with the standards of **subsection (b)**; or

(B) Sign for recording a deed restriction acknowledging that any primary structure established on the parcel or lot must be sited on land that is outside the floodplain.

(d) Site feasibility approval areas for on-site wastewater treatment systems shall be located outside of the floodplain to the extent possible and in accordance with the Oregon Department of Environmental Quality rules. In no instance shall a site feasibility approval area for initial and repair systems reduce the area identified for compliance with **subsection (b)** or **subsection (c)** to less than 5,000 square feet and 40 feet in any dimension; in such case a different location for on-site wastewater disposal shall gain approval or the area designated for the building site shall be modified to meet these minimums.

(e) The applicant shall submit a profile identifying the existing natural grade and the Base Flood Elevations (BFE) along the entire length of the proposed access route(s), from the right-of-way to the proposed building site identified for **subsection (b)** or **subsection (c)**, for each resultant parcel or lot. The profile shall be prepared by an Oregon-registered Professional Land Surveyor or an Oregon-licensed Civil Engineer and submitted with the application for land division.

(A) If any portion of the existing natural grade of the proposed access route(s) is lower than the BFE:

(i) The property owner shall sign for recording a deed restriction acknowledging that during a flood event the ability to evacuate the property or for emergency vehicles to obtain access to the property to provide emergency services may be prevented or made hazardous.

(ii) The property owner is encouraged to provide a copy of the profile to the local fire district and discuss the potential for impaired access and emergency services during flood conditions.

(f) If more than one covenant is required for compliance with the subsections above or if a covenant is required for more than one resultant parcel or lot, each covenant shall be recorded as a separate document.

CONSTRUCTION STANDARDS

83.600 SPECIFIC CONSTRUCTION STANDARDS FOR FLOOD ZONES

The specific standards in **BCC 83.610 through BCC 83.680** shall apply to all new construction and substantial improvements in Zones A, AE, AH, and A1-A30, in addition to the General Standards contained in **BCC 83.500 through BCC 83.520** of this ordinance.

83.610 NON-RESIDENTIAL CONSTRUCTION

Commented [LTA129]: BCC 83.605(2)(b)(A)
Note: This code section was intended to apply to all parcels/lots identified as non-buildable at the time of parcel creation but it was accidentally included in the section for dry-land access standards.

Commented [LTA130]: BCC 83.605(3)
Adjusted to clarify confusing language.
This revision also clarifies that preference must be given to siting the primary structure outside of the floodplain over siting the septic drainfield. (This clarification was unclear in the wording adopted in 2011.)

Commented [LTA131]: Access standards previously identified in BCC 83.605(2)(b) have been relaxed per instruction from the state NFIP coordinator due to unintended potential for negative impacts to floodplain functionality and flow of floodwater during flood conditions.

Commented [LTA132]: New. This language reflects current policy to record documents separately for each type of restriction and parcel. From time to time it is necessary to release covenant language that has been recorded for a specific property.

Covenant releases are typically required due to changes in regulations or to satisfaction of standards that prompted the recording of a covenant. When language addressing more than one requirement is recorded on the same document, or when more than one property is encumbered by the same document, release of the appropriate language requires recording a release document (for the language that no longer applies) and a new covenant document (for the language that must remain in effect).

Because section 83.5520(2) has the potential to require covenants addressing multiple standards and encumbering more than a single property, it is important to clarify the current policy to record such documents separately.

Commented [LTA133]: New. This language is required to be added.

(1) New or expanded primary commercial, industrial, and other non-residential structures, other than agricultural structures, are prohibited within the floodplain. If there is insufficient buildable land outside the floodplain to allow reasonable development of the property, a new or expanded primary structure may be authorized through the procedure specified in **BCC 83.620(3)**.

Commented [LTA134]: BCC 83.225(1)

(2) Where allowed, new construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure, other than agricultural structures, shall either:

(a) Have the lowest floor, including basement, elevated a minimum of 18 inches above the Base Flood Elevation (BFE); or,

Commented [LTA135]: BCC 83.225(3)(a)(A)

(b) Together with attendant utility and sanitary facilities:

(A) Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth **BCC 83.260**.

Commented [LTA136]: BCC 83.225(3)(b)

(c) Non-residential structures that are elevated, not floodproofed, and have an enclosed area below the lowest floor shall comply with the standards for enclosed areas in section **BCC 83.660**.

Commented [LTA137]: BCC 83.225(3)(a)(B)

(d) An applicant choosing to floodproof a non-residential structure pursuant to the standards of this section shall be notified in writing that flood insurance premiums may be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood elevation will be rated as one (1) foot below that level).

Commented [LTA138]: BCC 83.240

83.620 RESIDENTIAL CONSTRUCTION

(1) Where allowed, new construction, conversion to, and substantial improvement of any residential structure (as defined in **BCC 83.020**) shall have the lowest floor, including basement, elevated a minimum of 18 inches above the Base Flood Elevation (BFE).

Commented [LTA139]: BCC 83.215(2)

(2) Where allowed, enclosed areas below the lowest floor shall be constructed with flood-specific venting (as defined in **BCC 83.020**) that complies with **BCC 83.660**.

Commented [LTA140]: BCC 83.220

(3) New dwellings, expansion of existing dwellings, and placement of manufactured dwellings are prohibited within the floodplain, with the following exceptions:

(a) New dwellings on vacant land (as defined in **BCC 83.020**) may be allowed if, through an Administrative Review the Planning Official determines that there is insufficient buildable land outside the floodplain to allow reasonable development of the property. The Planning Official may then allow a building site located partially or fully within the floodplain.

(A) In approving such a site, preference shall be given to sites that:

(i) Result in less fill and development within the floodplain;

(ii) Are of higher elevation;

(iii) Are farther from the top of bank of the adjacent water course

(iv) Minimize the risk of structural damage from flooding; and

(v) Preserve natural floodplain functions.

(B) In addition to the construction standards of this chapter, further conditions may be applied as deemed necessary by the Planning Official to minimize potential risks to the structure and potential impacts to other properties and the functioning of the floodplain.

(b) Additions to existing dwellings may be allowed if the addition either:

(A) Falls below the threshold of "substantial improvement"; or

(B) Will not result in the filling of additional floodway fringe area (such as a second story addition or a lateral addition elevated on flow-through construction).

(c) Replacement of an existing dwelling may be allowed:

(A) Within the building footprint of the dwelling being replaced;

(B) With a maximum 10% expansion or shift of the building footprint of the dwelling being replaced;

(C) With a maximum 10% expansion located elsewhere on the site, if through an Administrative Review the Planning Official determines that the relocation of the dwelling enhances stormwater and floodplain functions. The relocation shall be considered to enhance stormwater and floodplain functions if it furthers any of the following goals without worsening any other goal:

(i) Replaces standard construction with flow-through construction as defined in **BCC 83.020**;

(ii) Moves the dwelling to a higher ground elevation;

(iii) Moves the dwelling further from the top of bank of the adjacent water course;

(iv) Reduces the amount of impervious surface area in the floodway fringe;

(v) Does not negatively impact non-noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T" ; or

(D) With a greater than 10% expansion or shift of the building footprint of the dwelling being replaced if:

(i) The dwelling will be constructed with flow-through construction as defined in **BCC 83.020**;

(ii) The dwelling will be no closer to the top of bank of the adjacent water course than the existing structure; and

(iii) The expansion or shift of the building footprint does not negatively impact non- noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T".

Commented [LTA141]: BCC 83.215(1)

(4) MANUFACTURED DWELLINGS. In addition to the standards of **subsectsions (1) through (3)** above, the following shall apply to all new and replacement manufactured dwellings, as well as substantially improved manufactured dwellings:

(a) The bottom of the longitudinal chassis frame beam shall be elevated to or above the Base Flood Elevation (BFE);

Commented [LTA142]: New. This language is required to be added.

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

Commented [LTA143]: BCC 83.215(3)

(c) Electrical crossover connections shall be elevated a minimum of one (1) foot above the Base Flood Elevation (BFE).

Commented [LTA144]: New. This language is required to be added.

83.630 RECREATIONAL VEHICLES

(1) A recreational vehicle placed within the A, AE, AH, and A1-30 Flood Zones shall:

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

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

(c) Meet the requirements of **BCC 83.620**, including requirements for anchoring and elevation, for manufactured dwellings.

Commented [LTA145]: BCC 83.215(4)

83.640 GARAGES

(1) Attached garages may be constructed with the garage floor slab below the base flood elevation (BFE) in special flood hazard areas, if the following requirements are met:

(a) Garages located partially or entirely within the floodway must comply with the requirements of **BCC 83.810**;

(b) The garage is used solely for parking, building access, and/or storage;

(c) The garage floor elevation is at or above grade along the length of at least one side;

(d) The garage is constructed with flood-specific venting (as defined in section **BCC 83.020**) in compliance with **BCC 83.660** to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters;

(e) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage as defined it FEMA technical guidance documentation;

(f) The garage is constructed in compliance with the provisions of **BCC 83.500(4) and (5)**; and

(g) The garage is constructed with electrical, mechanical, and other service facilities located and installed consistent with the provisions of **BCC 83.500(6)**.

(2) Detached garages shall be constructed in compliance with the standards for accessory structures in **BCC 83.650** or non-residential structures in **BCC 83.610**, depending on the square footage of the garage.

Commented [LTA146]: New. This section is required to be added.

83.650 ACCESSORY STRUCTURES

Commented [LTA147]: New. This section is required to be added.

(1) Accessory structures located partially or entirely within the floodway must comply with the requirements of **BCC 83.810**.

(2) Where allowed, new construction, conversion to, and substantial improvement of any accessory structure shall have the lowest floor, including basement, elevated a minimum of 18 inches above the Base Flood Elevation (BFE).

Commented [LTA148]: BCC 83.225(2)(b) & BCC 83.225(3)(a)(A)

(3) Where allowed, enclosed areas below the lowest floor shall be constructed with flood-specific venting (as defined in section **BCC 83.020**) that complies with section **BCC 83.660**.

Commented [LTA149]: BCC 83.225(3)(a)(B)

(4) Relief from elevation requirements of **subsection (2)** above may be granted for accessory structures that meet all of the following requirements:

(a) Shall be located on the same parcel or lot as a principal structure;

(b) Shall only be used for parking, access, and/or storage and shall not have any portion of the structure used for human habitation;

(c) Shall be limited to one-story with a maximum building footprint of 600 square feet;

(d) The portions of the accessory structure located below the Base Flood Elevation shall be built using flood resistant materials;

(e) Shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

(f) Shall be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood-specific venting in **BCC 83.660**;

(g) Shall be located and constructed to have low damage potential;

(h) Shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with **BCC 83.500(8)**; and

(i) Shall be constructed with electrical, mechanical, and other service facilities located and installed consistent with the provisions of **BCC 83.500(8)**.

(5) For any accessory structure relief granted under **subsection (4)** above, the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. Construction of the _____ [specify type of accessory structure, i.e. detached garage, storage shed] to be used only for _____ [specify type of use, i.e. parking, access, limited storage] has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.020, at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy.

Commented [LTA150]: Amended BCC 83.225
The standards identified in this section have been adjusted to include FEMA guidelines for authorizing wet-floodproofing (instead of requiring elevation or dry-floodproofing) for some types of accessory structures based on FEMA Floodplain Management Bulletin P-2140, July 2020 (*Floodplain Management Requirements for Agricultural Structures and Accessory Structures*).

Commented [LTA151]: New. This language is required to be added.

Commented [LTA152]: New. This language is required to be added.

This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

Commented [LTA153]: BCC 83.225(3)(c)(F)

83.660 ENCLOSED AREAS BELOW A STRUCTURE

Commented [LTA154]: BCC 83.015(7), BCC 83.015(17), BCC 83.220, & BCC 83.225(3)(a)(B)

(1) Fully enclosed areas below the lowest floor (excluding basements) of new and substantially improved structures in the Floodplain Management Overlay Zone are prohibited, or shall be designed to comply with the following requirements:

(a) Designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

(b) Used solely for parking, storage, or building access;

(c) Contain openings that meet or exceed the definition of flood-specific venting identified in section **BCC 83.020**, or are certified by an Oregon-registered professional engineer or architect; and

(d) Comply with all additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

83.670 BELOW-GRADE CRAWLSPACES

Commented [LTA155]: BCC 83.210(10)

(1) Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in special flood hazard areas, or successor document. (For more detailed information refer to FEMA Technical Bulletin 11-01.):

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

(b) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, shall have flood-specific venting (as that term is defined in **BCC 83.020**) that are compliant with **BCC 83.660** that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood-specific vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

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

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

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

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall shall not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas. Additionally, the height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the lowest habitable floor shall not exceed five (5) feet at any point.

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

(h) If the velocity of floodwaters at the site will exceed five (5) feet per second, other foundation types shall be used.

83.680 STANDARDS FOR SHALLOW FLOODING AREAS

(1) Shallow flooding areas appear on FIRMs as AH zones with Base Flood Elevations. For AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(2) Development within AH Zones must comply with the standards in sections 5.1, 5.2, and 5.2.5.

Commented [LTA156]: BCC 83.210(9)

Commented [LTA157]: Amended. This wording is required by FEMA

CORVALLIS URBAN FRINGE

83.700 ADDITIONAL STANDARDS IN THE CORVALLIS URBAN FRINGE. In the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the following standards shall apply in addition to other applicable provisions of this chapter. In the case of conflict, the more restrictive standard shall apply. Developers of floodplain property are strongly encouraged to schedule a pre-application conference with the Community Development Department to review floodplain considerations.

Commented [LTA158]: BCC 83.505

(1) Any proposed alteration or relocation of a watercourse within the Corvallis Urban Fringe shall comply with the standards identified in **BCC 83.230(2)**.

Commented [LTA159]: BCC 83.310(2)

(2) In areas identified on the Benton County Zoning Map as Partial-Protection Floodplain, the following shall apply:

(a) Fill or construction in the floodplain shall be compensated for by removal of an equal amount of material from the floodplain on the same property. The purpose is to ensure that the available flood volume of the special flood hazard area (100-year floodplain) is not reduced. Volumetric exchange will not be required of buildings constructed with flow-through design. Areas of fill and excavation shall be designed to accommodate floodwaters flows and shall not create barriers to the flow of floodwaters. Proposals to alter topography in the floodplain must demonstrate that they will not result in alteration of hydrology or flow regimes that would cause erosion, unwanted ponding, or other problems.

(3) In areas identified on the Benton County Zoning Map as High-Protection Floodplain, the following shall apply:

(a) Removal of vegetation from the floodplain is prohibited, except for the following purposes:

(A) Removal of a hazard tree which poses an immediate threat to life or property. Tree removal shall comply with the following standards:

(i) The stump and root wad of any altered tree shall remain undisturbed in place;

(ii) Any tree removed is required to be replaced by like native species or alternate approved native species.

(B) Maintenance of lawns, planted vegetation, and landscaping, to the extent existing on October 6, 2005.

(C) Stream restoration and enhancement programs approved by the Oregon Department of Fish and Wildlife as improving riparian function, and wetland restoration and enhancement programs approved by Oregon Department of State Lands or the Oregon Department of Fish and Wildlife.

(D) Removal of non-native, invasive, and/or noxious vegetation, as identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification

System (Appendix 1) or successor document, including weeds designated as "A", "B", and/or "T". As necessary to control erosion, areas of vegetation removal shall be re-vegetated with native species. If necessary to prevent erosion prior to new vegetation becoming established, short-term, non-structural erosion control measures shall be employed;

(E) Substitution of native plant species for non-native plants. Additionally, native plants may be planted without accompanying removal of non-native plants. All new plantings shall be species listed on the City of Corvallis Native Plant List as appropriate for the proposed location. Plantings being substituted for non-native plants shall be species identified on the Corvallis Native Plant List as being in the same ecological-function category as the replaced plants. Plantings shall be maintained to ensure they become established.

(F) For the development of water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the floodplain;

(G) Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage;

(H) The minimum vegetation removal necessary to establish and maintain a fire fuel-break safety zone, as defined in **BCC 88.010(2)**, surrounding a structure. Benton County encourages property owners to consult with the Oregon Department of Fish and Wildlife on ways to minimize the impact of this vegetation removal and to mitigate the impacts that do occur.

(I) Continuation of agricultural activities, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(J) The minimum vegetation removal necessary to establish a pedestrian trail located at least 10 feet inland from the top of bank.

(K) Vegetation removal in conjunction with a development activity allowed under **BCC 83.700(3)(b)**.

(L) Commercial forestry operations authorized by the Oregon Department of Forestry.

(M) Vegetation removal within the area authorized under the provisions for a Modification to Natural Features Standards (**BCC 88.800**).

(b) Building, Paving, and Grading Activities:

(A) In the 0.2-ft. Floodway portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, no encroachments, including fill, new

construction, substantial improvements, and other development are allowed, with the exception of bridges, infrastructure, utilities, or water dependent uses for which it may be demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. Such exceptions shall also be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with all applicable mandatory construction standards. Development within the 0.2-ft. Floodway shall comply with all applicable State and Federal requirements.

(B) In the Floodway Fringe portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited except as provided below. Such exceptions shall be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with all applicable mandatory construction standards.

(i) Replacement of an existing structure may be allowed pursuant to **BCC 83.620(3)**.

(ii) Additions to an existing structure may be allowed pursuant to **BCC 83.620(3)**.

(iii) Accessory structures and agricultural structures, provided they are of flow-through design and construction.

(iv) Grading and excavation that are standard agricultural practices of a reoccurring character, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(v) The following types of infrastructure, provided they are designed to minimize impacts to floodplain hydrologic and ecologic function:

(a) Construction of streets, roads, public utilities, bridges, and bicycle and pedestrian ways that are included in the City of Corvallis Transportation Plan, or in other adopted City infrastructure/utility plans.

(b) Construction of streets, roads, bridges and bicycle and pedestrian ways necessary in order to maintain an acceptable functional classification of roadways adjacent to the property.

(c) Driveways necessary to provide access to an approved building site, provided the minimum floodplain area is disturbed.

(vi) Development of water-related and water-dependent uses;

(vii) Erosion control or flood control measures that have been approved by the Oregon Department of State Lands (DSL) and/or the U.S. Army Corps of Engineers, and that utilize bio-engineering methods. Streambank hardening (installation of hard- surfaced erosion- or flood-protection structures such as rip-rap) is prohibited except where necessary to address an imminent hazard to a structure built prior to October 6, 2005. Where allowed, hard-surface measures shall be designed by a Professional Engineer licensed by the State of Oregon and shall be approved by the Oregon Department of State Lands or U.S. Army Corps of Engineers, and shall at a minimum, require backfilling with soil and planting with native vegetation;

(viii) Development authorized under the provisions for Modification to Natural Features Standards (**BCC 88.800**).

FLOODWAYS

83.800 REGULATORY FLOODWAY NOT MAPPED

(1) In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones AE and A1-30 on the Benton County Flood Insurance Rate Map (FIRM), unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Commented [LTA160]: BCC 83.205(1)(b)
Amended to reflect required language.
Required by FEMA to be worded as stated.

(2) Encroachments that would result in an increase of more than one (1) foot in base flood elevations for projects in areas that do not have a mapped floodway may be authorized provided that the applicant:

(a) Receives approval for a Conditional Letter of Map Revision (CLOMR) from the Federal Insurance Administrator for the proposed encroachment which ensures that the requirements for such revision, as established under Volume 44 of the Code of Federal Regulations, section 65.12, are fulfilled; and

(b) Submits the approved CLOMR to the Floodplain Administrator.

83.810 MAPPED REGULATORY FLOODWAY. Floodways are extremely hazardous areas due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential;

therefore, if any portion of the proposed development is located in a designated floodway, the following provisions apply.

(1) Encroachments which include fill, new construction, substantial improvements and other development within the adopted regulatory floodway are prohibited unless certification by an Oregon-licensed Civil Engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) Agricultural structures and structures accessory to a dwelling are prohibited within the adopted regulatory floodway.

(3) Within a floodway in the Corvallis Urban Growth Boundary as described in **BCC 83.110(3)**, structural improvements and the placement of fill, other than in a public benefit such as a public improvement project, shall not be permitted. For the purposes of this section, public improvement projects include, but are not limited to, the construction of bridges, roads, storm water detention facilities, and water dependent uses. Public improvement projects are allowed if the applicant demonstrates, through hydrologic and hydraulic analyses, prepared by an Oregon-licensed professional engineer, that the permitted development will not result in any increase in flood levels during the occurrence of the base flood discharge.

(4) Encroachments (for development of land outside of the Corvallis Urban Growth Boundary) within the adopted regulatory floodway that would result in an increase in base flood elevations for projects in a mapped floodway may be authorized provided that the applicant:

   (a) Receives approval for a Conditional Letter of Map Revision (CLOMR) from the Federal Insurance Administrator for the proposed encroachment which ensures that the requirements for such revision, as established under Volume 44 of the Code of Federal Regulations, section 65.12, are fulfilled; and

   (b) Submits the approved CLOMR to the Floodplain Administrator.

(5) If all of the above applicable requirements are satisfied, all new construction, substantial improvements, and other development shall also comply with all other applicable provisions of this chapter.

(6) New and replacement fences and free-standing walls (as identified in the table below) may be allowed within the adopted regulatory floodway as follows:

   (a) Construction Types A and B may be allowed without a no-rise analysis.

Commented [LTA161]: New. This language is required to be added.

Commented [LTA162]: New. This language is required to be added.

Commented [LTA163]: BCC 83.205(1)(a) with additional language required to be added.

Commented [LTA164]: BCC 83.225(2)(a)

Commented [LTA165]: BCC 83.205(3)

Commented [LTA166]: New. This language is required to be added.
BCC 83.205(4)

Commented [LTA168]: New. This language is required to be added.

(b) Construction Type C may be allowed without a no-rise analysis and upon submission of engineering calculations demonstrating that it will collapse under anticipated base flood conditions.

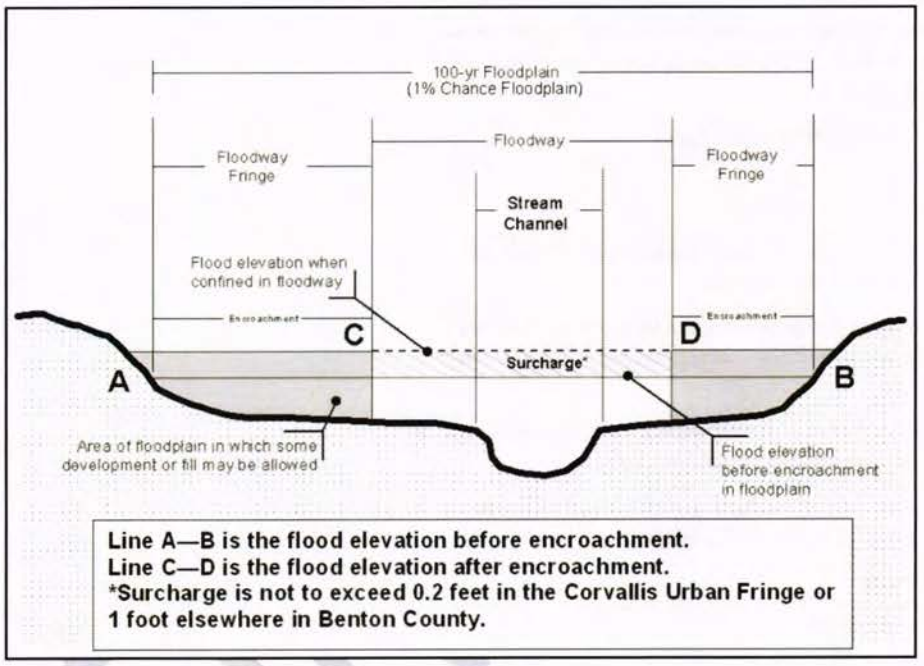
(c) Construction Types D through H may be allowed upon submission of a no-rise analysis, prepared using FEMA-approved engineering and modeling standards, documenting that the proposed fence or free-standing wall will not create an increase to the Base Flood Elevation.

Fencing Construction Types	
Construction Type	**Description**
A	Open barb or barb less wire. Open means no more than one horizontal strand per foot of height.
B	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.
C	Collapsible fencing that will collapse under anticipated base flood conditions. Debris impact must be considered.
D	Other wire, pipe, or mil fencing (e.g. field fence, chicken wire, etc.) which does not meet open requirements above.
E	Chain link fencing
F	Continuous wood fencing
G	Masonry walls
H	Retaining walls, bulkheads

Note: Wire fences within the floodway are encouraged to be wire-strand construction rather than woven-wire, welded-wire, or solid construction. Wire-strand construction reduces the potential for the fence to collect debris during a flood, redirect floodwaters, and/or be washed downstream.

Commented [LTA167]: BCC 83.210(8).
Relocated and amended. Per guidance from the state, fencing standards applying to locations mapped as *flood fringe* have been removed; these standards now apply only to locations mapped as *floodway*.

This change is based on current FEMA guidance that regulation of fences and free-standing walls is only required when located in mapped floodways.


100-yr Floodplain
(1% Chance Floodplain)
Floodway
Fringe
Floodway
Floodway
Fringe
Stream
Channel
Flood elevation when
confined in floodway
Encroachment
Encroachment
C
D
Surcharge*
A
B
Area of floodplain in which some
development or fill may be allowed
Flood elevation
before encroachment
in floodplain
Line A—B is the flood elevation before encroachment.
Line C—D is the flood elevation after encroachment.
*Surcharge is not to exceed 0.2 feet in the Corvallis Urban Fringe or
1 foot elsewhere in Benton County.

Chapter 83
Floodplain Management Overlay (/FP)

83.005 Purpose. The Floodplain Management Overlay Zone shall implement the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as well as the Benton County Comprehensive Plan.

Commented [LTA1]: Revised Code section 83.005

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

(1) Protect human life, health, and property;

(2) Minimize expenditure of public money and costly flood control projects;

(3) Minimize the need for rescue, emergency services, and relief associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions and unnecessary disruption of commerce, access and public service during times of flood;

(5) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants; water and gas mains; electric, telephone, and sewer lines; streets; and bridges located in special flood hazard areas;

(6) Decrease the cost of flood insurance;

(7) Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas;

(8) Ensure that potential buyers are notified that property is in an area of special flood hazard;

(9) Ensure that those who occupy the special flood hazard areas assume responsibility for their actions;

(10) Recognize and preserve the natural flood mitigation functions of floodplains; and

(11) Preserve the ecosystem functions of floodplains. [Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.010 Application.

Commented [LTA2]: Revised Code section 83.100 & Revised Code section 83.110

(1) The Floodplain Management Overlay Zone shall apply to all areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Benton County, Oregon and Incorporated Areas," dated June 2, 2011 and revised December 8, 2016, with accompanying Flood Insurance Rate Maps (FIRM) and Digital Flood Insurance Rate Maps (DFIRM), except as otherwise provided by this code, adopted effective June 2, 2011 and as revised by:

   (a) Letter of Map Revision (LOMR) Case No. 13-10-0260P, effective November 29, 2013;

   (b) Letter of Map Revision (LOMR) Case No. 14-10-0472P, effective July 14, 2014; and

   (c) Physical Map Revision (PMR), effective December 8, 2016.

   The Flood Insurance Study and accompanying maps are hereby incorporated by reference into the Development Code and are on file at the Benton County Community Development Department, 360 SW Avery Avenue, Corvallis, Oregon.

(2) The Floodplain Management Overlay Zone is divided into two subzones: the floodway and the floodway fringe. The boundaries of the floodway and the floodway fringe shall be those delineated on the Flood Insurance Rate Maps.

(3) **Corvallis Urban Fringe.** Floodplain and floodway boundaries within the Corvallis Urban Fringe

(the unincorporated portion of the Corvallis Urban Growth Boundary) shall be determined pursuant to the following subsections. Furthermore, within the Corvallis Urban Fringe, restrictions and use limitations in addition to those outlined in BCC 83.015 through 83.300 and BCC 83.405 are outlined in the provisions of BCC 83.310 and 83.505 below. In the case of any conflicts between the additional provisions in BCC 83.310 and 83.505 and the standard provisions of BCC 83.015 through 83.300 and BCC 83.405, the more restrictive shall apply.

(a) **Floodway.**

(A) **General Determination.** The floodway within the unincorporated portion of the Corvallis Urban Fringe shall be based upon a 0.2-foot rise standard for an increase in the base flood elevation as shown on the Flood Insurance Rate Maps identified in BCC 83.010(1) rather than a one foot rise standard.

(B) **Map Refinements.** For precise determinations when development activities are proposed near a mapped floodway, the applicant shall submit information prepared by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer, demonstrating the area that must be kept free from encroachments in order to discharge the base flood (100-year flood) without cumulatively increasing the water surface elevation more than 0.2 feet and demonstrating that the proposed activities will not impact the floodway.

(b) **Floodplain (Floodway Fringe).**

(A) **General Determination.** The floodplain boundaries shall be determined pursuant to BCC 83.010(1).

(B) **Map Refinement.** For the purposes of BCC 83.505(1) and 83.605, floodplain location and extent may be determined using FEMA-provided base flood elevation data combined with topographic mapping (2-foot or less contour interval) produced from a survey by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer. Alternatively, the official topographic mapping maintained by the City of Corvallis or Benton County and prepared at a 2-foot (or less) contour interval may be used. However, for purposes of siting structures, floodplain location shall be determined through an elevation survey performed by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer.

(C) **Map Correction.** Map corrections to the floodplain location shall be approved by the Planning Official to reflect a Letter of Map Revision (LOMR) approved by the Federal Emergency Management Agency (FEMA).

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255, Ord 2016-0276]

83.015 Definitions. For the purposes of this chapter, the following definitions apply:

Commented [LTA3]: Revised Code section 83.020

(1) "1% Chance Floodplain" has the same meaning as "Special Flood Hazard Area." It means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The 1% Chance Floodplain is also referred to as the "100-Year Floodplain."

(2) "100-Year Floodplain" has the same meaning as "Special Flood Hazard Area". Note: Because the term "100-year floodplain" implies that a flood occurs only once every one hundred years, rather than the true meaning of the term. The Federal Emergency Management Agency (FEMA) discourages the use of this term.

(3) "Agricultural Structure" means a nonresidential structure customarily provided in conjunction with farm use for which, except for the fact that the structure is located within the Special Flood Hazard Area (SFHA), would be exempt from building code requirements pursuant to ORS 455.315.

(4) "Base Flood" – see definition listed in BCC 51.020.

(5) "Base Flood Elevation (BFE)" – see definition listed in BCC 51.020.

(6) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

(7) "Below-Grade Crawlspace" means an enclosed area below the base flood elevation and with an interior grade below the lowest adjacent exterior grade of the structure in which:

(a) The interior grade is not more than two feet below the lowest adjacent exterior grade; and

(b) The height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four (4) feet at any point.

(8) "Critical Facility" means a facility which, if impacted by flooding, could have significant negative impact on the greater community. Consequently, even a slight chance of such a facility flooding carries a high risk to the community. Critical facilities include, but are not limited to schools; nursing homes; hospitals; police, fire, and emergency response installations; and installations which produce, use, or store hazardous substance as defined in ORS 453.005 or hazardous waste as defined by the Oregon Department of Environmental Quality.

(9) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, fences, or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations; or storage of equipment or materials located within the special flood hazard area.

(10) "Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

(11) "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland water; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(12) "Flood Hazard" see definition listed in BCC 51.020.

(13) "Flood Insurance Rate Map (FIRM)" means the official map, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or the risk premium zones applicable to the community.

(14) "Flood Insurance Study" means the official report provided by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, regulatory Floodway boundaries, and water surface elevations of the base flood.

(15) "Flood Proofing" see definition listed in BCC 51.020.

(16) "Floodplain" see definition listed in BCC 51.020.

(17) "Flood-specific Venting" means two or more openings in the walls of an enclosed space below an elevated structure or the walls of a non-elevated structure. Such openings shall qualify as flood specific venting if they meet one of the following standards:

(a) Prescriptive flood venting requirements:

(A) A minimum of two flood-specific 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. Only the portion of an opening that is below the base flood elevation shall be included in the calculation;

(B) Underfloor vents as required to satisfy ventilation of crawlspace areas per applicable building code do not satisfy the standards for flood-specific venting;

(C) The bottom of all openings shall be no higher than one (1) foot above grade; and

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

(b) Pre-fabricated flood vents certified by the Federal Emergency Management Agency (FEMA):

(A) A minimum of two flood-specific openings having a total net area certified by FEMA as sufficient for the enclosed area subject to flooding shall be provided. Only the portion of an opening that is below the base flood elevation shall be included in the calculation; and

(B) The bottom of all openings shall be no higher than one (1) foot above grade.

(18) "Floodway" see definition listed in BCC 51.020.

(19) "Floodway Fringe" see definition listed in BCC 51.020.

(20) "Flow-Through Construction" means a structure that does not hinder or obstruct the movement of or displace surface floodwater. An example of "flow-through construction" would be elevation of a structure on posts, piers, or piles. Neither flood-specific venting nor underfloor vents required to satisfy air ventilation requirements constitute "flow-through construction".

(21) "Lowest Regulatory Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a structure's lowest floor, provided that the enclosed area is built and maintained in accordance with the applicable design requirements of this chapter, as specified in BCC 83.220.

(22) "New Construction" means structures for which the "start of construction" commenced on or after July 31, 1987 (the effective date of this chapter).

(23) "Nonresidential structure" means any structure other than:

(a) A dwelling; or

(b) A structure accessory to a dwelling.

(24) "Recreational Vehicle" means a vehicle which is:

(a) Built on a single chassis;

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

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

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

(25) "Shallow Flooding Area" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(26) "Special Flood Hazard Area (SFHA)" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. This area includes both the floodway fringe and the floodway and is commonly referred to as the "100-year floodplain". Designation of this area on Flood Insurance Rate Maps always includes the letter A.

(27) "Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include

land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement

(28) , footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(29) "Structure" means a building with a roof and two (2) or more rigid exterior walls, manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

(30) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(31) "Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvements of a structure, the cost of which equals or exceeds fifty percent (50%) of its current market value either:

(a) Before the improvement or repair is started; or

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

In determining "substantial improvement," the Planning Official may refer to the most recent version of the FEMA Desk Reference for Local Officials (FEMA-480).

"Substantial improvement" does not, however, include either:

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

(b) Any alteration of a structure listed on the National Register of Historic Places or the County Register of Historic Resources, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

(32) "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

[Ord 26, Ord 90-0069, Ord 2000-0157, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.100 Information to be Obtained and Maintained. The Planning Official shall perform the following duties relating to obtaining and maintaining flood-related information:

Commented [LTA4]: Revised Code section 83.210
Revised Code section 83.260

(1) **Elevated Structures.** Where base flood elevation data are provided through the Flood Insurance Study, Flood Insurance Rate Maps, or required as in BCC 83.300(2), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) **Floodproofed Structures.** For all new or substantially improved floodproofed structures where base flood elevation data are provided through the Flood Insurance Study, Flood Insurance Rate Maps, or as required in BCC 83.300(2):

(a) Verify and record the actual elevation (in relation to mean sea level), and

(b) Maintain the floodproofing certifications required in BCC 83.405.

(3) Maintain for public inspection all records pertaining to the provisions of this chapter. [Ord 2009-0233 eff. 6/2/2011]

83.105 Interpretation of Floodplain Boundaries; Use of Other Data.

(1) If it is uncertain whether any proposed development described in BCC 83.110(1) is located in the floodplain (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), it shall be clearly demonstrated to the satisfaction of the County Engineer that the site in question is not subject to flood hazard.

(2) Where base flood elevation data have not been provided by FEMA, the applicant shall be responsible for providing to the County Engineer sufficient information either to determine the base flood elevation and floodway, if applicable, or to demonstrate the elevation of the development site will render it above the floodplain through comparison with nearby locations mapped as outside the floodplain.

(3) Any person contesting the location of the floodplain boundary shall be given a reasonable opportunity to appeal the interpretation by submission of a Letter of Map Amendment for the site in question approved by the Federal Emergency Management Agency.

[Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.110 Floodplain Development Permit Required.

(1) A floodplain development permit shall be obtained prior to construction of a new structure, substantial improvement to any structure, the placement of a manufactured dwelling, or the initiation of other land development activities including, but not limited to, fencing, mining, dredging, filling, grading, paving, excavation or drilling operations within the Special Flood Hazard Area established in BCC 83.010. Outside of the Corvallis Urban Growth Boundary, standard agricultural practices of a recurring character are exempt from the provisions of this chapter.

(2) An application for a permit shall be submitted on a form provided by the Planning Official with plans, engineering calculations, and other information determined to be necessary for the review of the application by the Planning Official and County Engineer.

(3) An application shall be reviewed by the Planning Official and County Engineer to determine:

(a) The applicability of provisions of this chapter.

(b) Compliance with provisions of this chapter.

(c) That the proposed development will not cause a significant negative effect on surrounding properties by changing the flow of flood waters or increasing flood elevations in the immediate vicinity.

(4) The County Engineer may require the design and installation of mitigative measures necessary to comply with BCC 83.110(3)(c).

(5) A permit shall not be issued until all necessary permits required by Federal or State law or County Ordinance have been secured. Alternatively, a permit may be issued with the condition that all necessary permits required by Federal or State law or County Ordinance will be secured prior to initiation of development activities approved by the permit.

(6) Issuance or denial of a floodplain development permit that requires the exercise of discretion shall include notification of the decision pursuant to BCC 51.625.

(7) The following development activities require application for a floodplain development permit, but may be deemed exempt from floodplain development regulations upon submission of the application form and appropriate supporting documentation:

(a) Placement of fill within the floodway fringe, provided all of the following are met:

(A) The fill is used solely for the purpose of constructing a sandbox, raised gardening bed, or similar landscaping feature;

(B) The fill does not occupy an area that is greater than 500 square feet or 10 percent of the

Commented [LTA5]: Revised Code section 83.300

Commented [LTA6]: Revised Code section 83.310(1)(c)

Commented [LTA7]: Revised Code section 83.270(1)(a)

Commented [LTA8]: Revised Code sections 83.250

Commented [LTA9]: Revised Code section 83.220

area of the subject parcel that is within the floodway fringe, whichever is less; and

(C) The average depth of the fill does not exceed six inches over the area described in subsection (B) above.

(b) Maintenance, repair, and/or replacement of existing electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities provided the facilities:

(A) Are in-kind maintenance, repair, and/or replacement; and

(B) Will not result in an increase in Base Flood Elevation.

(c) Maintenance, minor repair, and/or improvement of existing structures, provided these activities do not:

(A) Result in an increase in size or intensity of use;

(B) Constitute repair of substantial damage, as defined in BCC 83.015; or

(C) Constitute a substantial improvement, as defined in BCC 83.015.

(d) Public agency placement of signs, markers, aids, etc.; and

(e) Customary dredging associated with routine ditch maintenance to maintain existing ditch capacity, provided it is consistent with State and Federal laws and permits.

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.205 Floodway Determination; Restrictions.

(1) Except as provided for in subsection (4) of this section, the County Engineer shall determine whether any proposed development described in BCC 83.110(1) is located in a designated floodway as provided by BCC 83.010.

(a) If the proposed development is located in a designated floodway, the applicant shall clearly demonstrate that all encroachments, including fill, new construction, substantial improvements, and other development within the floodway would not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If the proposed development is located in a Special Flood Hazard Area where a floodway has not been designated as shown on the Flood Insurance Rate Maps, the applicant shall clearly demonstrate that the cumulative effect of the proposed development shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

(2) The applicant shall derive base flood elevation data using the same or similar engineering methods used for "The Flood Insurance Study of Unincorporated Areas of Benton County, Oregon". The County Engineer and the Federal Emergency Management Agency may provide technical assistance. The applicant shall provide for certification by a licensed professional engineer or architect that the proposed development complies with provisions of this section.

(3) Within a floodway in the Corvallis Urban Growth Boundary as described in BCC 83.010(3), structural improvements and the placement of fill, other than in a public benefit such as a public improvement project, shall not be permitted. For the purposes of this section, public improvement projects include, but are not limited to, the construction of bridges, roads, storm water detention facilities, and water dependent uses. Public improvement projects are allowed if the applicant demonstrates, through hydrologic and hydraulic analyses prepared by a registered professional engineer, that the permitted development will not result in any increase in flood levels during the occurrence of the base flood discharge.

(4) Projects for stream habitat restoration may be permitted in the floodway provided:

(a) The project qualifies for a Department of the Army, Portland District *Regional General Permit, for Stream Habitat Restoration* (NWP-2007-1023); and

Commented [LTA10]: Removed per recommendation from the state because the type of work identified in subsection (b) could be occurring in either a flood fringe area (that allows up to a 1-foot Base Flood Elevation increase) or a floodway (that allows no Base Flood Elevation increase).

Commented [LTA11]: Revised Code section 83.270

Commented [LTA12]: Revised Code section 83.220(1)(d)

Commented [LTA13]: Revised Code section 83.810(1)

Commented [LTA14]: Revised Code section 83.800

Commented [LTA15]: Revised Code section 83.310(1)(f)

Commented [LTA16]: Revised Code section 83.810(3)

(b) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,

(c) No structures would be impacted by a potential rise in flood elevation; and,

(d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2016-0276]

83.210 General Development Standards. Where allowed, all development in the Floodplain Management Overlay Zone shall comply with the following standards:

(1) A Pre-Construction Elevation Certificate shall be required for all new construction, substantial improvements, and non-substantial improvements prior to issuance of a building permit within the Special Flood Hazard Area (SFHA) or within 50 feet of the SFHA. A Post-Construction Elevation Certificate shall be required prior to final inspection approval for all building permits where the Pre-Construction Elevation Certificate shows the building site to be (a) within the SFHA, regardless of the lowest adjacent grade (LAG) shown on the Pre-Construction Elevation Certificate or (b) at or below the Base Flood Elevation if the site is within 50 feet of the SFHA.

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

(3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. Methods and practices that minimize flood damage shall be used.

(4) Except as in subsection (a) below, electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated a minimum of one (1) foot above the base flood elevation, or shall be designed to prevent water from entering or accumulating within the components during conditions of flooding.

(a) Facilities serving a structure constructed prior to August 5, 1986, and not substantially improved since that date, may be installed at the same elevation as the top of the first habitable floor, or shall be designed to prevent water from entering or accumulating within the components during conditions of flooding. A basement shall not be considered a habitable floor.

Note: It is still strongly recommended that all electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities be elevated a minimum of one (1) foot above the base flood elevation whenever possible.

(5) All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters and discharge into floodwaters.

(6) On-site wastewater treatment systems shall be located outside of floodplain on properties where land outside the floodplain is comparable to or better than land located within the floodplain with regard to soil conditions, topography, and unencumbered area in accordance with the Oregon Department of Environmental Quality rules.

(7) Storage or processing of materials in a manner that would be hazardous in a flood shall be prohibited.

(8) Fences and Walls. New and replacement fencing shall be designed to automatically collapse under conditions of the base flood or to automatically allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass through freely.

Commented [LTA17]: Required to be removed.

Revised Code sections 83.800 &
Revised Code sections 83.800

Per instruction from the state, this language was replaced with language from 44 CFR 60.3(d)(4) to allow a rise if a CLOMR is approved.

Commented [LTA18]: Revised Code section 83.260(1)

Commented [LTA19]: Revised Code section 83.500(4)

Commented [LTA20]: Revised Code section 83.500(5)

Commented [LTA21]: Revised Code section 83.500(6)

Commented [LTA22]: Revised Code section 83.500(7)

Commented [LTA23]: Removed per instruction from the state.

Fences within the floodplain are encouraged to be wire-strand construction rather than woven-wire, welded-wire, or solid construction. Wire-strand construction reduces the potential for the fence to collect debris during a flood, redirect floodwaters, and/or be washed downstream.

(9) AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(10) Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*, or successor document. (For more detailed information refer to FEMA Technical Bulletin 11-01.):

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

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, shall have openings compliant with BCC 83.220 that equalize hydrostatic pressures by allowing the automatic, unrestricted entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

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

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

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

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

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

(h) If the velocity of floodwaters at the site will exceed five (5) feet per second, other foundation types shall be used.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255, Ord 2016-0276]

83.215 Special Siting Standards for Dwellings, Manufactured Dwellings, and Recreational Vehicles. Where allowed, new and substantially improved dwellings and recreational vehicles in the Floodplain Management Overlay Zone shall comply with the general development standards set forth in subsections

Commented [LTA24]: Revised Code section 83.800(6) Relocated fence and wall standards to the floodway section per recommendation from the state.

Commented [LTA25]: Revised Code section 83.680

Commented [LTA26]: Revised Code section 83.670

(1) through (4) below.

(1) New dwellings, expansion of existing dwellings, and placement of manufactured dwellings are prohibited within the floodplain, with the following exceptions:

(a) New dwellings on vacant land may be allowed if, through an Administrative Review the Planning Official determines that there is insufficient buildable land outside the floodplain to allow reasonable development of the property. The Planning Official may then allow a building site located partially or fully within the floodplain.

(A) In approving such a site, preference shall be given to sites that:

(i) Result in less fill and development within the floodplain;

(ii) Are of higher elevation;

(iii) Are farther from the top of bank of the adjacent water course

(iv) Minimize the risk of structural damage from flooding; and

(v) Preserve natural floodplain functions.

(B) In addition to the construction standards of this chapter, further conditions may be applied as deemed necessary by the Planning Official to minimize potential risks to the structure and potential impacts to other properties and the functioning of the floodplain.

(b) Additions to existing structures may be allowed if the addition either:

(A) Falls below the threshold of "substantial improvement"; or

(B) Will not result in the filling of additional floodway fringe area (such as a second story addition or flow-through construction).

(c) Replacement of an existing structure may be allowed, either:

(A) Within the building footprint of the structure being replaced;

(B) With a maximum 10% expansion or shift of the building footprint of the structure being replaced;

(C) With a maximum 10% expansion located elsewhere on the site, if through an Administrative Review the Planning Official determines that the relocation of the structure enhances stormwater and floodplain functions. The relocation shall be considered to enhance stormwater and floodplain functions if it furthers any of the following goals without worsening any other goal:

(i) Replaces standard construction with flow-through construction as defined in BCC 83.015;

(ii) Moves the structure to a higher ground elevation;

(iii) Moves the structure further from the top of bank of the adjacent water course;

(iv) Reduces the amount of impervious surface area in the floodway fringe;

(v) Does not negatively impact non-noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T" ; or

(D) With a greater than 10% expansion or shift of the building footprint of the structure being replaced if:

(i) The structure will be constructed with flow-through construction as defined in BCC 83.015;

Commented [LTA27]: Revised Code section 83.020 Definition added to clarify meaning of this term.

(ii) The structure will be no closer to the top of bank of the adjacent water course than the existing structure; and

(iii) The expansion or shift of the building footprint does not negatively impact non-noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T".

(2) The lowest regulatory floor, including basement, of any new dwelling, or substantial improvement of a dwelling, or placement of a manufactured dwelling shall be elevated a minimum of 18 inches above the base flood elevation. In areas where a base flood elevation has not been established, applications for building permits shall be reviewed by the County Engineer to assure that proposed construction will be reasonably safe from flooding when considering historical data, high water marks, photographs of past flooding, etc., where available.

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

(4) A recreational vehicle placed within the A, A1-30, AH, and AE Flood Zones shall either:

(a) Be on the site for fewer than 180 consecutive days; or

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

(c) Meet the requirements for manufactured dwellings under subsections (1) through (3) of this section.

[Ord 26, Ord 90-0069, Ord 2000-0157, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.220 Enclosed Areas Below Dwellings and Manufactured Dwellings. Fully enclosed areas below the lowest floor of a dwelling or a manufactured dwelling in the Floodplain Management Overlay Zone are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be:

(1) Flood-specific venting, as defined in BCC 83.015; or

(2) Certified by an Oregon-registered professional engineer or architect. [Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.225 Special Siting Standards for Structures Accessory to a Dwelling, and Agricultural, Commercial, Industrial, and other Nonresidential Structures.

(1) New or expanded commercial, industrial, and other nonresidential structures other than agricultural structures, are prohibited within the floodplain. If there is insufficient buildable land outside the floodplain to allow reasonable development of the property, a new or expanded primary structure may be authorized through the procedure specified in BCC 83.215(1)(a) through (c).

(2) Agricultural structures and structures accessory to a dwelling shall be:

(a) Prohibited within the floodway; and

(b) Allowed within the floodway fringe provided they comply with subsection (3).

(3) Where allowed, new construction and substantial improvement of structures accessory to a dwelling and agricultural, commercial, industrial, and other nonresidential structures shall comply with BCC 83.210 and one of the following sets of standards, as applicable:

Commented [LTA28]: Revised Code section 83.620(3)

Commented [LTA29]: Revised Code section 83.620(1)

Commented [LTA30]: Removed this sentence (1) based on state's recommendation due to concerns for clear and objective standards and (2) because the requirement (meant to give flexibility for Zone A areas) is outdated due to improvements in technology that allow for determination of base flood elevations in these areas.

Similar wording is required to be included as part of Revised Code section 83.310(1)(b).

Commented [LTA31]: Revised Code section 83.620(4)(b)

Commented [LTA32]: Revised Code section 83.630

Commented [LTA33]: Revised Code section 83.660

Commented [LTA34]: Revised Code section 83.610 (Non-Residential Construction for commercial, industrial, and other non-residential structures).
Revised Code section 83.650 (Accessory Structures).
Revised Code section 83.810 (Mapped Regulatory Floodway)

Commented [LTA35]: Revised Code section 83.610(1)

Commented [LTA36]: Revised Code section 83.810(2)

(a) For any such structure:

(A) The lowest floor, including basement, shall be elevated a minimum of 18 inches above the base flood elevation. In areas where a base flood elevation has not been established, applications for building permits shall be reviewed by the County Engineer to assure that proposed construction will be reasonably safe from flooding when considering historical data, high water marks, photographs of past flooding, etc., where available.

(B) Enclosed areas below such structures that are elevated shall comply with the requirements described in BCC 83.220.

(b) For any such structure, the structure:

(A) Complies with BCC 83.210;

(B) Is floodproofed so that the portion of the structure below the base flood elevation is watertight with walls substantially impermeable to the passage of water;

(C) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(D) Is certified by an Oregon 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.

(c) For any structure exempt from building permit requirements, the structure:

(A) Shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;

(B) Shall not contain toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality stored below BFE, unless confined in a tank installed in compliance with this ordinance;

(C) Complies with BCC 83.210;

(D) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as certified by an Oregon registered professional engineer;

(E) Is designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters as provided by BCC 83.220; and

(F) As a condition of approval, the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. The construction of the_____[garage or other residential accessory structure] to be used only for

_____[parking, access, limited storage, and/or housing of animals] has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.225(3)(c)(B), at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose

Commented [LTA37]: Removed this sentence (1) based on state's recommendation due to concerns for clear and objective standards and (2) because the requirement (meant to give flexibility for Zone A areas) is outdated due to improvements in technology that allow for determination of base flood elevations in these areas.
Similar wording is required to be included as part of Revised Code section 83.310(1)(b).

Commented [LTA38]: Revised Code section 83.610 (Non-Residential Construction for commercial, industrial, and other non-residential structures),
Revised Code section 83.650 (Accessory Structures),
Revised Code section 410 (Agricultural Structures)

Commented [LTA39]: Revised Code section 83.650(4)

declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy. This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.240 Notice of Floodproofing Implications. An applicant choosing to floodproof a nonresidential building pursuant to BCC 83.225(3)(b) shall be notified in writing that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below that level). [Ord 26, Ord 90-0069]

83.300 Major Development Proposals.

(1) Where the primary zone permits a subdivision, mobile home or manufactured dwelling park, or mobile home or manufactured dwelling subdivision, such use may be allowed in the Floodplain Management Overlay Zone if:

(a) Such use is consistent with the need to minimize flood damage;

(b) The applicant demonstrates that public utilities and facilities such as water supply, sewage disposal, natural gas and electrical systems are located and constructed to minimize flood damage; and

(c) The applicant demonstrates that adequate drainage has been provided to reduce exposure to flood damage.

(2) Where base flood elevation data have not been provided by FEMA or are not available from another authoritative source, the applicant shall provide such data if the proposed subdivision or park equals or exceeds fifty (50) lots or parcels, or five (5) acres. Such data shall be derived using the same or similar engineering methods used in "The Flood Insurance Study for Benton County, Oregon and Incorporated Areas".

(3) Subdivisions shall also be subject to the provisions of BCC 83.605. [Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.310 Alteration or Relocation of a Watercourse.

(1) The Planning Official shall notify adjacent communities and the Department of Land Conservation and Development of permit applications for alteration or relocation of a watercourse. The Planning Official shall submit evidence of such notification to FEMA. The County shall stipulate maintenance requirements for the altered or relocated portion of any watercourse so that flood carrying capacity is not diminished as a condition of permit approval pursuant to BCC 83.110.

(2) Within the Corvallis Urban Fringe, the following shall also apply. Water course alteration by artificial means is prohibited, with exceptions only for: emergency management purposes, or as mandated by State or Federal actions that supersede local authority, or to restore to its natural channel a stream whose course has been altered through human action. Prior to the alteration or relocation of a watercourse, the applicant for such authorization must notify the Oregon Department of State Lands (DSL) and submit copies of such notification to the Planning Official. The applicant shall submit certification provided by an Oregon-registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

[Ord 26, Ord 90-0069, Ord 2000-0157, Ord 2005-0209]

Commented [LTA40]: Revised Code section 83.650(5)

Commented [LTA41]: Revised Code section 83.610(2)(d)

Commented [LTA42]: Revised Code section 83.520(1)

Commented [LTA43]: Revised Code section 83.230(2) Revised Code section 83.500(1)

Commented [LTA44]: Revised Code section 83.230(2)(d) Revised Code section 83.700(1)

83.405 Records of Compliance. The County Building Official shall certify compliance with the provisions of this chapter.

(1) The County Building Official shall obtain and record the actual elevation of the lowest habitable floor (including basement) of all new and substantially improved structures subject to this section and indicate whether the building contains a basement.

(2) The County Building Official shall verify and record the actual elevation of all new and substantially improved floodproofed structures and obtain and maintain certifications required by BCC 83.220 and BCC 83.235(1).

(3) The County Building Official shall maintain for public inspection all records pertaining to compliance with the provisions of this chapter.

[Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.505 Additional Standards in Corvallis Urban Fringe. In the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the following standards shall apply in addition to other applicable provisions of this chapter. In the case of conflict, the more restrictive standard shall apply. Developers of floodplain property are strongly encouraged to schedule a pre-application conference with the Community Development Department to review floodplain considerations.

(1) In areas identified on the Benton County Zoning Map as Partial-Protection Floodplain, the following shall apply:

(a) Fill or construction in the floodplain shall be compensated for by removal of an equal amount of material from the floodplain on the same property. The purpose is to ensure that the available flood volume of the Special Flood Hazard Area (100-year floodplain) is not reduced. Volumetric exchange will not be required of buildings constructed with flow-through design. Areas of fill and excavation shall be designed to accommodate floodwater flows and shall not create barriers to the flow of floodwater. Proposals to alter topography in the floodplain must demonstrate that they will not result in alteration of hydrology or flow regimes that would cause erosion, unwanted ponding, or other problems.

(2) In areas identified on the Benton County Zoning Map as High-Protection Floodplain, the following shall apply:

(a) Removal of vegetation from the floodplain is prohibited, except for the following purposes:

(A) Removal of a hazard tree which poses an immediate threat to life or property. Tree removal shall comply with the following standards:

(i) The stump and root wad of any altered tree shall remain undisturbed in place;

(ii) Any tree removed is required to be replaced by like native species or alternate approved native species.

(B) Maintenance of lawns, planted vegetation, and landscaping, to the extent existing on October 6, 2005.

(C) Stream restoration and enhancement programs approved by the Oregon Department of Fish and Wildlife as improving riparian function, and wetland restoration and enhancement programs approved by Oregon Department of State Lands or the Oregon Department of Fish and Wildlife.

(D) Removal of non-native, invasive, and/or noxious vegetation, as identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A", "B", and/or

Commented [LTA45]: Revised Code section 83.210 Revised Code section 83.260

Commented [LTA46]: Revised Code section 83.700

"T". As necessary to control erosion, areas of vegetation removal shall be re-vegetated with native species. If necessary to prevent erosion prior to new vegetation becoming established, short-term, non-structural erosion control measures shall be employed;

(E) Substitution of native plant species for non-native plants. Additionally, native plants may be planted without accompanying removal of non-native plants. All new plantings shall be species listed on the City of Corvallis Native Plant List as appropriate for the proposed location. Plantings being substituted for non-native plants shall be species identified on the Corvallis Native Plant List as being in the same ecological-function category as the replaced plants. Plantings shall be maintained to ensure they become established.

(F) For the development of water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the floodplain;

(G) Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage;

(H) The minimum vegetation removal necessary to establish and maintain a fire fuel-break safety zone, as defined in BCC 88.010(2), surrounding a structure. Benton County encourages property owners to consult with the Oregon Department of Fish and Wildlife on ways to minimize the impact of this vegetation removal and to mitigate the impacts that do occur.

(I) Continuation of agricultural activities, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(J) The minimum vegetation removal necessary to establish a pedestrian trail located at least 10 feet inland from the top of bank.

(K) Vegetation removal in conjunction with a development activity allowed under BCC 83.505(2)(b).

(L) Commercial forestry operations authorized by the Oregon Department of Forestry.

(M) Vegetation removal within the area authorized under the provisions for a Modification to Natural Features Standards (BCC 88.800).

(b) Building, Paving, and Grading Activities:

(A) In the 0.2-ft. Floodway portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, no encroachments, including fill, new construction, substantial improvements, and other development are allowed, with the exception of bridges, infrastructure, utilities, or water dependent uses for which it may be demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. Such exceptions shall also be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with the mandatory construction standards in BCC 83.210. Development within the 0.2-ft. Floodway shall comply with all applicable State and Federal requirements.

(B) In the Floodway Fringe portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited except as provided below.

Such exceptions shall be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with the mandatory construction standards in BCC 83.210.

(i) Replacement of an existing structure may be allowed pursuant to BCC 83.215(1).

(ii) Additions to an existing structure may be allowed pursuant to BCC 83.215(1).

(iii) Accessory structures and agricultural structures, provided they are of flow-through design and construction.

(iv) Grading and excavation that are standard agricultural practices of a reoccurring character, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(v) The following types of infrastructure, provided they are designed to minimize impacts to floodplain hydrologic and ecologic function:

  (a) Construction of streets, roads, public utilities, bridges, and bicycle and pedestrian ways that are included in the City of Corvallis Transportation Plan, or in other adopted City infrastructure/utility plans.

  (b) Construction of streets, roads, bridges and bicycle and pedestrian ways necessary in order to maintain an acceptable functional classification of roadways adjacent to the property.

  (c) Driveways necessary to provide access to an approved building site, provided the minimum floodplain area is disturbed.

(vi) Development of water-related and water-dependent uses;

(vii) Erosion control or flood control measures that have been approved by the Oregon Department of State Lands (DSL) and/or the U.S. Army Corps of Engineers, and that utilize bio-engineering methods. Streambank hardening (installation of hard-surfaced erosion- or flood-protection structures such as rip-rap) is prohibited except where necessary to address an imminent hazard to a structure built prior to October 6, 2005. Where allowed, hard-surface measures shall be designed by a Professional Engineer licensed by the State of Oregon and shall be approved by the Oregon Department of State Lands or U.S. Army Corps of Engineers, and shall at a minimum, require backfilling with soil and planting with native vegetation;

(viii) Development authorized under the provisions for Modification to Natural Features Standards (BCC 88.800).

[Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.605 Parcels and Lots. Parcels or lots resulting from subdivisions, partitions and property line adjustments of land in the Floodplain Management Overlay Zone shall comply with the requirements of this section.

Commented [LTA47]: Revised Code section 83.520(2)

(1) Parcels and lots shall be designed such that existing and future uses and development activities allowed by the underlying zone can be carried out in conformance with the regulations contained in this chapter. Creation of lots or parcels that do not meet this requirement is prohibited, with the exception of lots or parcels created for public park or open space purposes.

(2) For each lot or parcel, other than those designated for non-residential use (such as a parcel in a resource zone and containing no dwellings), open space use or designated as otherwise unbuildable,

the applicant shall demonstrate that:

(a) Suitable and adequate land exists outside the floodplain for siting of the primary structure; and

(b) Access by standard emergency vehicles such as fire apparatus and ambulance from the public road to the building site will not be prevented by flood waters during the base flood. This determination shall be based upon input from the fire protection district serving the site.

(A) For parcels/lots identified as non-residential, open space or designated as otherwise unbuildable, the applicant shall either:

(i) Comply with the standards identified in subsections (B) below; or

(ii) Shall sign and record a covenant agreeing to comply with the below provisions prior to establishment of a primary structure on the parcel/lot.

(B) For all other parcels/lots:

(i) The applicant shall submit a profile identifying grade and Base Flood Elevations (BFE) along the entire length of the proposed access route(s). The profile shall be prepared by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer and submitted with the application for land division;

(ii) Benton County Staff will provide a copy of the profile information to the applicable fire district for review; and

(iii) If the fire district determines that access by standard emergency vehicles such as fire apparatus and ambulance from the public road to the proposed building site would be:

(1) Available during the base flood, the land division may proceed as proposed.

(2) Prevented by flood waters during the base flood, the applicant shall obtain approval for a Conditional Letter of Map Revision-Based on Fill (CLOMR-F) and a Letter of Map Revision-Based on Fill (LOMR-F) to construct an elevated driveway to serve the proposed building site. The CLOMR-F approval shall be required as a condition of land division approval and must document not more than a 1-foot rise in BFE within a floodway fringe or no rise if within a floodway. The LOMR-F approval shall be required to be completed prior to building permit approval for a primary structure on the property.

(C) Confirmation of compliance with the above siting and emergency access criteria will be verified by the floodplain manager once all of the applicable documentation, reviews, and permit approvals have been completed.

(3) Site feasibility approval areas for on-site wastewater treatment systems shall be located outside of the floodplain if land outside the floodplain on the proposed lot or parcel is comparable to or better than land located within the floodplain with regard to soil conditions, topography, and unencumbered area in accordance with the Oregon Department of Environmental Quality rules.

[Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2016-0276]

83.700 Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be

Commented [LTA48]: Revised Code section 83.500(3)

protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

[Ord 2009-0233 eff. 6/2/2011]

83.800 Variance Procedure.

Commented [LTA49]: Revised Code section 83.400

A variance to the requirements of this chapter may be granted pursuant to either subsection (1) or (2) of this section.

(1) A minor variance may be granted in limited circumstances pursuant to the following:

(a) To qualify, the proposed construction must meet the following standards:

(A) The structure will be used for only parking, storage, building access, and/or housing of farm animals;

Commented [LTA50]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals.

(B) The structure must be a structure that requires a building permit;

(C) The structure will be detached and will be either an accessory structure or an agricultural structure; and

Commented [LTA51]: Revised Code section 83.410 (Minor Variance for Agricultural Structures) Revised Code section 83.650 (Accessory Structures)

(D) If the structure will be for housing of farm animals, an area of land equal to the square footage of the animal housing portion of the structure will be designated or constructed as a refuge for the farm animals during flood events. The refuge area shall meet the following criteria:

Commented [LTA52]: Revised Code section 83.410

(i) The entire elevation of the land shall be equal to, or higher than, the base flood elevation or shall be located entirely outside of the special flood hazard area;

(ii) The refuge area can be located on the same property as the structure or, upon documentation of an easement, on an adjacent property;

(iii) Reasonable access to the refuge area will be identified or constructed; and

(iv) If a refuge area or access to the area will be constructed, such construction shall not occur within a floodway or wetland, and the applicant shall demonstrate that any fish displaced by a flood event will not be trapped by the refuge area or access when the flood recedes.

Commented [LTA53]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals or designate a refuge area.

(b) The applicant shall submit the following items along with an application form and fee:

(A) Although Benton County cannot require flood insurance, the applicant shall submit a signature from a licensed insurance professional verifying the applicant has discussed flood insurance options and potential requirements for the proposed accessory structure if a flood insurance policy were to be purchased for the structure;

(B) Acknowledgement by the property owner that structure will be built with the lowest floor below the Base Flood Elevation, the structure will be wet flood-proofed, and that the contents of the structure might not be insurable against flood loss;

(C) Building plans showing:

(i) Flood-specific venting as required by BCC 83.220;

(ii) Flood damage-resistant construction materials for all portions of the structure that are below the Base Flood Elevation. Standards for flood damage-resistant construction materials are found in FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements for Buildings Located in Special Flood Hazard

Areas in accordance with the National Flood Insurance Program (or successor document); and

(iii) All electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated in accordance with BCC 83.210;

(D) A pre-construction elevation certificate specific to proposed building site;

(E) A site plan of the property clearly identifying the proposed building location; and

(F) If the structure will be for housing of farm animals:

(i) The site plan shall clearly identify the location and dimensions of the refuge area required by BCC 83.800(1)(a)(D) and the access to the refuge area; and

(ii) Documentation of the grade elevation and the base flood elevation for the refuge area shall be provided by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer.

(c) Upon satisfactory completion of the above items, the minor variance will be granted administratively in conjunction with the issuance of the building permit and the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. The construction of the

_____[accessory or agricultural structure] to be used only for _____[parking, access, storage, and/or housing of animals] has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.225(3)(c)(B), at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy. This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

(d) In cases where construction of a refuge area or discretion is required to determine reasonable access to the refuge area, notice of decision pursuant to 51.625 is required; however newspaper publication of the notice is not required.

(2) In cases other than those listed in subsection (1) of this section, a variance may be granted pursuant to the standard variance procedure specified in Chapter 53 and the provisions of this section.

(a) Criteria. A variance may be approved only upon the applicant demonstrating that the following criteria, in addition to the standard variance criteria of BCC 53.410, are met.

(A) Granting of the variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(B) In considering a variance application, the Planning Official shall consider all technical

Commented [LTA54]: Revised Code section 83.410(4)

Commented [LTA55]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals or designate a refuge area.

Commented [LTA56]: Revised Code section 83.410(5)

Commented [LTA57]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals or designate a refuge area.

evaluations, all relevant factors, standards specified in other sections of this chapter, and:

(i) The danger that materials may be swept onto other lands to the injury of others;

(ii) The danger to life and property due to flooding or erosion damage;

(iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity to the facility of a waterfront location, where applicable;

(vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) The compatibility of the proposed use with existing and anticipated development;

(viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;

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

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

(b) Conditions of Approval.

(A) Upon consideration of the factors of subsections (2) and (3) of this section and the purposes of this chapter, the Planning Official may attach such conditions to the granting of a variance as deemed necessary to further the purposes of this ordinance.

Commented [LTA58]: Revised Code section 83.420

(B) Any applicant to whom a variance from the elevation standard is granted shall be given written notice that:

(i) The structure will be permitted to be built with a lowest floor elevation below the base flood elevation;

(ii) The cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;

(iii) Increased premium rates for flood insurance can be as high as $25 for $100 of insurance coverage; and

(iv) Construction below the base flood level increases risks to life and property.

Commented [LTA59]: Revised Code section 83.430

(3) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

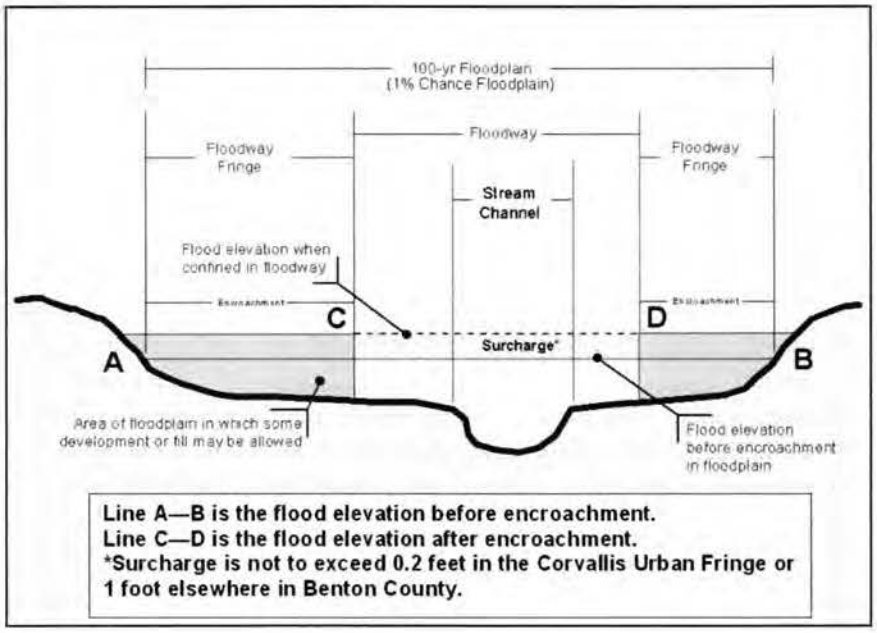
Commented [LTA60]: Removed per FEMA requirement that standards addressing alteration of historic structures be included only in the definition of "substantial improvement" or in the variance criteria.

Per FEMA Region X recommendation, alteration of historic structures is now addressed entirely through the definition of "substantial improvement" in Revised Code section 2.0.

(4) Records. The Community Development Department shall maintain the records of all variance requests and report any variance approvals to the Federal Insurance Administration upon request.

Commented [LTA61]: Revised Code sections 83.260(2)(c)

[Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]


100-yr Floodplain
(1% Chance Floodplain)
Floodway
Floodway Fringe
Floodway
Floodway Fringe
Stream Channel
Flood elevation when confined in floodway
C
D
Surcharge*
A
B
Area of floodplain in which some development or fill may be allowed
Flood elevation before encroachment in floodplain
Line A—B is the flood elevation before encroachment.
Line C—D is the flood elevation after encroachment.
*Surcharge is not to exceed 0.2 feet in the Corvallis Urban Fringe or 1 foot elsewhere in Benton County.

Chapter 51

Development Code Administration

* * *

51.020 Definitions. As used in BCC Chapters 51 to 100:

* * *

(3) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100 year flood". Designation on Flood Insurance Rate ~~maps~~ Maps always ~~includes~~ begins with the letter "A".

* * *

(19) "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to properties and structures for the reduction or elimination of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

* * *

(21) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "Regulatory Floodway". ~~See~~ Refer to the diagram at the end of Chapter 83. Note that the "Floodway" within the Corvallis Urban Growth Boundary is based on a 0.2-foot increase in the water surface elevation (rather than a one-foot increase) as defined in BCC 83.~~010~~110(3)(a).

* * *

(80) "Winery" means a structure where grapes or other produce may be processed and converted to wine, bottled, blended, stored and sold. "Winery" includes a tasting room open to the public where wine may be sampled and purchased and where incidental wine related paraphernalia may be sold.

[Ord 7, Ord 26, Ord 90-0069, Ord 92-0092, Ord 93-0096, Ord 96-0117, Ord 96-0118, Ord 98-0134, Ord 2005-0209, Ord 2005-0210, Ord 2006-0214, Ord 2009-0233 eff. 6/2/2011, Ord 2015-0269, Ord 2021-0304]

* * *

Chapter 88

Natural Features Overlay in the Corvallis Urban Fringe

* * *

88.050 Mapped Locations, Refinements and Corrections.

* * *

(2) **Floodplain.** The determination of floodplain boundaries shall be as described in BCC 83.~~010~~110(3). The regulations governing these areas are contained in BCC Chapter 83.

* * *

Commented [LTA1]: Amended for clarification.

Commented [LTA2]: Amended for consistency with FEMA-required definition.

Commented [LTA3]: Amended for consistency with FEMA-required definition.

(10) Where there is conflict among provisions of separate sections of this chapter or other chapters applying to the same area, the more restrictive provisions shall prevail.

[Ord. 2005-0209; Ord 2005-0210; Ord 2005-0211, Ord 2021-0304]

* * *

88.310 Application.

(1) The provisions of BCC 88.300 through 88.350 shall apply to the lands identified in BCC 88.050.

(2) Note: Generally the same limitations on vegetation removal and building, paving, and grading activities described in this section likewise apply to the entire floodplain; refer to BCC 83.~~505~~700 for the floodplain regulations.

[Ord 2021-0304]

* * *

Chapter 94

Property Line Adjustments

* * *

94.300 General Review Standards. A property line adjustment shall, in addition to the applicable standards of BCC 94.350, 94.400 and 94.450, meet the following standards:

(1) The existing properties are legally created or will become legally created as a result of the property line adjustment;

(2) As a result of the amount of land transferred, the resulting property sizes will:

(a) Comply with the applicable minimum parcel or lot size;

(b) Not be reduced in size;

(c) Comply with applicable minimum and maximum size per BCC 100.205(6), if the properties are within the Urban Growth Boundary of Corvallis and were created pursuant to Chapter 100;

(d) Transfer no more acreage than that necessary to correct the encroachment of a legally built structure over a property line and establish the required setback to the adjusted property line; or

(e) Comply with 94.350(1)(~~eb~~), ~~or~~ 94.400(1)(a)(B), or 94.400(2)(a);

* * *

(7) One of the following is met:

(a) If both properties are entirely outside of an identified Special Flood Hazard Area (SFHA), then the property line adjustment is compliant; or

(b) If any portion of the properties is within an identified SFHA, then:

(A) If the area being transferred is entirely within the SFHA, then the property line

Commented [LTA4]: Adjusted to reflect removal of 94.350(1)(a).

Commented [LTA5]: Correction of accidental omission from previous code amendments to this chapter.

adjustment is compliant; or

(B) If the area being transferred is partially or fully outside the SFHA, then the resulting properties shall comply with the building site parameters of BCC 83.520(2)(b) through (d) and the access standards of BCC 83.520(2)(e).

[Ord. 2018-0289, Ord 2021-0304]

* * *

94.350 Properties in Non-Resource Zones. An adjustment of property lines where all of the land involved is in the same non-resource-zone shall be processed through a ministerial review as provided by subsection (1) ~~or as an administrative review pursuant to BCC 53.160 as provided by subsection (2)~~.

(1) A property line adjustment shall be reviewed ministerially if the following can be met:

~~(a) Both properties are entirely outside of an identified Special Flood Hazard Area (SFHA) or no land outside of a SFHA is transferred and the standards of BCC 83.605(2)(b) are met; and~~

(~~b~~a) The resulting properties meet the size requirements of BCC 94.300(2)(a) through (d); or,

(~~c~~b) If the size requirements of BCC 94.300(2)(a) through (d) cannot be met and one or both of the existing properties are currently smaller than the minimum parcel or lot size, the following alternative outcomes are available:

(A) If only one of the existing properties is smaller than the minimum parcel or lot size, then:

(i) Both resulting properties shall be at least as large as the smallest existing property; and

(ii) At least one of the resulting properties shall meet or exceed the minimum parcel or lot size.

Example: The minimum parcel or lot size is 2 acres. If Property A is 1.5 acres and Property B is 2.5 acres, then neither property may be smaller than 1.5 acres after the property line adjustment is complete and at least one of the resulting properties has to be 2 acres or larger.

(B) If both existing properties are smaller than the minimum parcel or lot size, then:

(i) Both resulting properties shall be at least as large as the existing smallest property.

Example: The minimum parcel or lot size is 2 acres. If Property A is 1.5 acres and Property B is 1.0 acres, then neither property can be smaller than 1.0 acres after the property line adjustment is complete.

~~(2) If the criteria of subsection (1)(a) cannot be met, a property line adjustment shall be processed as an administrative review pursuant to BCC 53.160 and approved if the resulting properties meet the following:~~

~~(a) Maintain compliance with the floodplain requirements of BCC 83.605; and~~

~~(b) Meet the size requirements of BCC 94.350(1)(b) or (c) above.~~

[Ord. 2018-0289, Ord 2021-0304]

Commented [LTA6]: No longer needed because compliance with floodplain criteria is addressed in BCC 94.300(7).

Commented [LTA7]: The administrative review was necessary for cases where land outside the floodplain is being transferred and a determination that a "suitable and adequate" building site remained was required (current BCC 83.605).

The proposed modifications to Chapter 83 clarifying the minimum amount of land required to be retained for a building site outside the floodplain eliminate the need for an administrative review.
These changes are also reflected in the modifications made to BCC 94.350(1)(a) above.

94.400 Properties in Resource Zones. An adjustment of property lines where all of the land involved is in the same resource-zone shall be processed through a ministerial review as provided by subsection (1)~~, as an administrative review pursuant to BCC 53.160 as provided by subsection (2),~~ or as a quasi-judicial land use action pursuant to BCC 51.605 as provided by subsection ~~(3)~~(2). Subsections ~~(4)~~(3) and ~~(5)~~(4) shall apply to all applications.

(1) A property line adjustment shall be reviewed ministerially if ~~the following~~both (a) and (b) can be met:

Commented [LTA8]: Adjusted for clarification.

(a) The resulting properties will meet the size requirements of:

(A) BCC 94.300(2)(a) through (d); or

(B) When one or both existing properties are currently smaller than the minimum parcel or lot size, the following alternative outcomes are available:

(i) If only one of the existing properties is smaller than the minimum parcel or lot size, then:

(a) Both resulting properties shall be at least as large as the smallest existing property; and

(b) At least one of the resulting properties shall meet or exceed the minimum parcel or lot size.

Example: The minimum parcel or lot size is 80 acres. If Property A is 75 acres and Property B is 100 acres, then neither property can be smaller than 75 acres after the property line adjustment is complete and at least one of the resulting properties has to be 80 acres or larger.

(ii) If both existing properties are smaller than the minimum parcel or lot size, then:

(a) Both resulting properties shall be at least as large as the smallest existing property.

Example: The minimum parcel or lot size is 80 acres. If Property A is 75 acres and Property B is 40 acres, then neither property can be smaller than 40 acres after the property line adjustment is complete.

(b) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot-of-record dwelling, or template-test dwelling, or containing a nonfarm or nonforest use, unless either:

(A) Both properties involved have been approved for one of these types of dwellings or uses; or

(B) The adjustment is consistent with an approval for a nonfarm parcel.

~~(c) Both properties are entirely outside of an identified Special Flood Hazard Area (SFHA) or no land outside of a SFHA is transferred and the standards of BCC 83.605(2)(b) are met.~~

Commented [LTA9]: No longer needed because compliance with floodplain criteria is addressed in BCC 94.300(7).

~~(2) If subsection (1)(c) above cannot be met, a property line adjustment shall be processed as an administrative review pursuant to BCC 53.160 and approved if the resulting properties meet the following:~~

~~(a) Maintain compliance with the floodplain requirements of BCC 83.605; and~~

~~(b) Meet the requirements of BCC 94.400(1)(a) and (b) above.~~

~~(3)~~(2) If the criteria of subsection~~s~~ (1) ~~and (2)~~ cannot be met, a property line adjustment shall be processed as a quasi-judicial land use action pursuant to BCC 51.605 and approved if the resulting properties meet the following:

(a) A resource-zoned parcel currently smaller than the minimum parcel or lot size may be reduced in size by property line adjustment if:

(A) The property line adjustment will result in a net increase in the ability to use resource- zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size;

(B) The property line adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use, and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(C) The acreage transferred from the undersized resource-zoned property will be transferred to another resource-zoned property.

(b) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot-of-record dwelling, or template-test dwelling, or containing a nonfarm or nonforest use, unless:

(A) The property line adjustment will result in a net increase in the ability to use resource-zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size.

~~(c) Maintain compliance with the floodplain requirements of BCC 83.605.~~

~~(4)~~(3) A deed restriction shall be required in the following circumstances:

* * *

~~(5)~~(4) A property line adjustment shall not:

* * *

~~(6)~~(5) Note: A property line adjustment that reconfigures a lot, parcel or tract of land, the effect of which is to cause a lot, parcel or tract to qualify for the siting of a dwelling, may disqualify the lot, parcel or tract for the siting of a dwelling pursuant to Chapter 55 or 60.

[Ord 2009-0232, Ord 2018-0289, Ord 2020-0297, Ord 2021-0304]

* * *

Chapter 95
Partitions

* * *

95.120 Preliminary Approval. Preliminary approval is granted by the approving authority

Commented [LTA10]: The administrative review was necessary for cases where land outside the floodplain is being transferred and a determination that a "suitable and adequate" building site remained was required (current BCC 83.605).

The proposed modifications to Chapter 83 clarifying the minimum amount of land required to be retained for a building site outside the floodplain eliminate the need for an administrative review.
These changes are also reflected in the modifications made to BCC 94.400(1)(c) above.

Commented [LTA11]: No longer needed because compliance with floodplain criteria is addressed in BCC 94.300(7).

based on findings that the subject lot or parcel was legally created and the proposed partition complies with:

(1) The criteria for creation of new parcels of the zone in which the proposed parcels are located;

(2) The floodplain requirements of BCC 83.~~605~~520(2);

(3) All applicable provisions of Chapter 99;

(4) Complies with the provisions of all applicable overlay zones, including Chapters 82 through 88.

[Ord 7~~,~~; Ord 90-0069,; Ord 92-0092~~,~~; Ord 96-0118~~,~~; Ord 2007-0223~~,~~; Ord 2007-0224~~,~~; Ord 2009-0233, eff. 6/2/2011; Ord 2013-0253, eff. 8/15/2013~~,~~; Ord 2015-0267; Ord 2021-0304, eff. 10/7/2021]

* * *

Chapter 97
Subdivisions

* * *

97.115 Application.

(1) A complete application for a subdivision shall include fifteen copies of a preliminary plat that conforms to map standards established by the County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:

* * *

(e) The location of all areas subject to the base flood;

(A) ~~as~~ As shown on the Flood Insurance Rate Maps on file in the office of the Benton County Community Development Department; or

(B) As shown on the revised flood information prepared by the applicant if the standards of BCC 83.520(1)(b) apply.

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* * *

(3) The applicant shall submit two copies of the tentative plat and the appropriate fee to the County Surveyor.

[Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2007-0223, Ord 2007-0224, Ord 2009-0232, Ord. 2009-0233 eff. 6/2/2011; Ord 2011-0240, Ord 2021-0304]

Chapter 99
General Development Standards

* * *

99.205 Protection of Corvallis Fringe Drainageways.

* * *

(2) Any proposal to create a parcel or lot of less than five (5) acres or to develop or enlarge a selected commercial, industrial or public building shall require the dedication to the City of Corvallis for purposes of flood protection and stormwater conveyance that portion of the drainageway contained within the subject parcel or lot. The area subject to dedication is defined as that portion of the floodway identified on the Corvallis Urban Growth Boundary Floodway Maps adopted pursuant to BCC 83.~~010~~110(3).

* * *

(4) Any proposed partition, irrespective of size, which adjoins or wholly contains a drainageway shall be required to record a covenant generally describing an area subject to future dedication as described in BCC 99.205(2) and (3) and reserving the described area for the dedication upon the request of the City of Corvallis.

[Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2021-0304]

* * *

Chapter 57

~~Flood Plain~~Floodplain Agriculture Zone (FPA)

57.005 Purpose. The ~~Flood Plain~~Floodplain Agriculture Zone shall preserve and protect lands for continued agricultural production, harvesting and related uses; and conserve and protect open spaces, wildlife habitats, and other such uses associated with land subject to flooding. This zone shall provide for multiple uses of ~~flood plain~~floodplain areas when such uses are compatible with recurring flooding and adjacent land utilization. [Ord 26, Ord 90-0069, Ord 2021-0304]

57.010 Standards for Application. The ~~Flood Plain~~Floodplain Agriculture Zone is applied to select areas within the Corvallis Urban Growth Boundary subject to recurring flood inundation. [Ord 26, Ord 90-0069, Ord 2021-0304]

PERMITTED USES

57.105 Permitted Uses. The following uses are allowed in the ~~Flood Plain~~Floodplain Agriculture Zone:

(1) Farm use.

(2) Forest use.

(3) One dwelling per parcel or lot.

(4) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(5) Home occupation.

(6) Day care for fewer than thirteen children.

(7) Accessory use or structure.

(8) Natural area, open space, or acquisition of greenway corridor.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210, Ord 2021-0304]

CONDITIONAL USES

57.205 Conditional Uses Approved. The following uses may be allowed in the ~~Flood Plain~~Floodplain Agriculture Zone by conditional use permit approved by the Planning Official:

(1) Public wildlife preserve.

(2) Dam, power plant, transmission line, and transmission station, together with associated structures.

(3) Water supply, water treatment facility, wastewater treatment facility, reservoir and other related facilities.

(4) Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources.

(5) Golf course.

(6) Developed park or recreation facility, and bike paths.

(7) Day care center.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210, Ord 2021-0304]

MINIMUM PARCEL OR LOT SIZE

57.305 Minimum Parcel or Lot Size. All new parcels or lots created shall be reviewed under the provisions for Planned Unit Developments (PUD) contained in BCC Chapter 100. One parcel or lot may be created under the PUD provisions per five (5.00) acres. [Ord 90-0069, Ord 98-0141]

SITING STANDARDS

57.405 Siting Standards and Requirements. All structures allowed in the ~~Flood Plain~~Floodplain Agriculture Zone shall be sited in compliance with the applicable provisions of BCC Chapters 83, BCC Chapter 88 (when located within the Corvallis Urban Fringe), BCC Chapter 99, and the following additional standards in instances when they are more restrictive than the provisions of BCC Chapters 83, 88, and 99, as applicable:

(1) A dwelling shall be placed at least thirty (30) feet from a property line, and at least forty-five (45) feet from the edge of a roadway. Architectural features shall not project more than two (2) feet into a required setback.

(2) Non-residential structures shall be placed at least twenty (20) feet from any property line, except no setback is required for a non-residential structure of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if that the structure:

(a) Is detached from other buildings by five (5) feet or more;

(b) Does not exceed a height of twenty (20) feet; and

(c) Does not exceed an area of 500 square feet.

(3) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor streams, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210, Ord 2021-0304]

BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, COUNTY OF BENTON

In the Matter of Amending the Floodplain Regulations of the Benton County Development Code, specifically Chapters 51, 57, 83, 88, 94, 95, 97, and 99.	)))))	**ORDINANCE No. 2021-0304**

WHEREAS:

The Federal Emergency Management Agency (FEMA) requires that Benton County maintain an adopted floodplain ordinance that complies with the minimum FEMA and National Flood Insurance Program (NFIP) standards and has directed Benton County to adopt the required text amendments as part of an ongoing Community Assistance Visit; and

The NFIP's Community Rating System (CRS) requires that Benton County maintain an adopted floodplain ordinance that complies with the minimum standards for a rating of Class 8 or better for continued participation with the CRS program and has directed Benton County to adopt the required text amendments by October 14, 2021; and

The amendments contained in this ordinance are intended to protect the health and safety of current and future residents of Benton County through more accurate identification of flood hazard areas; and

The proposed amendments provide for clarification of land division requirements for properties located entirely or partially in a Special Flood Hazard Area; and

The proposed amendments provide additional minor amendments to the Development Code to improve the clarity and function of the flood hazard regulations; and

The Benton County Planning Commission held a duly advertised public hearing on July 20, 2021 with an opportunity to receive public testimony and voted to recommend that the Board of Commissioners approve the Development Code amendments with minor modifications; and

The Benton County Board of Commissioners held a duly advertised public hearing on August 17, 2021; and

The Board of County Commissioners finds that the proposed Development Code amendments comply with the criteria of Benton County Code 53.605 through 53.625, and are consistent with the applicable policies and procedures of the Benton County Comprehensive Plan; and

The Benton County Board of Commissioners has considered the staff report, the application materials, the recommendation of the Benton County Planning Commission, and the record as a whole; and

The Board of Commissioners deliberated, approved the proposed amendments to the Development Code, and conducted the First Reading of the Ordinance on August 17, 2021, and

The Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on September 7, 2021.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I. Short Title. Amendments to the Benton County Development Code Regarding Floodplain Development.

PART II. Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.

PART III. The Development Code amendments proposed in Planning File No. LU-21-032 are hereby approved, based on the Findings and Conclusions contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.

PART IV. The existing Chapter 83 of the Benton County Development Code is hereby repealed as shown in "Exhibit 2".

PART V. Revisions to Chapter 83 of the Benton County Development Code are hereby amended as shown in "Exhibit 3".

PART VI. A reference table of the existing and revised section numbers for Chapter 83 of the Benton County Development Code is included in the attached "Exhibit 4".

PART VII. Chapters 51, 88, 94, 95, 97, and 99 of the Benton County Development Code are hereby amended as shown in "Exhibit 5".

PART VIII. Chapter 57 of the Benton County Development Code are hereby amended as shown in "Exhibit 6".

PART IIX. The list of amendments to the Benton County Development Code is hereby amended as shown in "Exhibit 7".

PART IX. The effective date for these amendments to the Benton County Development Code will be:

First Reading: August 17, 2021
Second Reading: September 7, 2021
Effective Date: October 7, 2021

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Xanthippe Augerot, Chair

_____
Nancy Wyse, Commissioner

_____
Pat Malone, Commissioner

Approved as to Form:

_____
County Counsel

_____
Recording Secretary

Exhibit 1

Findings of Fact and Conclusions of Law
Development Code Amendments; File No. LU-21-032

A. GENERAL FINDINGS

General Information

The proposed floodplain code revisions are prompted by a 5-year audit of Benton County's floodplain regulation program required for continued participation in the National Flood Insurance Program's (NFIP) Community Rating System (CRS). The audit is scheduled to conclude on October 14, 2021, and adoption of the proposed revisions is a required part of the audit approval process in order to maintain the county's current standing in the CRS program.

The purpose of the proposed floodplain code revisions is to bring the Benton County floodplain ordinance into compliance with the minimum standards of the Federal Emergency Management Agency (FEMA). The majority of the proposed revisions are administrative in nature and required in order to maintain a FEMA-compliant floodplain ordinance. However, at the recommendation of the State NFIP Coordinator, staff has also proposed a relaxation of the dry-land access standard for land division and property line adjustments in the floodplain. The amendments to the access provisions have been recommended due to both the impracticality of implementing this optional standard and the potential for unintended negative impacts to the functionality of the flood hazard area.

Adoption of the required code revisions will also satisfy one of the requirements of Benton County's ongoing Community Assistance Visit (CAV) through the Department of Land Conservation and Development (DLCD).

A summary of the amendments to Chapter 83 is listed in Section B, below.

Consequences of Not Adopting the Required Floodplain Code Revisions

The consequence of not adopting a revised, FEMA-compliant floodplain ordinance is suspension from the NFIP. Suspension from the NFIP means:

- Federally backed flood insurance will no longer be available. No property owner or renter within the community will be able to purchase a new federally backed policy, existing federal flood insurance policies will not be renewed, and lenders may call in mortgages.

  (Note: Although switching to a private flood insurance policy would be an option, doing so could render a property ineligible for current subsidized flood insurance rates in the future and private flood insurance companies are allowed to drop policies at their own discretion.)

- No federal grants or loans for development may be made in the Special Flood Hazard Areas (SFHA) of the community under programs administered by Federal agencies.

- No Federal disaster assistance may be provided to repair insurable buildings located in the community's SFHAs.

- Federally insured or regulated lending institutions, such as banks and credit unions, must notify applicants seeking loans for insurable buildings in SFHAs that:
  - No loan that requires Federally backed insurance is available, and
  - The property is not eligible for Federal disaster relief.

Floodplain Code Revision Adoption Process to Date

June 1, 2021 – Staff discussed the need for the proposed floodplain code revisions with the Board of Commissioners at a work session, and the Board directed staff to initiate the text amendment process for review and adoption of the proposed amendments.

June 22, 2021 – Staff discussed the proposed floodplain program, key elements of the current floodplain regulations, the factors leading to the current code revision process, and the proposed floodplain code revisions with the Planning Commission at a work session.

July 2, 2021 – Notice of the July 20, 2021 Planning Commission hearing was provided to Citizen Advisory Committees, Rural Fire Protection Agencies, the Fair Housing Council of Oregon, and to interested agencies. This notice was sent in conformance with the requirements for Notification of a Public Hearing. Note: The proposed amendments do not serve to rezone land or limit or prohibit a use of land that is currently allowed; therefore, notification to all property owners located within the SFHA is not required.

July 9, 2021 – Notice of the July 20, 2021 Planning Commission hearing was published in the Corvallis Gazette-Times newspaper.

July 20, 2021 – The Planning Commission held a public hearing regarding the proposed floodplain code revisions. No public testimony was provided and, after deliberations, the Planning Commission voted (6 to 0) to recommend that the Board of Commissioners approve the proposed revisions, as modified at the hearing for typographical errors.

July 29, 2021 – CRS Specialist Teresa Alvelo confirmed via email that the proposed floodplain code revisions comply with the minimum Community Rating System (CRS) requirements for maintaining Benton County's current Class 7 rating with the CRS program.

On August 2, 2021, State NFIP Coordinator Celinda Adair confirmed verbally that, with the modifications discussed that morning, the proposed floodplain code revisions comply with the minimum FEMA standards and that they retain Benton County's existing higher regulatory standards.

August 3, 2021 – Staff discussed the proposed floodplain program, key elements of the current floodplain regulations, the factors leading to the current code revision process, and the proposed floodplain code revisions with the Board of Commissioners at a work session.

B. PROPOSED TEXT AMENDMENTS

The following is a summary of the amendments to Chapter 83 (Floodplain Management Overlay). The full text of the amendments is contained in Attachment A.

Summary of Changes:

- **Chapter 83 –**
  - Reorganization of the chapter to match Oregon Model Floodplain Ordinance format;
  - Addition of language required for compliance with the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program (NFIP);
  - Addition of language required for compliance with recent amendments to the NFIP's Community Rating System (CRS) program;
  - Addition of FEMA, NFIP, and CRS approved language to authorize wet-floodproofing for accessory structures.
  - Clarification of language relating to minimum non-floodplain area (as that relates to siting a dwelling and septic drainfield) required for land division approval.
  - Relaxation of language requiring the creation of dry-land access (for property reconfiguration and land division) that has been identified as having the potential to cause negative impacts to floodplain function.
- **Chapter 51** – Amendment of floodplain-related definitions for compliance with NFIP requirements and adjustment of citations referencing specific floodplain code sections in Chapter 83.
- **Chapter 57** – Correction of the term *Flood Plain* to *Floodplain*.
- **Chapters 88, 94, 95, 97, & 99** – Adjustment of citations referencing specific floodplain code sections in Chapter 83.

C. FINDINGS APPLYING CODE CRITERIA

Development Code Provisions for Text Amendments:

BCC 53.605. On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.

Findings: The majority of the proposed amendments are required for continued compliance with the minimum floodplain regulation standards of the FEMA National Flood Insurance Program (NFIP) and to maintain Benton County's current Class 7 standing in the

NFIP's Community Rating System (CRS)[1]. In order to more easily demonstrate compliance with FEMA and NFIP requirements, the entirety of Chapter 83 has been reorganized to match the format of the Oregon Model Flood Ordinance provided by the State NFIP Coordinator. Minor additional adjustments have been proposed at the recommendation of the State NFIP Coordinator as well as to update cross-references between Development Code chapters and to correct spelling errors.

Conclusion: Text amendments are required to in order to maintain continued compliance with minimum FEMA, NFIP, and CRS requirements. The proposed amendments meet the general criteria for consideration.

Process for Development Code Text Amendments:

BCC 53.610(1). The Board of County Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed amendment.

Findings: On June 1, 2021, the Board of Commissioners reviewed background information from staff, discussed the matter, and voted to initiate the amendments.

Conclusion: The proposed amendments were properly initiated.

BCC 53.620. The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the public hearing, the Planning Commission shall make a recommendation to the Board to approve, deny, or modify the proposed amendment.

Findings: The Planning Commission conducted a hearing on July 20, 2021 and voted to recommend that the Board of Commissioners adopt the proposed text amendments.

Conclusion: The scheduled hearing complied with the procedure stipulated in the above code section.

BCC 53.625. The Board of County Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.

Findings: The Board of Commissioners conducted a hearing on August 17, 2021 to consider the proposed text amendments and the recommendation of the Planning Commission. At the hearing, the Board voted to adopt the proposed text amendments and conducted the first reading. A second reading was held on September 7, 2021. Findings supporting the Board's decision are included as an attachment to Ordinance No. 2021-0304.

Conclusion: The scheduled hearing complied with the procedure stipulated in the above code section.

Conclusion Regarding Development Code Criteria:

[1] As a result of Benton County's Class 7 standing in the CRS program, all federal flood insurance policy premiums for structures in unincorporated Benton County receive an automatic 15% reduction if located within the Special Flood Hazard Area (SFHA) and an automatic 5% discount if located outside of the SFHA.

The proposed amendments to the Benton County Development Code are consistent with the applicable Development Code criteria.

D. APPLICABLE COMPREHENSIVE PLAN POLICIES

General Natural Hazards Policies

7.1.1 Benton County shall protect property and lives by encouraging or requiring homes, business, infrastructure, and critical facilities to be resistant to losses from natural hazards.

Findings: The proposed code amendments retain the existing Development Code protections relating to placement and construction of the items mentioned above (as they relate to flood hazards) already address this policy.

7.1.2 Benton County shall use the most current hazard assessment inventories to discourage development in hazardous areas and promote preventative measures for existing development to minimize risk to life, property, and the environment.

Findings: The proposed code amendments retain the existing Development Code requirements to use the most current flood hazard data for evaluation and conditioning of development within and near the Special Flood Hazard Area (SFHA).

7.1.3 Benton County shall increase public awareness of the risks associated with natural hazards.

Findings: Benton County floodplain management regulations require submission of a floodplain development permit application for all applicable development in and near the SFHA. Current regulations also require conditioning of development in the SFHA to meet specific design standards to ensure the reduction of risk due to potential flood hazards. The review and conditioning of proposed development in the SFHA will continue to serve as an additional method for increasing public awareness of the risks associated with flood hazards.

Floodplain Policies

7.2.1 Benton County's floodplain management policies and actions will continue to emphasize more preventive than corrective measures. Flood damage prevention methods shall be non-structural to the degree possible, and include a combination of land use and code regulations, non-regulatory practices such as incentives, and a comprehensive emergency preparedness program.

Findings: Benton County floodplain management regulations continue to emphasize more preventive than corrective measures. The proposed code amendments will not alter current the balance between preventive and corrective measures for floodplain management.

7.2.2 Benton County shall allow accessory structures to be constructed within the floodplain; however, new primary structures shall not be allowed within the floodplain unless

a parcel has insufficient buildable land outside the floodplain. Accessory structures shall not be located in the floodway.

Findings: This issue is already addressed in the current floodplain code. Regulations relating to restrictions for new primary structures within the floodplain and for accessory structures in the floodway will not be altered by any of the proposed code revisions. However, additional options consistent with current FEMA guidance for some types of accessory and agricultural structure construction in the floodplain are proposed to be added.

7.2.3 Benton County shall only allow land divisions within the floodplain when it can be demonstrated that each buildable lot or parcel has a suitable site for development outside of the floodplain boundary. Non-residential uses shall be excepted.

Findings: This issue is already addressed in the current floodplain code and will not be altered by any of the proposed code revisions.

7.2.8 Benton County shall take measures to assure that wetland mitigation does not compromise existing stormwater functions of the land being used for the mitigation.

Findings: Any wetland mitigation proposed to be located within a Special Flood Hazard Area requires land use review pursuant to the provisions regulating land development activities in a floodplain. This issue is already addressed in the current floodplain code and will not be altered by any of the proposed code revisions.

7.2.10 Benton County shall restrict development for human occupancy in those areas where access by standard emergency vehicles such as fire or ambulance is prevented by flood waters of 100-year flood levels.

Findings: Section 83.605(2)(b) was added to the Benton County Development Code in 2011 with the intent of implementing this policy. However, comments received from the state National Flood Insurance Program coordinator indicate a strong recommendation to entirely remove or, at a minimum, amend this section. These comments are based on a significant concern that the existing language "...encourages fill to be placed [within the Special Flood Hazard Area] to create elevated roadways that may act as levee-like structures and trap floodwaters/exacerbate flooding issues".

The intent of establishing the standards identified in Section 83.605(2)(b) was to limit potential future hazards to development by ensuring that each created parcel had dry-land access from a road to the proposed building site. It was not the intent, when adopted, for this code section to encourage fill in the floodplain, nor was it intended to increase potential hazards to life and property by encouraging establishment of development (i.e. construction of elevated roadways) that would negatively impact the flow of flood waters or the functionality of flood storage areas.

Removal of Section 83.605(2)(b) is not a viable option because it would conflict with Comprehensive Plan policy 7.2.10. Therefore, staff is proposing a revision to this code section.

Two revision options were considered. The first (proposed by the state) was to prohibit land division approval for any parcel that could not demonstrate an existing natural grade higher than the Base Flood Elevation along the proposed access route(s). However, this could render some otherwise buildable parcels unbuildable and would need further analysis and public input. Additionally, such modification of the code would require notification to all owners of floodplain property (because it would be more restrictive than the existing code standard) – a type of notice known as a Measure 56 notice. Staff had provided the standard notice of legislative action, not a Measure 56 notice. The time necessary to provide analysis, gather public input, and issue Measure 56 notice would mean missing the mandatory deadline for adoption of an updated code. For these reasons, this option was not chosen.

Staff has proposed, instead, to require that a new residential parcel in the floodplain document the natural grade elevation of the access route and, if below the Base Flood Elevation (BFE), record a covenant acknowledging the risks and potential inaccessibility of the parcel during conditions of flooding. These revisions, while not specifically prohibiting land division for parcels with access below the BFE, will ensure that existing flood storage and function are maintained while also ensuring that existing and future property owners are informed of potential flood hazards with respect to property access during flood events.

Staff concludes that the proposed amendment to Section 83.605(2)(b) is consistent with the intent of Policy 7.2.10 by discouraging residential development in areas where the access would be below the BFE.

Conclusion Regarding Comprehensive Plan Policies:

The proposed amendments to the Development Code are consistent with the applicable Comprehensive Plan policies.

E. SUMMARY AND CONCLUSION

The Board of Commissioners concludes that the proposed text amendments comply with the Benton County Development Code and the Benton County Comprehensive Plan.

Exhibit 2

Repealed Chapter 83 the Benton County Development Code
Development Code Amendments; File No. LU-21-032

Added text is underlined.
Deleted text is ~~struck through~~.

Exhibit 2

Repealed Chapter 83 the Benton County Development Code
Development Code Amendments; File No. LU-21-032

Added text is underlined.
Deleted text is ~~struck through~~.

~~Chapter 83~~

~~Floodplain Management Overlay (/FP)~~

~~83.005 Purpose.~~ ~~The Floodplain Management Overlay Zone shall implement the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as well as the Benton County Comprehensive Plan.~~

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

~~(1) Protect human life, health, and property;~~

~~(2) Minimize expenditure of public money and costly flood control projects;~~

~~(3) Minimize the need for rescue, emergency services, and relief associated with flooding and generally undertaken at the expense of the general public;~~

~~(4) Minimize prolonged business interruptions and unnecessary disruption of commerce, access and public service during times of flood;~~

~~(5) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants; water and gas mains; electric, telephone, and sewer lines; streets; and bridges located in special flood hazard areas;~~

~~(6) Decrease the cost of flood insurance;~~

~~(7) Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas;~~

~~(8) Ensure that potential buyers are notified that property is in an area of special flood hazard;~~

~~(9) Ensure that those who occupy the special flood hazard areas assume responsibility for their actions;~~

~~(10) Recognize and preserve the natural flood mitigation functions of floodplains; and~~

~~(11) Preserve the ecosystem functions of floodplains. [Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]~~

~~83.010 Application.~~

~~(1) The Floodplain Management Overlay Zone shall apply to all areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Benton County, Oregon and Incorporated Areas," dated June 2, 2011 and revised December 8, 2016, with accompanying Flood Insurance Rate Maps (FIRM) and Digital Flood Insurance Rate Maps (DFIRM), except as otherwise provided by this code, adopted effective June 2, 2011 and as revised by:~~

~~(a) Letter of Map Revision (LOMR) Case No. 13-10-0260P, effective November 29, 2013;~~

~~(b) Letter of Map Revision (LOMR) Case No. 14-10-0472P, effective July 14, 2014; and~~

~~(c) Physical Map Revision (PMR), effective December 8, 2016.~~

~~The Flood Insurance Study and accompanying maps are hereby incorporated by reference into the Development Code and are on file at the Benton County Community Development Department, 360 SW Avery Avenue, Corvallis, Oregon.~~

~~(2) The Floodplain Management Overlay Zone is divided into two subzones: the floodway and the floodway fringe. The boundaries of the floodway and the floodway fringe shall be those delineated on the Flood Insurance Rate Maps.~~

~~(3) **Corvallis Urban Fringe.** Floodplain and floodway boundaries within the Corvallis Urban Fringe (the unincorporated portion of the Corvallis Urban Growth Boundary) shall be determined pursuant to the following subsections. Furthermore, within the Corvallis Urban Fringe, restrictions and use limitations~~

Commented [LTA1]: Revised Code section 83.005

Commented [LTA2]: Revised Code section 83.100 & Revised Code section 83.110

~~in addition to those outlined in BCC 83.015 through 83.300 and BCC 83.405 are outlined in the provisions of BCC 83.310 and 83.505 below. In the case of any conflicts between the additional provisions in BCC 83.310 and 83.505 and the standard provisions of BCC 83.015 through 83.300 and BCC 83.405, the more restrictive shall apply.~~

~~(a) **Floodway.**~~

~~(A) **General Determination.** The floodway within the unincorporated portion of the Corvallis Urban Fringe shall be based upon a 0.2-foot rise standard for an increase in the base flood elevation as shown on the Flood Insurance Rate Maps identified in BCC 83.010(1) rather than a one foot rise standard.~~

~~(B) **Map Refinements.** For precise determinations when development activities are proposed near a mapped floodway, the applicant shall submit information prepared by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer, demonstrating the area that must be kept free from encroachments in order to discharge the base flood (100-year flood) without cumulatively increasing the water surface elevation more than 0.2 feet and demonstrating that the proposed activities will not impact the floodway.~~

~~(b) **Floodplain (Floodway Fringe).**~~

~~(A) **General Determination.** The floodplain boundaries shall be determined pursuant to BCC 83.010(1).~~

~~(B) **Map Refinement.** For the purposes of BCC 83.505(1) and 83.605, floodplain location and extent may be determined using FEMA-provided base flood elevation data combined with topographic mapping (2-foot or less contour interval) produced from a survey by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer. Alternatively, the official topographic mapping maintained by the City of Corvallis or Benton County and prepared at a 2-foot (or less) contour interval may be used. However, for purposes of siting structures, floodplain location shall be determined through an elevation survey performed by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer.~~

~~(C) **Map Correction.** Map corrections to the floodplain location shall be approved by the Planning Official to reflect a Letter of Map Revision (LOMR) approved by the Federal Emergency Management Agency (FEMA).~~

~~[Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255, Ord 2016-0276]~~

~~**83.015 Definitions.** For the purposes of this chapter, the following definitions apply:~~

Commented [LTA3]: Revised Code section 83.020

~~(1) "1% Chance Floodplain" has the same meaning as "Special Flood Hazard Area." It means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The 1% Chance Floodplain is also referred to as the "100-Year Floodplain."~~

~~(2) "100-Year Floodplain" has the same meaning as "Special Flood Hazard Area". Note: Because the term "100-year floodplain" implies that a flood occurs only once every one hundred years, rather than the true meaning of the term. The Federal Emergency Management Agency (FEMA) discourages the use of this term.~~

~~(3) "Agricultural Structure" means a nonresidential structure customarily provided in conjunction with farm use for which, except for the fact that the structure is located within the Special Flood Hazard Area (SFHA), would be exempt from building code requirements pursuant to ORS 455.315.~~

(4) "Base Flood" - see definition listed in BCC 51.020.

(5) "Base Flood Elevation (BFE)" - see definition listed in BCC 51.020.

(6) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

(7) "Below-Grade Crawlspace" means an enclosed area below the base flood elevation and with an interior grade below the lowest adjacent exterior grade of the structure in which:

(a) The interior grade is not more than two feet below the lowest adjacent exterior grade; and

(b) The height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four (4) feet at any point.

(8) "Critical Facility" means a facility which, if impacted by flooding, could have significant negative impact on the greater community. Consequently, even a slight chance of such a facility flooding carries a high risk to the community. Critical facilities include, but are not limited to schools; nursing homes; hospitals; police, fire, and emergency response installations; and installations which produce, use, or store hazardous substance as defined in ORS 453.005 or hazardous waste as defined by the Oregon Department of Environmental Quality.

(9) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, fences, or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations; or storage of equipment or materials located within the special flood hazard area.

(10) "Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

(11) "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland water; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(12) "Flood Hazard" see definition listed in BCC 51.020.

(13) "Flood Insurance Rate Map (FIRM)" means the official map, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or the risk premium zones applicable to the community.

(14) "Flood Insurance Study" means the official report provided by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, regulatory Floodway boundaries, and water surface elevations of the base flood.

(15) "Flood Proofing" see definition listed in BCC 51.020.

(16) "Floodplain" see definition listed in BCC 51.020.

(17) "Flood-specific Venting" means two or more openings in the walls of an enclosed space below an elevated structure or the walls of a non-elevated structure. Such openings shall qualify as flood specific venting if they meet one of the following standards:

(a) Prescriptive flood venting requirements:

(A) A minimum of two flood-specific 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. Only the portion of an opening that is below the base flood elevation shall be included in the calculation;

(B) Underfloor vents as required to satisfy ventilation of crawlspace areas per applicable building code do not satisfy the standards for flood-specific venting;

(C) The bottom of all openings shall be no higher than one (1) foot above grade; and

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

(b) Pre-fabricated flood vents certified by the Federal Emergency Management Agency (FEMA):

(A) A minimum of two flood-specific openings having a total net area certified by FEMA as sufficient for the enclosed area subject to flooding shall be provided. Only the portion of an opening that is below the base flood elevation shall be included in the calculation; and

(B) The bottom of all openings shall be no higher than one (1) foot above grade.

(18) "Floodway" see definition listed in BCC 51.020.

(19) "Floodway Fringe" see definition listed in BCC 51.020.

(20) "Flow-Through Construction" means a structure that does not hinder or obstruct the movement of or displace surface floodwater. An example of "flow-through construction" would be elevation of a structure on posts, piers, or piles. Neither flood-specific venting nor underfloor vents required to satisfy air ventilation requirements constitute "flow-through construction".

(21) "Lowest Regulatory Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a structure's lowest floor, provided that the enclosed area is built and maintained in accordance with the applicable design requirements of this chapter, as specified in BCC 83.220.

(22) "New Construction" means structures for which the "start of construction" commenced on or after July 31, 1987 (the effective date of this chapter).

(23) "Nonresidential structure" means any structure other than:

(a) A dwelling; or

(b) A structure accessory to a dwelling.

(24) "Recreational Vehicle" means a vehicle which is:

(a) Built on a single chassis;

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

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

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

(25) "Shallow Flooding Area" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(26) "Special Flood Hazard Area (SFHA)" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. This area includes both the floodway fringe and the floodway and is commonly referred to as the "100 year floodplain". Designation of this area on Flood Insurance Rate Maps always includes the letter A.

(27) "Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation,

such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement

(28) , footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(29) "Structure" means a building with a roof and two (2) or more rigid exterior walls, manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

(30) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(31) "Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvements of a structure, the cost of which equals or exceeds fifty percent (50%) of its current market value either:

(a) Before the improvement or repair is started; or

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

In determining "substantial improvement," the Planning Official may refer to the most recent version of the FEMA Desk Reference for Local Officials (FEMA 480).

"Substantial improvement" does not, however, include either:

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

(b) Any alteration of a structure listed on the National Register of Historic Places or the County Register of Historic Resources, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

(32) "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

[Ord 26, Ord 90-0069, Ord 2000-0157, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.100 Information to be Obtained and Maintained. The Planning Official shall perform the following duties relating to obtaining and maintaining flood-related information:

Commented [LTA4]: Revised Code section 83.210
Revised Code section 83.260

(1) **Elevated Structures.** Where base flood elevation data are provided through the Flood Insurance Study, Flood Insurance Rate Maps, or required as in BCC 83.300(2), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) **Floodproofed Structures.** For all new or substantially improved floodproofed structures where base flood elevation data are provided through the Flood Insurance Study, Flood Insurance Rate Maps, or as required in BCC 83.300(2):

(a) Verify and record the actual elevation (in relation to mean sea level), and

(b) Maintain the floodproofing certifications required in BCC 83.405.

(3) Maintain for public inspection all records pertaining to the provisions of this chapter. [Ord 2009-0233 eff. 6/2/2011]

83.105 Interpretation of Floodplain Boundaries; Use of Other Data.

(1) If it is uncertain whether any proposed development described in BCC 83.110(1) is located in the floodplain (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), it shall be clearly demonstrated to the satisfaction of the County Engineer that the site in question is not subject to flood hazard.

(2) Where base flood elevation data have not been provided by FEMA, the applicant shall be responsible for providing to the County Engineer sufficient information either to determine the base flood elevation and floodway, if applicable, or to demonstrate the elevation of the development site will render it above the floodplain through comparison with nearby locations mapped as outside the floodplain.

(3) Any person contesting the location of the floodplain boundary shall be given a reasonable opportunity to appeal the interpretation by submission of a Letter of Map Amendment for the site in question approved by the Federal Emergency Management Agency.

[Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.110 Floodplain Development Permit Required.

(1) A floodplain development permit shall be obtained prior to construction of a new structure, substantial improvement to any structure, the placement of a manufactured dwelling, or the initiation of other land development activities including, but not limited to, fencing, mining, dredging, filling, grading, paving, excavation or drilling operations within the Special Flood Hazard Area established in BCC 83.010. Outside of the Corvallis Urban Growth Boundary, standard agricultural practices of a recurring character are exempt from the provisions of this chapter.

(2) An application for a permit shall be submitted on a form provided by the Planning Official with plans, engineering calculations, and other information determined to be necessary for the review of the application by the Planning Official and County Engineer.

(3) An application shall be reviewed by the Planning Official and County Engineer to determine:

(a) The applicability of provisions of this chapter.

(b) Compliance with provisions of this chapter.

(c) That the proposed development will not cause a significant negative effect on surrounding properties by changing the flow of flood waters or increasing flood elevations in the immediate vicinity.

(4) The County Engineer may require the design and installation of mitigative measures necessary to comply with BCC 83.110(3)(c).

(5) A permit shall not be issued until all necessary permits required by Federal or State law or County Ordinance have been secured. Alternatively, a permit may be issued with the condition that all necessary permits required by Federal or State law or County Ordinance will be secured prior to initiation of development activities approved by the permit.

(6) Issuance or denial of a floodplain development permit that requires the exercise of discretion shall include notification of the decision pursuant to BCC 51.625.

(7) The following development activities require application for a floodplain development permit, but may be deemed exempt from floodplain development regulations upon submission of the application form and appropriate supporting documentation:

(a) Placement of fill within the floodway fringe, provided all of the following are met:

(A) The fill is used solely for the purpose of constructing a sandbox, raised gardening bed, or similar landscaping feature;

(B) The fill does not occupy an area that is greater than 500 square feet or 10 percent of the

Commented [LTA5]: Revised Code section 83.300

Commented [LTA6]: Revised Code section 83.310(1)(c)

Commented [LTA7]: Revised Code section 83.270(1)(a)

Commented [LTA8]: Revised Code sections 83.250

Commented [LTA9]: Revised Code section 83.220

area of the subject parcel that is within the floodway fringe, whichever is less; and

(C) The average depth of the fill does not exceed six inches over the area described in subsection (B) above.

(b) Maintenance, repair, and/or replacement of existing electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities provided the facilities:

(A) Are in-kind maintenance, repair, and/or replacement; and

(B) Will not result in an increase in Base Flood Elevation.

(c) Maintenance, minor repair, and/or improvement of existing structures, provided these activities do not:

(A) Result in an increase in size or intensity of use;

(B) Constitute repair of substantial damage, as defined in BCC 83.015; or

(C) Constitute a substantial improvement, as defined in BCC 83.015.

(d) Public agency placement of signs, markers, aids, etc.; and

(e) Customary dredging associated with routine ditch maintenance to maintain existing ditch capacity, provided it is consistent with State and Federal laws and permits.

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.205 Floodway Determination; Restrictions.

(1) Except as provided for in subsection (4) of this section, the County Engineer shall determine whether any proposed development described in BCC 83.110(1) is located in a designated floodway as provided by BCC 83.010.

(a) If the proposed development is located in a designated floodway, the applicant shall clearly demonstrate that all encroachments, including fill, new construction, substantial improvements, and other development within the floodway would not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If the proposed development is located in a Special Flood Hazard Area where a floodway has not been designated as shown on the Flood Insurance Rate Maps, the applicant shall clearly demonstrate that the cumulative effect of the proposed development shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

(2) The applicant shall derive base flood elevation data using the same or similar engineering methods used for "The Flood Insurance Study of Unincorporated Areas of Benton County, Oregon". The County Engineer and the Federal Emergency Management Agency may provide technical assistance. The applicant shall provide for certification by a licensed professional engineer or architect that the proposed development complies with provisions of this section.

(3) Within a floodway in the Corvallis Urban Growth Boundary as described in BCC 83.010(3), structural improvements and the placement of fill, other than in a public benefit such as a public improvement project, shall not be permitted. For the purposes of this section, public improvement projects include, but are not limited to, the construction of bridges, roads, storm water detention facilities, and water dependent uses. Public improvement projects are allowed if the applicant demonstrates, through hydrologic and hydraulic analyses prepared by a registered professional engineer, that the permitted development will not result in any increase in flood levels during the occurrence of the base flood discharge.

(4) Projects for stream habitat restoration may be permitted in the floodway provided:

(a) The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and

Commented [LTA10]: Removed per recommendation from the state because the type of work identified in subsection (b) could be occurring in either a flood fringe area (that allows up to a 1-foot Base Flood Elevation increase) or a floodway (that allows no Base Flood Elevation increase).

Commented [LTA11]: Revised Code section 83.270

Commented [LTA12]: Revised Code section 83.220(1)(d)

Commented [LTA13]: Revised Code section 83.810(1)

Commented [LTA14]: Revised Code section 83.800

Commented [LTA15]: Revised Code section 83.310(1)(f)

Commented [LTA16]: Revised Code section 83.810(3)

(b) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,

(c) No structures would be impacted by a potential rise in flood elevation; and,

(d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2016-0276]

83.210 General Development Standards. Where allowed, all development in the Floodplain Management Overlay Zone shall comply with the following standards:

(1) A Pre-Construction Elevation Certificate shall be required for all new construction, substantial improvements, and non-substantial improvements prior to issuance of a building permit within the Special Flood Hazard Area (SFHA) or within 50 feet of the SFHA. A Post-Construction Elevation Certificate shall be required prior to final inspection approval for all building permits where the Pre-Construction Elevation Certificate shows the building site to be (a) within the SFHA, regardless of the lowest adjacent grade (LAG) shown on the Pre-Construction Elevation Certificate or (b) at or below the Base Flood Elevation if the site is within 50 feet of the SFHA.

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

(3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. Methods and practices that minimize flood damage shall be used.

(4) Except as in subsection (a) below, electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be elevated a minimum of one (1) foot above the base flood elevation, or shall be designed to prevent water from entering or accumulating within the components during conditions of flooding.

(a) Facilities serving a structure constructed prior to August 5, 1986, and not substantially improved since that date, may be installed at the same elevation as the top of the first habitable floor, or shall be designed to prevent water from entering or accumulating within the components during conditions of flooding. A basement shall not be considered a habitable floor.

Note: It is still strongly recommended that all electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities be elevated a minimum of one (1) foot above the base flood elevation whenever possible.

(5) All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters and discharge into floodwaters.

(6) On-site wastewater treatment systems shall be located outside of floodplain on properties where land outside the floodplain is comparable to or better than land located within the floodplain with regard to soil conditions, topography, and unencumbered area in accordance with the Oregon Department of Environmental Quality rules.

(7) Storage or processing of materials in a manner that would be hazardous in a flood shall be prohibited.

(8) Fences and Walls. New and replacement fencing shall be designed to automatically collapse under conditions of the base flood or to automatically allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass through freely.

Commented [LTA17]: Required to be removed.

Revised Code sections 83.800 &
Revised Code sections 83.800

Per instruction from the state, this language was replaced with language from 44 CFR 60.3(d)(4) to allow a rise if a CLOMR is approved.

Commented [LTA18]: Revised Code section 83.260(1)

Commented [LTA19]: Revised Code section 83.500(4)

Commented [LTA20]: Revised Code section 83.500(5)

Commented [LTA21]: Revised Code section 83.500(6)

Commented [LTA22]: Revised Code section 83.500(7)

Commented [LTA23]: Removed per instruction from the state.

Fences within the floodplain are encouraged to be wire-strand construction rather than woven wire, welded wire, or solid construction. Wire-strand construction reduces the potential for the fence to collect debris during a flood, redirect floodwaters, and/or be washed downstream.

(9) AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(10) Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*, or successor document. (For more detailed information refer to FEMA Technical Bulletin 11-01.):

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

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, shall have openings compliant with BCC 83.220 that equalize hydrostatic pressures by allowing the automatic, unrestricted entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

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

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

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

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

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

(h) If the velocity of floodwaters at the site will exceed five (5) feet per second, other foundation types shall be used.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255, Ord 2016-0276]

83.215 Special Siting Standards for Dwellings, Manufactured Dwellings, and Recreational Vehicles. Where allowed, new and substantially improved dwellings and recreational vehicles in the Floodplain Management Overlay Zone shall comply with the general development standards set forth in subsections (1) through (4) below.

Commented [LTA24]: Revised Code section 83.800(6) Relocated fence and wall standards to the floodway section per recommendation from the state.

Commented [LTA25]: Revised Code section 83.680

Commented [LTA26]: Revised Code section 83.670

(1) New dwellings, expansion of existing dwellings, and placement of manufactured dwellings are prohibited within the floodplain, with the following exceptions:

(a) New dwellings on vacant land may be allowed if, through an Administrative Review the Planning Official determines that there is insufficient buildable land outside the floodplain to allow reasonable development of the property. The Planning Official may then allow a building site located partially or fully within the floodplain.

(A) In approving such a site, preference shall be given to sites that:

(i) Result in less fill and development within the floodplain;

(ii) Are of higher elevation;

(iii) Are farther from the top of bank of the adjacent water course

(iv) Minimize the risk of structural damage from flooding; and

(v) Preserve natural floodplain functions.

(B) In addition to the construction standards of this chapter, further conditions may be applied as deemed necessary by the Planning Official to minimize potential risks to the structure and potential impacts to other properties and the functioning of the floodplain.

(b) Additions to existing structures may be allowed if the addition either:

(A) Falls below the threshold of "substantial improvement"; or

(B) Will not result in the filling of additional floodway fringe area (such as a second story addition or flow-through construction).

(c) Replacement of an existing structure may be allowed, either:

(A) Within the building footprint of the structure being replaced;

(B) With a maximum 10% expansion or shift of the building footprint of the structure being replaced;

(C) With a maximum 10% expansion located elsewhere on the site, if through an Administrative Review the Planning Official determines that the relocation of the structure enhances stormwater and floodplain functions. The relocation shall be considered to enhance stormwater and floodplain functions if it furthers any of the following goals without worsening any other goal:

(i) Replaces standard construction with flow-through construction as defined in BCC 83.015;

(ii) Moves the structure to a higher ground elevation;

(iii) Moves the structure further from the top of bank of the adjacent water course;

(iv) Reduces the amount of impervious surface area in the floodway fringe;

(v) Does not negatively impact non-noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T" ; or

(D) With a greater than 10% expansion or shift of the building footprint of the structure being replaced if:

(i) The structure will be constructed with flow-through construction as defined in BCC 83.015;

Commented [LTA27]: Revised Code section 83.020 Definition added to clarify meaning of this term.

(ii) The structure will be no closer to the top of bank of the adjacent water course than the existing structure; and

(iii) The expansion or shift of the building footprint does not negatively impact non-noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T".

(2) The lowest regulatory floor, including basement, of any new dwelling, or substantial improvement of a dwelling, or placement of a manufactured dwelling shall be elevated a minimum of 18 inches above the base flood elevation. In areas where a base flood elevation has not been established, applications for building permits shall be reviewed by the County Engineer to assure that proposed construction will be reasonably safe from flooding when considering historical data, high water marks, photographs of past flooding, etc., where available.

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

(4) A recreational vehicle placed within the A, A1-30, AH, and AE Flood Zones shall either:

(a) Be on the site for fewer than 180 consecutive days; or

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

(c) Meet the requirements for manufactured dwellings under subsections (1) through (3) of this section.

[Ord 26, Ord 90-0069, Ord 2000-0157, Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.220 Enclosed Areas Below Dwellings and Manufactured Dwellings. Fully enclosed areas below the lowest floor of a dwelling or a manufactured dwelling in the Floodplain Management Overlay Zone are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be:

(1) Flood-specific venting, as defined in BCC 83.015; or

(2) Certified by an Oregon-registered professional engineer or architect. [Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.225 Special Siting Standards for Structures Accessory to a Dwelling, and Agricultural, Commercial, Industrial, and other Nonresidential Structures.

(1) New or expanded commercial, industrial, and other nonresidential structures other than agricultural structures, are prohibited within the floodplain. If there is insufficient buildable land outside the floodplain to allow reasonable development of the property, a new or expanded primary structure may be authorized through the procedure specified in BCC 83.215(1)(a) through (c).

(2) Agricultural structures and structures accessory to a dwelling shall be:

(a) Prohibited within the floodway; and

(b) Allowed within the floodway fringe provided they comply with subsection (3).

(3) Where allowed, new construction and substantial improvement of structures accessory to a dwelling and agricultural, commercial, industrial, and other nonresidential structures shall comply with BCC 83.210 and one of the following sets of standards, as applicable:

Commented [LTA28]: Revised Code section 83.620(3)

Commented [LTA29]: Revised Code section 83.620(1)

Commented [LTA30]: Removed this sentence (1) based on state's recommendation due to concerns for clear and objective standards and (2) because the requirement (meant to give flexibility for Zone A areas) is outdated due to improvements in technology that allow for determination of base flood elevations in these areas.

Similar wording is required to be included as part of Revised Code section 83.310(1)(b).

Commented [LTA31]: Revised Code section 83.620(4)(b)

Commented [LTA32]: Revised Code section 83.630

Commented [LTA33]: Revised Code section 83.660

Commented [LTA34]: Revised Code section 83.610 (Non-Residential Construction for commercial, industrial, and other non-residential structures), Revised Code section 83.650 (Accessory Structures), Revised Code section 83.810 (Mapped Regulatory Floodway)

Commented [LTA35]: Revised Code section 83.610(1)

Commented [LTA36]: Revised Code section 83.810(2)

~~(a) For any such structure:~~

~~(A) The lowest floor, including basement, shall be elevated a minimum of 18 inches above the base flood elevation. In areas where a base flood elevation has not been established, applications for building permits shall be reviewed by the County Engineer to assure that proposed construction will be reasonably safe from flooding when considering historical data, high water marks, photographs of past flooding, etc., where available.~~

~~(B) Enclosed areas below such structures that are elevated shall comply with the requirements described in BCC 83.220.~~

~~(b) For any such structure, the structure:~~

~~(A) Complies with BCC 83.210;~~

~~(B) Is floodproofed so that the portion of the structure below the base flood elevation is watertight with walls substantially impermeable to the passage of water;~~

~~(C) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~

~~(D) Is certified by an Oregon 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.~~

~~(c) For any structure exempt from building permit requirements, the structure:~~

~~(A) Shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;~~

~~(B) Shall not contain toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality stored below BFE, unless confined in a tank installed in compliance with this ordinance;~~

~~(C) Complies with BCC 83.210;~~

~~(D) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as certified by an Oregon registered professional engineer;~~

~~(E) Is designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters as provided by BCC 83.220; and~~

~~(F) As a condition of approval, the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:~~

~~*This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. The construction of the _____ [garage or other residential accessory structure] to be used only for _____ [parking, access, limited storage, and/or housing of animals] has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.225(3)(c)(B), at an elevation below the base flood elevation within such structure is prohibited.*~~

~~*In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other*~~

Commented [LTA37]: Removed this sentence (1) based on state's recommendation due to concerns for clear and objective standards and (2) because the requirement (meant to give flexibility for Zone A areas) is outdated due to improvements in technology that allow for determination of base flood elevations in these areas.
Similar wording is required to be included as part of Revised Code section 83.310(1)(b).

Commented [LTA38]: Revised Code section 83.610 (Non-Residential Construction for commercial, industrial, and other non-residential structures),
Revised Code section 83.650 (Accessory Structures),
Revised Code section 410 (Agricultural Structures)

Commented [LTA39]: Revised Code section 83.650(4)

occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy. This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

[Ord 26, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.240 Notice of Floodproofing Implications. An applicant choosing to floodproof a nonresidential building pursuant to BCC 83.225(3)(b) shall be notified in writing that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below that level). [Ord 26, Ord 90-0069]

83.300 Major Development Proposals.

(1) Where the primary zone permits a subdivision, mobile home or manufactured dwelling park, or mobile home or manufactured dwelling subdivision, such use may be allowed in the Floodplain Management Overlay Zone if:

(a) Such use is consistent with the need to minimize flood damage;

(b) The applicant demonstrates that public utilities and facilities such as water supply, sewage disposal, natural gas and electrical systems are located and constructed to minimize flood damage; and

(c) The applicant demonstrates that adequate drainage has been provided to reduce exposure to flood damage.

(2) Where base flood elevation data have not been provided by FEMA or are not available from another authoritative source, the applicant shall provide such data if the proposed subdivision or park equals or exceeds fifty (50) lots or parcels, or five (5) acres. Such data shall be derived using the same or similar engineering methods used in "The Flood Insurance Study for Benton County, Oregon and Incorporated Areas".

(3) Subdivisions shall also be subject to the provisions of BCC 83.605. [Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.310 Alteration or Relocation of a Watercourse.

(1) The Planning Official shall notify adjacent communities and the Department of Land Conservation and Development of permit applications for alteration or relocation of a watercourse. The Planning Official shall submit evidence of such notification to FEMA. The County shall stipulate maintenance requirements for the altered or relocated portion of any watercourse so that flood carrying capacity is not diminished as a condition of permit approval pursuant to BCC 83.110.

(2) Within the Corvallis Urban Fringe, the following shall also apply. Water course alteration by artificial means is prohibited, with exceptions only for: emergency management purposes, or as mandated by State or Federal actions that supersede local authority, or to restore to its natural channel a stream whose course has been altered through human action. Prior to the alteration or relocation of a watercourse, the applicant for such authorization must notify the Oregon Department of State Lands (DSL) and submit copies of such notification to the Planning Official. The applicant shall submit certification provided by an Oregon registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

[Ord 26, Ord 90-0069, Ord 2000-0157, Ord 2005-0209]

83.405 Records of Compliance. The County Building Official shall certify compliance with the

Commented [LTA40]: Revised Code section 83.650(5)

Commented [LTA41]: Revised Code section 83.610(2)(d)

Commented [LTA42]: Revised Code section 83.520(1)

Commented [LTA43]: Revised Code section 83.230(2)
Revised Code section 83.500(1)

Commented [LTA44]: Revised Code section 83.230(2)(d)
Revised Code section 83.700(1)

provisions of this chapter.

(1) The County Building Official shall obtain and record the actual elevation of the lowest habitable floor (including basement) of all new and substantially improved structures subject to this section and indicate whether the building contains a basement.

(2) The County Building Official shall verify and record the actual elevation of all new and substantially improved floodproofed structures and obtain and maintain certifications required by BCC 83.220 and BCC 83.235(1).

(3) The County Building Official shall maintain for public inspection all records pertaining to compliance with the provisions of this chapter.

[Ord 26, Ord 90-0069, Ord 2009-0233 eff. 6/2/2011]

83.505 Additional Standards in Corvallis Urban Fringe. In the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the following standards shall apply in addition to other applicable provisions of this chapter. In the case of conflict, the more restrictive standard shall apply. Developers of floodplain property are strongly encouraged to schedule a pre-application conference with the Community Development Department to review floodplain considerations.

(1) In areas identified on the Benton County Zoning Map as Partial Protection Floodplain, the following shall apply:

(a) Fill or construction in the floodplain shall be compensated for by removal of an equal amount of material from the floodplain on the same property. The purpose is to ensure that the available flood volume of the Special Flood Hazard Area (100-year floodplain) is not reduced. Volumetric exchange will not be required of buildings constructed with flow-through design. Areas of fill and excavation shall be designed to accommodate floodwater flows and shall not create barriers to the flow of floodwater. Proposals to alter topography in the floodplain must demonstrate that they will not result in alteration of hydrology or flow regimes that would cause erosion, unwanted ponding, or other problems.

(2) In areas identified on the Benton County Zoning Map as High Protection Floodplain, the following shall apply:

(a) Removal of vegetation from the floodplain is prohibited, except for the following purposes:

(A) Removal of a hazard tree which poses an immediate threat to life or property. Tree removal shall comply with the following standards:

(i) The stump and root wad of any altered tree shall remain undisturbed in place;

(ii) Any tree removed is required to be replaced by like native species or alternate approved native species.

(B) Maintenance of lawns, planted vegetation, and landscaping, to the extent existing on October 6, 2005.

(C) Stream restoration and enhancement programs approved by the Oregon Department of Fish and Wildlife as improving riparian function, and wetland restoration and enhancement programs approved by Oregon Department of State Lands or the Oregon Department of Fish and Wildlife.

(D) Removal of non-native, invasive, and/or noxious vegetation, as identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A", "B", and/or "T". As necessary to control erosion, areas of vegetation removal shall be re-vegetated with native

Commented [LTA45]: Revised Code section 83.210
Revised Code section 83.260

Commented [LTA46]: Revised Code section 83.700

species. If necessary to prevent erosion prior to new vegetation becoming established, short-term, non-structural erosion control measures shall be employed.

(E) Substitution of native plant species for non-native plants. Additionally, native plants may be planted without accompanying removal of non-native plants. All new plantings shall be species listed on the City of Corvallis Native Plant List as appropriate for the proposed location. Plantings being substituted for non-native plants shall be species identified on the Corvallis Native Plant List as being in the same ecological function category as the replaced plants. Plantings shall be maintained to ensure they become established.

(F) For the development of water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the floodplain.

(G) Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage.

(H) The minimum vegetation removal necessary to establish and maintain a fire fuel break safety zone, as defined in BCC 88.010(2), surrounding a structure. Benton County encourages property owners to consult with the Oregon Department of Fish and Wildlife on ways to minimize the impact of this vegetation removal and to mitigate the impacts that do occur.

(I) Continuation of agricultural activities, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(J) The minimum vegetation removal necessary to establish a pedestrian trail located at least 10 feet inland from the top of bank.

(K) Vegetation removal in conjunction with a development activity allowed under BCC 83.505(2)(b).

(L) Commercial forestry operations authorized by the Oregon Department of Forestry.

(M) Vegetation removal within the area authorized under the provisions for a Modification to Natural Features Standards (BCC 88.800).

(b) Building, Paving, and Grading Activities:

(A) In the 0.2-ft. Floodway portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, no encroachments, including fill, new construction, substantial improvements, and other development are allowed, with the exception of bridges, infrastructure, utilities, or water dependent uses for which it may be demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. Such exceptions shall also be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with the mandatory construction standards in BCC 83.210. Development within the 0.2-ft. Floodway shall comply with all applicable State and Federal requirements.

(B) In the Floodway Fringe portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited except as provided below. Such exceptions shall be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with the

mandatory construction standards in BCC 83.210.

(i) Replacement of an existing structure may be allowed pursuant to BCC 83.215(1).

(ii) Additions to an existing structure may be allowed pursuant to BCC 83.215(1).

(iii) Accessory structures and agricultural structures, provided they are of flow-through design and construction.

(iv) Grading and excavation that are standard agricultural practices of a reoccurring character, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(v) The following types of infrastructure, provided they are designed to minimize impacts to floodplain hydrologic and ecologic function:

(a) Construction of streets, roads, public utilities, bridges, and bicycle and pedestrian ways that are included in the City of Corvallis Transportation Plan, or in other adopted City infrastructure/utility plans.

(b) Construction of streets, roads, bridges and bicycle and pedestrian ways necessary in order to maintain an acceptable functional classification of roadways adjacent to the property.

(c) Driveways necessary to provide access to an approved building site, provided the minimum floodplain area is disturbed.

(vi) Development of water-related and water-dependent uses;

(vii) Erosion control or flood control measures that have been approved by the Oregon Department of State Lands (DSL) and/or the U.S. Army Corps of Engineers, and that utilize bio-engineering methods. Streambank hardening (installation of hard-surfaced erosion or flood protection structures such as rip-rap) is prohibited except where necessary to address an imminent hazard to a structure built prior to October 6, 2005. Where allowed, hard-surface measures shall be designed by a Professional Engineer licensed by the State of Oregon and shall be approved by the Oregon Department of State Lands or U.S. Army Corps of Engineers, and shall at a minimum, require backfilling with soil and planting with native vegetation;

(viii) Development authorized under the provisions for Modification to Natural Features Standards (BCC 88.800).

[Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

83.605 Parcels and Lots. Parcels or lots resulting from subdivisions, partitions and property line adjustments of land in the Floodplain Management Overlay Zone shall comply with the requirements of this section.

Commented [LTA47]: Revised Code section 83.520(2)

(1) Parcels and lots shall be designed such that existing and future uses and development activities allowed by the underlying zone can be carried out in conformance with the regulations contained in this chapter. Creation of lots or parcels that do not meet this requirement is prohibited, with the exception of lots or parcels created for public park or open space purposes.

(2) For each lot or parcel, other than those designated for non-residential use (such as a parcel in a resource zone and containing no dwellings), open space use or designated as otherwise unbuildable, the applicant shall demonstrate that:

(a) Suitable and adequate land exists outside the floodplain for siting of the primary structure; and

(b) Access by standard emergency vehicles such as fire apparatus and ambulance from the public road to the building site will not be prevented by flood waters during the base flood. This determination shall be based upon input from the fire protection district serving the site.

(A) For parcels/lots identified as non-residential, open space or designated as otherwise unbuildable, the applicant shall either:

(i) Comply with the standards identified in subsections (B) below; or

(ii) Shall sign and record a covenant agreeing to comply with the below provisions prior to establishment of a primary structure on the parcel/lot.

(B) For all other parcels/lots:

(i) The applicant shall submit a profile identifying grade and Base Flood Elevations (BFE) along the entire length of the proposed access route(s). The profile shall be prepared by an Oregon registered Professional Land Surveyor or Oregon licensed Civil Engineer and submitted with the application for land division;

(ii) Benton County Staff will provide a copy of the profile information to the applicable fire district for review; and

(iii) If the fire district determines that access by standard emergency vehicles such as fire apparatus and ambulance from the public road to the proposed building site would be:

(1) Available during the base flood, the land division may proceed as proposed.

(2) Prevented by flood waters during the base flood, the applicant shall obtain approval for a Conditional Letter of Map Revision Based on Fill (CLOMR-F) and a Letter of Map Revision Based on Fill (LOMR-F) to construct an elevated driveway to serve the proposed building site. The CLOMR-F approval shall be required as a condition of land division approval and must document not more than a 1-foot rise in BFE within a floodway fringe or no rise if within a floodway. The LOMR-F approval shall be required to be completed prior to building permit approval for a primary structure on the property.

(C) Confirmation of compliance with the above siting and emergency access criteria will be verified by the floodplain manager once all of the applicable documentation, reviews, and permit approvals have been completed.

(3) Site feasibility approval areas for on-site wastewater treatment systems shall be located outside of the floodplain if land outside the floodplain on the proposed lot or parcel is comparable to or better than land located within the floodplain with regard to soil conditions, topography, and unencumbered area in accordance with the Oregon Department of Environmental Quality rules.

[Ord 2005-0209, Ord 2009-0233 eff. 6/2/2011, Ord 2016-0276]

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

Commented [LTA48]: Revised Code section 83.500(3)

~~the level of the base flood elevation shall be provided to all critical facilities to the extent possible.~~

~~[Ord 2009-0233 eff. 6/2/2011]~~

~~83.800 Variance Procedure.~~

~~A variance to the requirements of this chapter may be granted pursuant to either subsection (1) or (2) of this section.~~

~~(1) A minor variance may be granted in limited circumstances pursuant to the following:~~

~~(a) To qualify, the proposed construction must meet the following standards:~~

~~(A) The structure will be used for only parking, storage, building access, and/or housing of farm animals;~~

~~(B) The structure must be a structure that requires a building permit;~~

~~(C) The structure will be detached and will be either an accessory structure or an agricultural structure; and~~

~~(D) If the structure will be for housing of farm animals, an area of land equal to the square footage of the animal housing portion of the structure will be designated or constructed as a refuge for the farm animals during flood events. The refuge area shall meet the following criteria:~~

~~(i) The entire elevation of the land shall be equal to, or higher than, the base flood elevation or shall be located entirely outside of the special flood hazard area;~~

~~(ii) The refuge area can be located on the same property as the structure or, upon documentation of an easement, on an adjacent property;~~

~~(iii) Reasonable access to the refuge area will be identified or constructed; and~~

~~(iv) If a refuge area or access to the area will be constructed, such construction shall not occur within a floodway or wetland, and the applicant shall demonstrate that any fish displaced by a flood event will not be trapped by the refuge area or access when the flood recedes.~~

~~(b) The applicant shall submit the following items along with an application form and fee:~~

~~(A) Although Benton County cannot require flood insurance, the applicant shall submit a signature from a licensed insurance professional verifying the applicant has discussed flood insurance options and potential requirements for the proposed accessory structure if a flood insurance policy were to be purchased for the structure;~~

~~(B) Acknowledgement by the property owner that structure will be built with the lowest floor below the Base Flood Elevation, the structure will be wet flood proofed, and that the contents of the structure might not be insurable against flood loss;~~

~~(C) Building plans showing:~~

~~(i) Flood specific venting as required by BCC 83.220;~~

~~(ii) Flood damage resistant construction materials for all portions of the structure that are below the Base Flood Elevation. Standards for flood damage resistant construction materials are found in FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program (or successor document); and~~

Commented [LTA49]: Revised Code section 83.400

Commented [LTA50]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals.

Commented [LTA51]: Revised Code section 83.410 (Minor Variance for Agricultural Structures)
Revised Code section 83.650 (Accessory Structures)

Commented [LTA52]: Revised Code section 83.410

Commented [LTA53]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals or designate a refuge area.

(iii) All electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be elevated in accordance with BCC 83.210;

(D) A pre-construction elevation certificate specific to proposed building site;

(E) A site plan of the property clearly identifying the proposed building location; and

(F) If the structure will be for housing of farm animals:

(i) The site plan shall clearly identify the location and dimensions of the refuge area required by BCC 83.800(1)(a)(D) and the access to the refuge area; and

(ii) Documentation of the grade elevation and the base flood elevation for the refuge area shall be provided by an Oregon registered Professional Land Surveyor or Oregon licensed Civil Engineer.

(e) Upon satisfactory completion of the above items, the minor variance will be granted administratively in conjunction with the issuance of the building permit and the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. The construction of the

_____[accessory or agricultural structure] to be used only for _____[parking, access, storage, and/or housing of animals] has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.225(3)(c)(B), at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy. This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

(d) In cases where construction of a refuge area or discretion is required to determine reasonable access to the refuge area, notice of decision pursuant to 51.625 is required; however newspaper publication of the notice is not required.

(2) In cases other than those listed in subsection (1) of this section, a variance may be granted pursuant to the standard variance procedure specified in Chapter 53 and the provisions of this section.

(a) Criteria. A variance may be approved only upon the applicant demonstrating that the following criteria, in addition to the standard variance criteria of BCC 53.410, are met.

(A) Granting of the variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(B) In considering a variance application, the Planning Official shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

(i) The danger that materials may be swept onto other lands to the injury of others;

Commented [LTA54]: Revised Code section 83.410(4)

Commented [LTA55]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals or designate a refuge area.

Commented [LTA56]: Revised Code section 83.410(5)

Commented [LTA57]: Removed. Current FEMA guidance allows for variance approval for agricultural structures without the need to include specific provisions for structures used to house farm animals or designate a refuge area.

(ii) The danger to life and property due to flooding or erosion damage;

(iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity to the facility of a waterfront location, where applicable;

(vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) The compatibility of the proposed use with existing and anticipated development;

(viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;

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

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

(b) Conditions of Approval.

(A) Upon consideration of the factors of subsections (2) and (3) of this section and the purposes of this chapter, the Planning Official may attach such conditions to the granting of a variance as deemed necessary to further the purposes of this ordinance.

Commented [LTA58]: Revised Code section 83.420

(B) Any applicant to whom a variance from the elevation standard is granted shall be given written notice that:

(i) The structure will be permitted to be built with a lowest floor elevation below the base flood elevation;

(ii) The cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;

(iii) Increased premium rates for flood insurance can be as high as $25 for $100 of insurance coverage; and

(iv) Construction below the base flood level increases risks to life and property.

Commented [LTA59]: Revised Code section 83.430

(3) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

(4) Records. The Community Development Department shall maintain the records of all variance requests and report any variance approvals to the Federal Insurance Administration upon request.

[Ord 2009-0233 eff. 6/2/2011, Ord 2013-0255]

Commented [LTA60]: Removed per FEMA requirement that standards addressing alteration of historic structures be included only in the definition of "substantial improvement" or in the variance criteria.

Per FEMA Region X recommendation, alteration of historic structures is now addressed entirely through the definition of "substantial improvement" in Revised Code section 2.0.

Commented [LTA61]: Revised Code sections 83.260(2)(c)

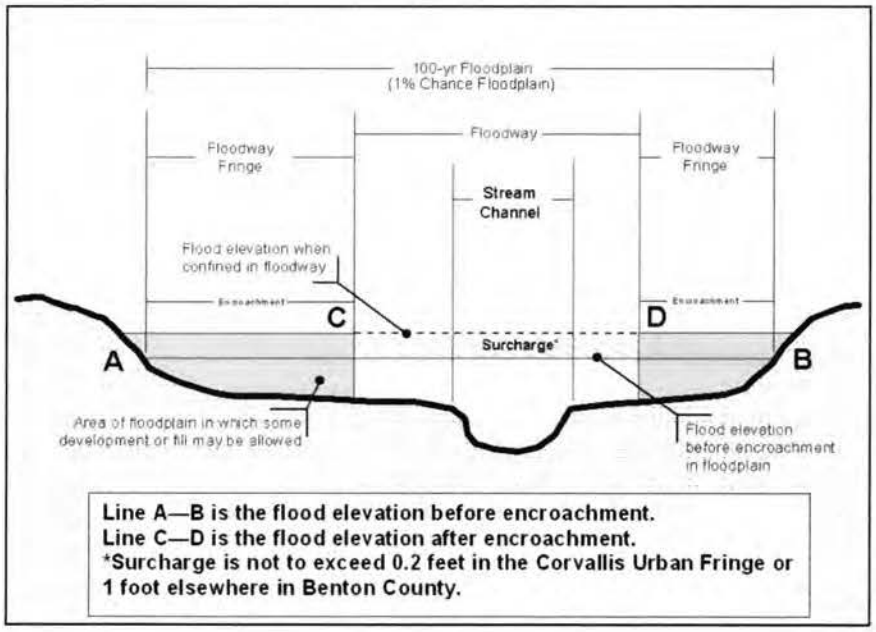

100-yr Floodplain
(1% Chance Floodplain)
Floodway
Fringe
Floodway
Floodway
Fringe
Stream
Channel
Flood elevation when
confined in floodway
C
D
Surcharge*
A
B
Area of floodplain in which some
development or fill may be allowed
Flood elevation
before encroachment
in floodplain
Line A—B is the flood elevation before encroachment.
Line C—D is the flood elevation after encroachment.
*Surcharge is not to exceed 0.2 feet in the Corvallis Urban Fringe or
1 foot elsewhere in Benton County.

Exhibit 3

Revised Chapter 83 of the Benton County Development Code
(Effective Date: October 14, 2021)
Development Code Amendments; File No. LU-21-032

Added text is underlined.
Deleted text is ~~struck through~~.

CHAPTER 83

FLOODPLAIN MANAGEMENT OVERLAY (/FP)

Note: For legislative history, refer to Ordinance 2021-0304, effective 10/7/2021.
The legislative history is documented in the following ordinance exhibits:

- *Exhibit 2 – Former code with references to the 2021 adopted code section numbers*
- *Exhibit 3 – 2021 adopted code with references to former code section numbers*
- *Exhibit 4 – Additional quick-reference in the form of a table that identifies 2021 adopted code section numbers and former code section numbers*

STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

83.005 Statutory Authorization.

The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Benton County does ordain as follows:

(1) Findings of Fact

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

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

(2) Statement of Purpose

(a) The Floodplain Management Overlay Zone shall implement the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as well as the Benton County Comprehensive Plan.

(b) It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

(A) Protect human life, health, and property;

(B) Minimize expenditure of public money for costly flood control projects;

Commented [LTA1]: New. This section is required to be added.

Commented [LTA2]: New. This section is required to be added.

Commented [LTA3]: New. This section is required to be added.

Commented [LTA4]: BCC 83.005

(C) Minimize the need for rescue, emergency services, and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions and unnecessary disruption of commerce, access and public service during times of flood;

(E) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants; water and gas mains; electric, telephone and sewer lines; streets; and bridges located in special flood hazard areas;

(F) Decrease the cost of flood insurance;

(G) Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas;

(H) Ensure that potential buyers are notified that property is in a special flood hazard area;

(I) Ensure that those who occupy the special flood hazard areas assume responsibility for their actions;

(J) Recognize and preserve the natural flood mitigation functions of floodplains;

(K) Preserve the ecosystem functions of floodplains; and

(L) Participate in and maintain eligibility for flood insurance and disaster relief.

Commented [LTA5]: New. This statement is required to be added.

(3) Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:

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

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

(c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(d) Controlling filling, grading, dredging, and other development which may increase flood damage;

(e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.

Commented [LTA6]: New. This section is required to be added.

83.020 DEFINITIONS. For the purposes of this chapter, the following definitions apply. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

(1) "**1% Chance Floodplain**" has the same meaning as "Special Flood Hazard Area." It means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The 1% Chance Floodplain is also referred to as the "100-Year Floodplain".

(2) "**100-Year Floodplain**" has the same meaning as "Special Flood Hazard Area". Note: The Federal Emergency Management Agency (FEMA) discourages the use of the term "100-year floodplain" because it implies that a flood occurs only once every one hundred years, rather than the true statistical meaning of the term.

(3) "**Agricultural Structure**" means a nonresidential structure customarily provided in conjunction with farm use for which, except for the fact that the structure is located within the special flood hazard area, would be exempt from building code requirements pursuant to ORS 455.315. Any such structure located in a special flood hazard area is not eligible for exemption from building code requirements and must obtain approval for a structural permit.

Note: The term "agricultural structure" has an alternate meaning when used in **BCC 83.410**; the alternate meaning is defined in that section and is specific to granting a minor variance for structures associated with agricultural use.

(4) "**Appeal**" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

(5) "**Area of Shallow Flooding**" See definition for "Shallow Flooding Area" below.

(6) "**Area of Special Flood Hazard**" See definition for "Special Flood Hazard Area" below.

(7) "**Base Flood**" See definition listed in BCC 51.020.

(8) "**Base Flood Elevation (BFE)**" See definition listed in BCC 51.020.

(9) "**Basement**" means any area of a building having its floor subgrade (below ground level) on all sides.

(10) "**Below-Grade Crawlspace**" means an enclosed area below the base flood elevation and with an interior grade below the lowest adjacent exterior grade of the structure in which:

(a) The interior grade is not more than two feet below the lowest adjacent exterior grade;

(b) The height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four (4) feet at any point; and

(c) The height, measured from the interior grade of the crawlspace to the lowest habitable floor does not exceed five (5) feet at any point.

Commented [LTA7]: BCC 83.015

Commented [LTA8]: New. This statement is required to be added.

Commented [LTA9]: Amended. This definition was originally added in 2013 at the request of the Planning Commission to clarify that an accessory structure within a designated floodplain cannot qualify for an exemption from building code requirements based on commercial agricultural use of the structure.

With the required adjustment to the minor variance standards and their application to agricultural structures, the proposed amendment of the term "agricultural structure" is required to reduce confusion.

These amendments clarify that the term "agricultural structure" (as used in the minor variance section BCC 83.410) is meant apply to a broader range of structures (i.e. any such structure that is used for agricultural purposes, even if it would not otherwise qualify for an Agricultural Exemption).

Commented [LTA10]: New. This definition is required to be added.

Commented [LTA11]: New. This definition is required to be added.

Commented [LTA12]: New. This definition is required to be added.

Commented [LTA13]: Added for clarification.
The "top of crawlspace foundation" is not measured on any documentation submitted for permit review.
Guidance provided for verification of the 4-foot maximum identified in subsection (b) is to verify that the distance (typically identified on an elevation certificate) between crawlspace elevation and lowest habitable floor does not exceed 5 feet.

(11) "**Building**" See definition for "Structure" below.

(12) "**Conditional Letter of Map Amendment (CLOMA)**" means FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

(13) "**Conditional Letter of Map Revision (CLOMR)**" means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

(14) "**Conditional Letter of Map Revision - Based on Fill (CLOMR-F)**" means FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

(15) "**Critical Facility**" means a facility which, if impacted by flooding, could have significant negative impact on the greater community. Consequently, even a slight chance of such a facility flooding carries a high risk to the community. Critical facilities include, but are not limited to schools; nursing homes; hospitals; police, fire, and emergency response installations; and installations which produce, use, or store hazardous materials or hazardous waste.

(16) "**Development**" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures; fences; bridges and culverts; mining, dredging, filling, grading, paving, excavation or drilling operations; or storage of equipment or materials located within the special flood hazard area.

(17) "**Elevated Structure**" means a non-basement structure which has a lowest habitable floor that is elevated above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

(18) "**Flood**" or "**Flooding**" means:

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

(A) The overflow of inland water;

(B) The unusual and rapid accumulation or runoff of surface waters from any source; and/or

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

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water

Commented [LTA14]: New. The state recommends addition of this definition.

FEMA, NFIP, and CRS use the terms *building* and *structure* almost interchangeably throughout their documents (as demonstrated in the wording of the floodplain code language required to be added/amended) but with a variety of definitions.

Addition of this definition helps clarify that these two terms are meant to be the same throughout this ordinance.

Commented [LTA15]: New. The state recommends addition of this definition.

Commented [LTA16]: New. The state recommends addition of this definition.

Commented [LTA17]: New. The state recommends addition of this definition.

Commented [LTA18]: Amended. The state recommends this wording for the *critical facility* definition and inclusion of a separate definition for *hazardous materials/waste*.

Commented [LTA19]: Existing county definition that is allowed to remain. Revised slightly for consistency.

exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection **(a)(A)** of this definition.

(19) "**Flood Elevation Study**" See definition for "Flood Insurance Study" below.

(20) "**Flood Hazard**" See definition listed in BCC 51.020.

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

(22) "**Flood Insurance Study (FIS)**" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(23) "**Flood Proofing**" See definition listed in BCC 51.020.

(24) "**Floodplain**" See definition listed in BCC 51.020.

(25) "**Floodplain Administrator**" means the community official designated by title to administer and enforce the floodplain management regulations.

(26) "**Flood-specific Venting**" means two or more openings in the walls of an enclosed space below an elevated structure or the walls of a non-elevated structure. Such openings shall qualify as flood-specific venting if they meet the standards of either **(a)** or **(b)**, or a combination of **(a)** and **(b)** such that the total vent area provided by the combination of prescriptive and pre-fabricated vents meets the venting required by **(a)(B)** and **(b)(A)**:

(a) Prescriptive flood-specific venting requirements:

(A) Underfloor vents as required to satisfy ventilation of crawlspace areas per applicable building code do not satisfy the standards for flood-specific venting;

(B) A minimum of two flood-specific openings having a total net area of not less than one (1) square inch for each square foot of enclosed area (measured on the exterior of the enclosure walls) subject to flooding shall be provided. Only the portion of a flood-specific opening that is below the base flood elevation shall be included in the calculation;

(C) Flood-specific openings shall be installed on at least two exterior walls of each enclosed space;

(D) The bottom of all flood-specific openings shall be no higher than one (1) foot above adjacent grade; and

Commented [LTA20]: New. These two subsections of the definition are required to be added.

Commented [LTA21]: New. This definition is required to be added.

Commented [LTA22]: Amended. This definition is required to match FEMA's wording exactly.

Commented [LTA23]: New. The state recommends addition of this definition.

(E) Flood-specific openings may be equipped with screens, louvers, or other coverings or devices provided that they:

(i) Permit the automatic entry and exit of floodwaters into and out of the enclosed areas, and

(ii) Are accounted for in the determination of the net open area.

(b) Pre-fabricated flood vents certified by the Federal Emergency Management Agency (FEMA):

(A) A minimum of two flood-specific openings having a total net area certified by FEMA as sufficient for the enclosed area subject to flooding shall be provided. Only the portion of an opening that is below the base flood elevation shall be included in the calculation;

(B) Flood-specific openings shall be installed on at least two exterior walls of each enclosed space; and

(C) The bottom of all flood-specific openings shall be no higher than one (1) foot above adjacent grade.

(27) "**Floodway**" See definition listed in BCC 51.020.

(28) "**Floodway Fringe**" See definition listed in BCC 51.020.

(29) "**Flow-through Construction**" means a structure that does not hinder or obstruct the movement of, or displace, surface floodwaters. An example of "flow-through construction" would be elevation of a structure on posts, piers, or piles. Neither flood-specific venting nor underfloor vents required to satisfy air ventilation requirements constitute "flow-through construction".

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

Commented [LTA24]: New. This definition is required to be added.

(31) "**Hazardous Material**" and "**Hazardous Waste**" mean substances defined by the Oregon Department of Environmental Quality as including any of the following:

Commented [LTA25]: New. The state recommends inclusion of this definition. (It is in conjunction with a proposed amendment to the definition of *critical facility*.)

(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 ORS 469.605 and radioactive substances defined in ORS 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 (EPA) under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;

(e) Substances listed by the United States EPA in section 40 of the 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; or

(i) Dry cleaning solvent as defined by ORS 465.200(9).

(32) "**Highest Adjacent Grade**" means the highest natural elevation of the ground surface prior to, during, and after construction next to the proposed walls of a structure.

Commented [LTA26]: New. This definition is required to be added.

(33) "**Historic Structure**" means any structure that is:

Commented [LTA27]: New. This definition is required to be added.

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(A) By an approved state program as determined by the Secretary of the Interior; or

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

(34) "**Letter of Map Amendment (LOMA)**" means FEMA's official amendment, by letter, of the Flood Insurance Rate Map (FIRM) based on technical data showing that an existing structure is located on naturally high ground (i.e. it has not been elevated by fill), or that an area of land consists of naturally high ground, this is equal to or higher than the base flood and was inadvertently included in the special flood hazard area.

Commented [LTA28]: New. The state recommends addition of this definition.

(35) "**Letter of Map Change (LOMC)**" means an official Federal Emergency Management Agency (FEMA) determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs: Conditional Letter of Map Amendment (CLOMA), Conditional Letter of Map Revision

Commented [LTA29]: New. The state recommends addition of this definition.

(CLOMR), Conditional Letter of Map Revision – Based on Fill (CLOMR-F), Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision – Based on Fill (LOMR-F), and Physical Map Revision (PMR).

(36) "**Letter of Map Revision (LOMR)**" means FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. An approved LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report and, when appropriate, includes a description of the modifications. A LOMR approval is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

Commented [LTA30]: New. The state recommends addition of this definition.

(37) "**Letter of Map Revision - Based on Fill (LOMR-F)**" means FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Commented [LTA31]: New. The state recommends addition of this definition.

(38) "**Lowest Adjacent Grade**" means the lowest natural elevation of the ground surface prior to, during, and after construction next to the proposed walls of a structure.

Commented [LTA32]: New. This definition is proposed to be added because:
1. It is a key elevation point when determining the applicability of floodplain regulations to a project; and
2. The inclusion of a definition for *highest adjacent grade* is required by FEMA.

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

Commented [LTA33]: Amended. This definition is required to match FEMA's definition exactly.

Language required to be removed from the current definition was:
Lowest ~~Regulatory~~ Floor
and
~~... and maintained in accordance with the applicable design requirements of this chapter, as specified in BCC 83.220~~

(40) "**Lowest Habitable Floor**" See definition for "Lowest Floor" above.

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

Commented [LTA34]: New. This definition is proposed to be added for clarification because the term *lowest floor* is required to be added exactly as worded (with no alterations) but the term most commonly used is *lowest habitable floor*.

(42) "**Manufactured Dwelling Park or Subdivision**" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Commented [LTA35]: New. This definition is required to be added and required to match FEMA's wording exactly.

(43) "**Mean Sea Level**" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Commented [LTA36]: New. This definition is required to be added and required to match FEMA's wording exactly.

(44) "**New Construction**" for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by Benton County and includes any subsequent improvements to such structures.

Commented [LTA37]: New. This definition is required to be added.

(45) "**Non-residential Structure**" means any structure other than:

Commented [LTA38]: Amended. This definition is required to match FEMA's wording exactly.

(a) A dwelling; or

(b) A structure accessory to a dwelling.

(46) "**Physical Map Revision (PMR)**" means FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM), or a portion of an effective FIRM, or a Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

Commented [LTA39]: New. The state recommends addition of this definition.

(47) **"Residential Structure"** means a dwelling (including an accessory dwelling unit), manufactured dwelling, or accessory living area in a separate structure on same property.

Commented [LTA40]: New. This definition is proposed to be added for clarification of the term as it is used in BCC 83.620 (Residential Construction), subsection (1).

(48) "**Recreational Vehicle**" means a vehicle which is:

(a) Built on a single chassis;

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

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

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

(49) "**Shallow Flooding Area**" means a designated Zone AH on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Commented [LTA41]: Amended. This definition is required to match FEMA's wording exactly for all applicable shallow flood hazard zones. (Benton County has a Zone AH but not a Zone AO.)

(50) "**Special Flood Hazard Area (SFHA)**" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AE, AH, or A1-A30. This area includes both the floodway fringe and the floodway and is commonly referred to as the "100-year floodplain". "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

Commented [LTA42]: Amended. This definition is required to match FEMA's wording exactly for all applicable shallow flood hazard zones. (Benton County has the flood zones listed here but not Zones AO, AR, or any of the coastal Zone V areas.)

(51) "**Start of Construction**" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit.

Commented [LTA43]: Amended. This definition is required to match FEMA's wording exactly.

(a) The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation) or the placement of a manufactured dwelling on a foundation.

(b) Permanent construction does not include:

(A) Land preparation, such as clearing, grading, and filling;

(B) Installation of streets and/or walkways;

(C) Excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or

(D) Installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Commented [LTA44]: This is the section that was missing from the county's current definition.

(c) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(52) "**Structure**" means a building with a roof and two (2) or more rigid exterior walls, including a dwelling, a manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

(53) "**Substantial Damage**" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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

Commented [LTA45]: Amended. This definition is required to match FEMA's wording exactly.
(Note: Benton County's addition of reference to FEMA-480 was allowed to remain.)

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

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

In determining "substantial improvement," the Floodplain Administrator may refer to the most recent version of the FEMA Desk Reference for Local Officials (FEMA-480).

(55) "**Vacant Land**" means a parcel or lot on which:

Commented [LTA46]: Amended. This definition is required to match FEMA's wording exactly.

Commented [LTA47]: New. This definition was added for clarification of the term "vacant land" as used in BCC 83.620(3)(a).

(a) No dwelling is located; or

(b) A dwelling was previously located but the dwelling was removed more than one year prior to submission of a complete construction or placement permit application for a replacement dwelling.

(56) "**Variance**" means a grant of relief by Benton County from the terms of a floodplain management regulation.

Commented [LTA48]: Amended. This definition is required to match FEMA's wording exactly.

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

Commented [LTA49]: New. This definition is required to be added.

GENERAL PROVISIONS

83.100 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of Benton County.

Commented [LTA50]: New. This language is required by FEMA.

83.110 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

Commented [LTA51]: BCC 83.010

(1) The Floodplain Management Overlay Zone shall apply to all special flood hazard areas identified by the Federal Insurance Administrator in the scientific and engineering report entitled "Flood Insurance Study for Benton County, Oregon and Incorporated Areas," revised December 8, 2016, with accompanying Flood Insurance Rate Maps (FIRM), except as otherwise provided by this code, adopted effective June 2, 2011 and as revised by:

Commented [LTA52]: Updated list of revisions.

(a) Physical Map Revision (PMR) of Panels 41003 0094G, 41003C 0111G, 41003C 0112G, 41003C 0113G, and 41003C 0114G, effective December 8, 2016;

(b) Letter of Map Revision (LOMR) Case No. 13-10-0260P, effective November 29, 2013;

(c) LOMR Case No. 14-10-0472P, effective July 14, 2014;

(d) LOMR Case No. 17-10-1169P, effective June 29, 2018;

(e) LOMR Case No. 17-10-1546P, effective March 29, 2018; and

(f) LOMR Case No. 18-10-0715P, effective March 28, 2019.

The Flood Insurance Study (FIS) and accompanying maps are hereby incorporated by reference into the Development Code and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the Benton County Community Development Department office.

(2) The Floodplain Management Overlay Zone is divided into two subzones: the floodway and the floodway fringe. The boundaries of the floodway and the floodway fringe shall be those delineated on the Flood Insurance Rate Maps.

(3) Corvallis Urban Fringe. Floodplain and floodway boundaries within the Corvallis Urban Fringe (the unincorporated portion of the Corvallis Urban Growth Boundary) shall be determined pursuant to the following subsections. Furthermore, within the Corvallis Urban Fringe, in addition to the provisions of this chapter that apply to

unincorporated Benton County in general, the restrictions and use limitations specified in **BCC 83.230(2)(d) and 83.700**. In the case of any conflicts between the additional provisions in **BCC 83.230(2)(d) and 83.700** and the provisions of this chapter that apply to unincorporated Benton County in general, the more restrictive shall apply.

(a) Floodway.

(A) General Determination. The floodway within the unincorporated portion of the Corvallis Urban Fringe shall be based upon a 0.2-foot rise standard for an increase in the base flood elevation as shown on the Flood Insurance Rate Maps identified in **BCC 83.110(1)** rather than a one foot rise standard.

(B) Map Refinements. For precise determinations when development activities are proposed near a mapped floodway, the applicant shall submit information prepared by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer, demonstrating the area that must be kept free from encroachments in order to discharge the base flood (100-year flood) without cumulatively increasing the water surface elevation more than 0.2 feet and demonstrating that the proposed activities will not impact the floodway.

(b) Floodplain (Floodway Fringe).

(A) General Determination. The floodplain boundaries shall be determined pursuant to **BCC 83.110(1)**.

(B) Map Refinement. For the purposes of **BCC 83.700(2)**, floodplain location and extent may be determined using FEMA-provided base flood elevation data combined with topographic mapping (2-foot or less contour interval) produced from a survey by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer. Alternatively, the official topographic mapping maintained by the City of Corvallis or Benton County and prepared at a 2-foot (or less) contour interval may be used. However, for purposes of siting structures, floodplain location shall be determined through an elevation survey performed by an Oregon-registered Professional Land Surveyor or Oregon-licensed Civil Engineer.

(C) Map Correction. Map corrections to the floodplain location shall be approved by the Planning Official to reflect a Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) approved by the Federal Emergency Management Agency (FEMA).

83.120 COORDINATION WITH BENTON COUNTY BUILDING CODES

Benton County Building Code, as contained in Chapter 11 of the Benton County Code, aligns with State of Oregon Specialty Codes and contains certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas.

Commented [LTA53]: New. This section is required to be added.

Therefore, this ordinance is intended to be administered and enforced in conjunction with the Benton County Building Code.

83.130 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

(1) COMPLIANCE. All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

(2) PENALTIES FOR NONCOMPLIANCE. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be enforced subject to the provisions of Chapter 31 of the Benton County Code. Nothing contained herein shall prevent Benton County from taking such other lawful action as is necessary to prevent or remedy any violation.

Commented [LTA54]: New. This section is required to be added.

83.140 ABROGATION AND SEVERABILITY

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

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

Commented [LTA55]: New. This section is required to be added.

83.150 INTERPRETATION

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Commented [LTA56]: New. This section is required to be added.

83.160 WARNING AND DISCLAIMER OF LIABILITY

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

(2) DISCLAIMER OF LIABILITY. This ordinance shall not create liability on the part of Benton County, any officer or employee thereof, or the Federal Insurance Administrator

for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Commented [LTA57]: New. This section is required to be added.

ADMINISTRATION

83.200 FLOODPLAIN ADMINISTRATOR

(1) DESIGNATION. The Planning Official, the Floodplain Administrator, and their designee, are hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

Commented [LTA58]: State highly recommends addition of the words "and their designee" this allows that position to designate others within the agency that can act as the Floodplain Administrator in case of vacation or for other reasons.

(2) DUTIES AND RESPONSIBILITIES. Duties of the Floodplain Administrator, or their designee, shall include, but not be limited to the provisions of **BCC 83.210** through **BCC 83.240**.

Commented [LTA59]: New. This section is required to be added.

Commented [LTA60]: New. This section is required to be added.

83.210 INFORMATION TO BE OBTAINED AND MAINTAINED

The Floodplain Administrator shall obtain, maintain, and make available for public inspection the following information specified in section **BCC 83.260**.

Commented [LTA61]: BCC 83.100 & BCC 83.405

83.220 PERMIT REVIEW

(1) An application shall be reviewed by the Floodplain Administrator and County Engineer to determine the following:

(a) The applicability of the provision of this chapter;

(b) Compliance with the applicable provisions of this chapter;

(c) All other required local, state, and federal permits have been obtained and approved. Alternatively, a permit may be issued with the condition that all necessary permits required by Federal or State law or County Ordinance will be secured prior to initiation of development activities approved by the permit;

Commented [LTA62]: New. This section is required to be added.

(d) The location of the proposed development in relation to a floodway. If any portion of the proposed development is located within the floodway, compliance with the floodway provisions of this ordinance in section **BCC 83.800** is required;

Commented [LTA63]: BCC 83.110(5)

Commented [LTA64]: BCC 83.205(1))

(e) The proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of section **BCC 83.310**; and

(f) Provide to building officials the Base Flood Elevation (BFE) and applicable freeboard elevation requirements for any structure requiring a floodplain development permit and required to be elevated.

(g) Whether or not the proposed development qualifies as a substantial improvement as defined in section **83.020**. If a proposed development is a

substantial improvement, compliance with the provisions of section **BCC 83.240** is required.

(h) Whether or not the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, compliance with the provisions of **BCC 83.230(2)** is required.

(i) Whether or not the proposed development activity includes the placement of fill or excavation. Any placement of fill or excavation shall comply with applicable standards.

(j) The proposed development will not cause an increase of the flood risk to surrounding properties, by changing the flow of floodwaters in a way that increases risk to existing structures or by increasing flood elevations in the immediate vicinity;

(2) The County Engineer may require the design and installation of mitigative measures necessary to comply with **BCC 83.220(1)(j)**.

(3) Issuance or denial of a floodplain development permit that requires the exercise of discretion shall include notification of the decision pursuant to **BCC 51.625**.

83.230 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

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

(2) WATERCOURSE ALTERATIONS.

(a) The Planning Official shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(b) The applicant shall notify the Federal Insurance Administration through submission of a Letter of Map Revision (LOMR) along with either:

(A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

Commented [LTA65]: New. Language addressing these items is required to be added.

Commented [LTA66]: BCC 83.110(4)

Commented [LTA67]: BCC 83.110(6)

Commented [LTA68]: New. Language addressing these items is required to be added.

Commented [LTA69]: BCC 83.310

(c) The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required pursuant to **BCC 83.230(3)**. As a condition of permit approval, the applicant shall be required to ensure compliance with all applicable requirements of **BCC 83.230(3)**.

Commented [LTA70]: New. This language is required to be added.

(d) Within the Corvallis Urban Fringe, the following shall also apply:

(A) Water course alteration by artificial means is prohibited, with exceptions only for:

(i) Emergency management purposes;

(ii) As mandated by State or Federal actions that supersede local authority; or

(iii) To restore to its natural channel a stream whose course has been altered through human action.

(B) Prior to the alteration or relocation of a watercourse, the applicant for such authorization must notify the Oregon Department of State Lands (DSL) and submit copies of such notification to the Planning Official.

(C) The applicant shall submit certification provided by an Oregon-registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

(3) REQUIREMENT TO SUBMIT NEW TECHNICAL DATA.

(a) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

(b) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(A) Proposed floodway encroachments that increase the base flood elevation; and

(B) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

(c) An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from

FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

(d) The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

(e) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal permits.

Commented [LTA71]: New. This language is recommended by the state.

83.240 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

(1) The Floodplain Administrator shall conduct Substantial Improvement (SI) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section **BCC 83.260(2)**.

(2) Substantial Damage (SD) assessments shall be conducted by the Floodplain Administrator, other qualified county staff, or their designee when structures are damaged due to a natural hazard event or other causes. The Floodplain Administrator shall make SD determinations whenever structures within the special flood hazard area are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Commented [LTA72]: New. This language is required to be added.

ESTABLISHMENT OF DEVELOPMENT PERMIT

83.250 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

Commented [LTA73]: BCC 83.110(1)

(1) A floodplain development permit shall be obtained prior to construction of a new structure, substantial improvement to any structure, the placement of a manufactured dwelling, or the initiation of other land development activities including, but not limited to, fencing, mining, dredging, filling, grading, paving, excavation or drilling operations within any area horizontally within the special flood hazard area established in section **BCC 83.110**.

Commented [LTA74]: New. This language is required to be added.

(2) APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT. An application for a permit shall be submitted on a form provided by the Floodplain Administrator. Documentation to be provided with the application form may include, but is not limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; locations of existing and/or proposed structures, fill, storage of materials drainage facilities; engineering calculations; and other information determined to be necessary for the review of the application by the Floodplain Administrator and County Engineer.

Commented [LTA75]: BCC 83.110(2)

83.260 INFORMATION REQUIRED TO BE OBTAINED, MAINTAINED, AND SUBMITTED

(1) The following information is required to be submitted with a floodplain development permit application if applicable to the proposed project:

(a) Proposed project cost (used for determination of substantial improvement calculation) shall be submitted by the applicant for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

(b) Elevation data for structural construction and alterations shall be submitted by the applicant and maintained by the Floodplain Administrator. This data shall be submitted in the form of Elevation Certificates and/or Letters of Map Change as follows:

(A) A Pre-Construction Elevation Certificate approved for inclusion in the permit record prior to start of construction and prior to issuance of a building permit for all new construction, substantial improvements, and non-substantial improvements within the Special Flood Hazard Area (SFHA) or within 50 feet of the SFHA.

(B) For all building permits where a Pre-Construction Elevation Certificate shows the building site to be (a) within the SFHA, regardless of the lowest adjacent grade (LAG) shown on the Pre-Construction Elevation Certificate or (b) at or below the Base Flood Elevation if the site is within 50 feet of the SFHA:

(i) A Mid-Construction Elevation Certificate approved for inclusion in the permit record after placement of the lowest habitable floor but prior to further vertical construction and prior to approval of underfloor inspection (for site-built structures), setup inspection (for manufactured dwellings), or slab inspection (for pole barn construction if a slab is poured); and

(ii) A Post-Construction Elevation Certificate approved for inclusion in the permit record upon completion of all construction activities (including utility installations and final grading) and prior to approval of final inspection.

(C) All Elevation Certificates shall:

(i) Be prepared and sealed by an Oregon-registered Professional Land Surveyor or an Oregon-licensed Civil Engineer.

(ii) Document the elevation (in relation to mean sea level) of the Base Flood Elevation, the natural grade of the building site for a structure prior to start of construction, the finished grade of the building site after completion of all construction, the placement of any fill, the lowest habitable floor (including basement) of the structure, the interior grade of any enclosure below the lowest habitable floor, all

Commented [LTA76]: New. This language is required to be added.

Commented [LTA77]: New. Added for consistency with the requirements of the State of Oregon Specialty Codes.

A mid-construction elevation certificate, although not currently required to be submitted per Chapter 83 of the Benton County Development Code is required to be submitted per State of Oregon Specialty Codes. (This requirement has been in effect since at least 2017.)

Commented [LTA78]: BCC 83.210(1)

Commented [LTA79]: BCC 83.405(1)

Commented [LTA80]: BCC 83.100(1) & BCC 83.405(2)

attendant utilities, and all other elevation information applicable to the project.

(iii) Be submitted to, and approved by, the Floodplain Administrator.

(iv) Be maintained by the Floodplain Administrator and made available for public inspection.

(D) Alternatives to submission of one or more Elevation Certificates:

(i) Letter of Map Amendment (LOMA)

1. May be submitted in place of a Pre-, Mid-, or Post-Construction Elevation certificate.

2. If the LOMA was issued specific to an existing structure footprint and is submitted for a lateral addition to that structure, then submission of either Mid- and Post-Construction Elevation Certificates or a new LOMA approved for the expanded footprint area is required to document that the finished grade at the addition site remains higher than the Base Flood Elevation.

(ii) Conditional Letter of Map Revision – Based on Fill (CLOMR-F) and Letter of Map Revision – Based on Fill (LOMR-F)

1. May be submitted in place of a Pre-Construction Elevation certificate for a building site proposed to be elevated through placement of fill.

2. If a CLOMR-F is approved, then submission of either a LOMR-F (for a building site fully elevated in compliance with the CLOMR-F approval) or submission of Mid- and Post-Construction Elevation Certificates (for a building site not fully elevated as proposed in the CLOMR-F approval) is required.

(E) All Letters of Map Change (i.e. LOMA, CLOMR-F, and LOMR-F) shall be:

(i) Approved by the Federal Insurance Administrator.

(ii) Submitted to, and approved for inclusion in the permit records by, the Floodplain Administrator.

(iii) Maintained by the Floodplain Administrator and made available for public inspection.

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

(d) Certification by an Oregon-licensed Civil Engineer that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section **BCC 83.610**.

Commented [LTA81]: New. This language is required to be added.

Commented [LTA82]: BCC 83.405(3)

Commented [LTA83]: New. Added for clarification and documentation of alternatives to submission of Elevation Certificate data for structural construction projects. (This language documents the current process that has been in place for at least the past ten years.)

Commented [LTA84]: BCC 83.100(2)(a) & BCC 83.405(2)

(e) Description of the extent to which any watercourse will be altered or relocated.

(f) Base Flood Elevation data for subdivision proposals or other development when required per sections **BCC 83.220** and **BCC 83.520(1)**.

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

Commented [LTA85]: New. This language is required to be added.

(2) The Floodplain Administrator shall obtain, maintain, and make available for public inspection the following information:

(a) All submitted and approved Elevation Certificates;

Commented [LTA86]: New. This language is required to be added.

(b) All floodproofing certificates required under this ordinance;

Commented [LTA87]: BCC 83.100(2)(b) & BCC 83.405(2)

(c) All variance actions, including justification for their issuance;

Commented [LTA88]: BCC 83.800(4)

(d) All hydrologic and hydraulic analyses performed as required under section **BCC 83.800**;

(e) All substantial improvement and substantial damage calculations and determinations as required under section **BCC 83.240**; and

Commented [LTA89]: New. This language is required to be added.

(f) All records pertaining to the provisions of this ordinance.

Commented [LTA90]: BCC 83.100(3) & BCC 83.405(3)

83.270 FLOODPLAIN DEVELOPMENT PERMIT EXEMPTIONS

Commented [LTA91]: BCC 83.110(7)

(1) The following development activities in the flood fringe require application for a floodplain development permit, but may be deemed exempt from floodplain development regulations upon submission of the application form and appropriate supporting documentation. These exemptions do not apply to development in the floodway. (Note: Federal and State laws and regulations, including Oregon Drainage Law, may still apply to exempted development activities.)

(a) Agricultural activities (not including structures; placement of fill or excavation that impounds, relocates, or redirects the flow of floodwaters; or creation of berms or dikes) of a recurring character on land located outside of the Corvallis Urban Growth Boundary that are considered accepted farming practices (as that term is defined in **BCC 51.020**).

Commented [LTA92]: BCC 83.110(1)

(b) Placement of fill within the floodway fringe, provided all of the following are met:

(A) The fill is used solely for purposes such as construction of a sandbox, raised gardening bed, or similar landscaping feature;

(B) The fill does not occupy an area that is greater than 500 square feet or 10 percent of the area of the subject parcel that is within the floodway fringe, whichever is less; and

(C) The average depth of the fill does not exceed six inches over the area described in **subsection (B)** above.

(c) Maintenance, repair, and/or replacement of existing electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities provided the facilities:

(A) Are in-kind maintenance, repair, and/or replacement;

(B) Do not constitute a substantial improvement or repair of substantial damage, as defined in **BCC 83.020**; and

(d) Maintenance, minor repair, and/or improvement of existing structures, provided these activities do not:

(A) Result in an increase in size or intensity of use; or

(B) Constitute substantial improvement or repair of substantial damage, as defined in **BCC 83.020**.

Commented [LTA93]: BCC 83.110(7)(a), (b), & (c)

(e) Short-term storage of equipment or materials. Short-term storage means storage occurring outside of flood season or for a period of not more than 180 days during any portion of flood season. Equipment or materials stored during flood season shall be able to be either be easily removed from the area, or shall be items that would not cause harm to property, humans, animals or the environment by becoming buoyant or hazardous.

Commented [LTA94]: New. Proposed to be added for storage that will result in minimal to no impact on existing floodplain conditions. (This wording is based on code from City of Albany floodplain ordinance.)

(f) Public agency placement of signs, markers, aids, etc.; and

(g) Customary dredging associated with routine ditch maintenance to maintain existing ditch capacity, provided it is consistent with State and Federal laws and permits.

Commented [LTA95]: BCC 83.110(7)(d) & (e)

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

(i) Transportation facility rehabilitation and maintenance projects that will not result in modifications to existing topography.

(j) Subsurface public utility projects that will not ultimately result in modification to existing topography.

Commented [LTA96]: New. Proposed to be added for ease of allowing public utility and transportation projects that will result in minimal to no impact on existing floodplain conditions. (This wording is copied from City of Albany floodplain ordinance.)

INTERPRETATION OF FLOODPLAIN BOUNDARIES & USE OF OTHER BASE FLOOD ELEVATION DATA

83.300 INTERPRETATION OF FLOODPLAIN BOUNDARIES

(1) If it is uncertain whether any proposed development described in **BCC 83.250(1)** is located in the floodplain (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall determine the applicability of floodplain regulations to the site in question based on the adopted Flood Insurance Rate Maps and any additional relevant data.

(2) Any person contesting the location of the floodplain boundary shall be given a reasonable opportunity to appeal the interpretation by submission of a Letter of Map Amendment or Letter of Map Revision approved by the Federal Insurance Administrator for the site in question.

83.310 USE OF OTHER BASE FLOOD ELEVATION DATA

(1) For special flood hazard areas (such as Zone A) where base flood elevations have not been provided in accordance with section **BCC 83.110**:

(a) The Floodplain Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer the provisions of this chapter.

(b) Development proposals shall be reasonably safe from flooding. The test of reasonableness includes use of historical data, high water marks, FEMA-provided Base Level Engineering data, and photographs of past flooding, etc. where available.

(c) The applicant shall be responsible for providing sufficient information to the Floodplain Administrator to document:

(A) The base flood elevation and, if applicable, the floodway for the proposed project site; or

(B) That the entire proposed project site has been removed from the special flood hazard area through submission of an approved Letter of Map Amendment or Letter of Map Revision.

(d) All authorized structural development occurring in special flood hazard areas where base flood elevations have not been developed shall be elevated consistent with the elevation standards for such structures in Zone AE special flood hazard areas. It is the applicant's responsibility to submit elevation documentation in accordance with section **BCC 83.260** that accurately identifies the base flood elevation for the proposed site.

(e) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section **BCC 83.520(1)**.

(f) The applicant shall derive base flood elevation data in accordance with standard engineering and FEMA practices for floodplain mapping and modeling to ensure alignment with "The Flood Insurance Study for Benton County, Oregon and Incorporated Areas". The County Engineer and the Federal Emergency Management Agency may provide technical assistance. The applicant shall provide for certification by an Oregon-licensed professional engineer or architect that the proposed development complies with provisions of this section.

Commented [LTA97]: BCC 83.105
Amended to reflect recommendation from the state to make this standard more clear and objective.

Commented [LTA98]: New. This language is required to be added.
Note: It is similar to wording in BCC 83.215(2) & BCC 83.225(3)(a)(A).

Commented [LTA99]: BCC 83.105(2)

Commented [LTA100]: New. Required to be added for documentation that structural development in Zones A and AH must be elevated to the same standards as structural development in Zone AE.

Commented [LTA101]: BCC 83.205(2)

VARIANCES

83.400 VARIANCE PROCEDURE. The issuance of a variance to the requirements of this chapter is for floodplain management purposes only and may be granted pursuant to either **BCC 83.410** or **BCC 83.420**, and subject to the notification requirement of **BCC 83.430**. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

83.410 Minor Variance for Agricultural Structures. A minor variance from elevation and floodproofing standards may be granted in limited circumstances for agricultural structures by means of a ministerial review, pursuant to **subsections (1) through (5)** below. In this section only, an "agricultural structure" is determined not by the definition in **BCC 83.020** but instead by the provisions of **subsection (3)** below.

(1) Establishment of new agricultural structures within a floodway is prohibited per section **BCC 83.810(2)**; therefore, a variance shall not be issued for siting a new agricultural structure within any mapped regulatory floodway.

(2) A variance shall not be issued for replacement or substantial improvement of an agricultural structure within any floodway if any increase in flood levels during the base flood discharge would result.

(3) A variance for siting a new or replacement agricultural structure, or for substantial improvement of an existing agricultural structure, may be authorized pursuant to the following standards:

  (a) The structure shall be a structure that requires a building permit.

  (b) The structure will be a free-standing, detached structure.

  (c) The structure will be used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. For clarification:

    (A) Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

    (B) Because agriculture is an industry and therefore farms are places of work, it is understood that entry into agricultural structures is necessary. The limitation that an agricultural structure be "used exclusively for agricultural purposes or uses" is satisfied when the principal use of an agricultural structure does not include occupation by people over extended periods of time (e.g., office or communal area for farm workers).

    (C) For the purposes of this standard, the term "agricultural commodities" means agricultural goods, products, commodities, and livestock. Examples of agricultural commodities include, but are not limited to, harvested crops, aquaculture products, livestock, and animal products.

Commented [LTA102]: BCC 83.800.

Commented [LTA103]: New. This section is required to be added.

Commented [LTA104]: New. Guidance from the state is that agricultural structures may be permitted with wet-floodproofing (instead of requiring elevation or dry-floodproofing) but only by specifically granting a variance for each structure.

Unlike accessory structures that may be wet-floodproofed if they are 600sq.ft. or less, agricultural structures do not have a maximum building footprint size.

Because Benton County already has a minor variance process in place [BCC 83.800(1)] that allows authorization of agricultural structure placement with floor elevations below the Base Flood Elevation, this process has been retained but the conditions have be modified to be specific to agricultural structures and to be consistent with current FEMA guidelines* for authorizing wet-floodproofing of agricultural structures.

* https://www.fema.gov/sites/default/files/2020-09/fema_agricultural-structures_policy-guidance_08-20-20.pdf).

Note: A variance for agricultural structures is not required if:
(1) They comply with the accessory structure standards identified in Section 83.650; or
(2) They have a finished floor elevation that is at least 18 inches above the Base Flood Elevation.

Commented [LTA105]: BCC 83.225(2)(a)

Commented [LTA106]: BCC 83.800(1)(a)(B) & (C) Modified per FEMA requirements to refer only to agricultural structures because accessory structures are addressed in Revised Code section 83.650 (Accessory Structures).

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

Commented [LTA110]: BCC 83.800(2)(a)(A)

(5) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section **BCC 83.420(2) through (4)** are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Commented [LTA111]: BCC 83.800(2)
Revised. This wording is required by FEMA.

(6) Upon consideration of the factors of **subsections (1) through (5)** above and the purposes of this chapter, the Planning Official may attach such conditions to the granting of a variance as deemed necessary to further the purposes of this ordinance. Conditions of approval may be imposed to reduce or mitigate flood hazard conditions or to otherwise ensure compliance with the purpose and provisions of this chapter and may address, but are not limited to:

Commented [LTA112]: BCC 83.800(2)(b)(A)

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Commented [LTA113]: BCC 83.800(2)(a)(B)

83.430 Variance Notification.

(1) Any applicant to whom a variance from the elevation standard is granted shall be given written notice that:

(a) The issuance of a variance to construct a structure with the lowest floor below the Base Flood Elevation will result in increased premium rates for flood insurance; and

(b) Such construction below the base flood elevation increases risks to life and property.

Commented [LTA114]: BCC 83.800(2)(b)(B) Revised. This wording is required by FEMA.

(2) Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with **BCC 83.260**.

Commented [LTA115]: BCC 83.800(4)

PROVISIONS FOR FLOOD HAZARD REDUCTION

83.500 GENERAL FLOODPLAIN DEVELOPMENT STANDARDS

The following standards shall apply in all special flood hazard areas:

(1) Alteration of Watercourses. The flood carrying capacity within the altered or relocated portion of a watercourse shall be maintained pursuant to the standards identified in section **BCC 83.230(2).**

(2) Structures Located In Multiple Or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

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

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

Commented [LTA116]: New. This section is required to be added.

(3) CRITICAL FACILITIES. Construction of new critical facilities shall be, to the extent possible, to the extent possible, located outside the limits of the special flood hazard area (SFHA). Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the Base Flood Elevation (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 toxic substances will not be

Commented [LTA117]: BCC 83.700

displaced by or released into floodwaters. Access routes elevated, to the extent possible, to or above the level of the BFE shall be provided to all critical facilities.

(4) ANCHORING

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

(b) All manufactured dwellings shall be anchored per **BCC 83.620(4)**.

(5) CONSTRUCTION MATERIALS AND METHODS. All new construction and substantial improvements shall be constructed:

(a) With materials and utility equipment resistant to flood damage; and

(b) Using methods and practices that minimize flood damage.

(6) UTILITIES AND EQUIPMENT

(a) Electrical, Mechanical, Plumbing, And Other Equipment shall comply with the following:

(A) All new electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated a minimum of one (1) foot above the Base Flood Elevation (BFE).

(B) All electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities that are installed or replaced as part of a substantial improvement shall be elevated a minimum of one (1) foot above the Base Flood Elevation (BFE).

(b) Exceptions are allowed for the following situations:

(A) Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities serving a structure constructed prior to August 5, 1986, and not substantially improved since that date, and not part of a current substantial improvement, may be installed at the same elevation as the top of the lowest habitable floor. (A basement shall not be considered a habitable floor for this purposes of this exception.)

Note: It is still strongly recommended that all such items be elevated a minimum of one (1) foot above the BFE whenever possible.

(B) Electrical systems, equipment and components; heating, ventilation, and air-conditioning; plumbing appliances and plumbing fixtures; duct systems; and other service equipment that are specially designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to an elevation that is at least one (1) foot above the BFE.

Commented [LTA118]: New. This language is required to be added.

Commented [LTA119]: BCC 83.210(2)

Commented [LTA120]: BCC 83.210(3)

Commented [LTA121]: BCC 83.210(4)

Commented [LTA122]: Amended. This language is required and was approved by CRS Specialist Teresa Alvelo on 7/29/21 as compliant with current minimum CRS Class 8 Freeboard requirements.

Notes:

1. The wording of this section is required for continued eligibility for Benton County's current Class 7 standing in the Community Rating System (CRS).

2. Benton County has a higher regulatory standard (1 foot above base flood elevation) for these items.

3. Benton County's current exception to 1-foot requirement (requiring elevation of items to existing floor for pre-FIRM structures instead of allowing placement at grade) is also a higher regulatory standard and is allowed to remain.

(7) Water supply, sanitary sewer, and on-site waste disposal systems shall comply with the following:

(a) All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.

Commented [LTA123]: BCC 83.210(5)

(b) On-site wastewater treatment systems shall be located outside of the special flood hazard area (SFHA) on properties where land outside the SFHA is comparable to or better than land located within the SFHA with regard to soil conditions, topography, and unencumbered area in accordance with the Oregon Department of Environmental Quality rules

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

Commented [LTA124]: BCC 83.210(6)

(8) TANKS

(a) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

(b) Above-ground tanks shall be installed a minimum of one (1) foot above the Base Flood Elevation (BFE) or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

Commented [LTA125]: New. This section is required to be added.

83.520 LAND DIVISION AND PROPERTY LINE ADJUSTMENTS

(1) MAJOR DEVELOPMENT PROPOSALS

(a) Where the primary zone permits a subdivision, mobile home or manufactured dwelling park, or mobile home or manufactured dwelling subdivision, such use may be allowed in the Floodplain Management Overlay Zone if:

(A) Such use is consistent with the need to minimize flood damage;

(B) The applicant demonstrates that public utilities and facilities such as water supply, sewage disposal, natural gas and electrical systems are located and constructed to minimize flood damage; and

(C) The applicant demonstrates that adequate drainage has been provided to reduce exposure to flood damage.

(b) Where base flood elevation data have not been provided by FEMA or are not available from another authoritative source, the applicant shall provide such data if the proposed subdivision or park equals or exceeds fifty (50) lots or parcels or if it exceeds five (5) acres. Such data shall be derived in accordance with standard engineering and FEMA practices for floodplain mapping and modeling to ensure alignment with "The Flood Insurance Study for Benton County, Oregon and Incorporated Areas".

(c) Subdivisions shall also be subject to the provisions of **BCC 83.520(2)**.

(2) PARCEL AND LOT DESIGN STANDARDS. Parcels or lots resulting from subdivisions, partitions, and property line adjustments of land in the Floodplain Management Overlay Zone shall comply with the requirements of this section.

(a) Parcels and lots shall be designed such that existing and future uses and development activities allowed by the underlying zone can be carried out in conformance with the regulations contained in this chapter. Creation of lots or parcels that do not meet this requirement is prohibited, with the exception of lots or parcels created for public park or open space purposes.

(b) For each lot or parcel, other than those designated for non-residential use (such as a parcel in a resource zone and containing no dwelling right), open space use, or designated as otherwise unbuildable, the applicant shall:

(A) Demonstrate a proposed building site for the primary structure that is:

(i) Located entirely outside the floodplain;

(ii) At least 10,000 square feet in size; and

(iii) No less than 50 feet in any dimension.

(B) Sign for recording a deed restriction acknowledging that the primary structure must be sited outside the floodplain.

(c) For each parcel or lot designated for non-residential use (such as a parcel in a resource zone and containing no dwelling right), open space use, or designated as otherwise unbuildable, the applicant shall either:

(A) Comply with the standards of **subsection (b)**; or

(B) Sign for recording a deed restriction acknowledging that any primary structure established on the parcel or lot must be sited on land that is outside the floodplain.

(d) Site feasibility approval areas for on-site wastewater treatment systems shall be located outside of the floodplain to the extent possible and in accordance with the Oregon Department of Environmental Quality rules. In no instance shall a site feasibility approval area for initial and repair systems reduce the area identified for compliance with **subsection (b)** or **subsection (c)** to less than 5,000 square feet and 40 feet in any dimension; in such case a different location for on-site wastewater disposal shall gain approval or the area designated for the building site shall be modified to meet these minimums.

(e) The applicant shall submit a profile identifying the existing natural grade and the Base Flood Elevations (BFE) along the entire length of the proposed access route(s), from the right-of-way to the proposed building site identified for **subsection (b)** or **subsection (c)**, for each resultant parcel or lot. The profile shall

Commented [LTA126]: BCC 83.300

Commented [LTA127]: BCC 83.605

Commented [LTA128]: "Suitable and adequate land" terminology previously identified as 83.605(2)(a) was subjective and provided no guidance for appropriate quantification.
This terminology has been replaced with language that clarifies the minimum amount of land that must be retained for each parcel subject to this requirement.

Commented [LTA129]: BCC 83.605(2)(b)(A)
Note: This code section was intended to apply to all parcels/lots identified as non-buildable at the time of parcel creation but it was accidentally included in the section for dry-land access standards.

Commented [LTA130]: BCC 83.605(3)
Adjusted to clarify confusing language.
This revision also clarifies that preference must be given to siting the primary structure outside of the floodplain over siting the septic drainfield. (This clarification was unclear in the wording adopted in 2011.)

be prepared by an Oregon-registered Professional Land Surveyor or an Oregon-licensed Civil Engineer and submitted with the application for land division.

(A) If any portion of the existing natural grade of the proposed access route(s) is lower than the BFE:

(i) The property owner shall sign for recording a deed restriction acknowledging that during a flood event the ability to evacuate the property or for emergency vehicles to obtain access to the property to provide emergency services may be prevented or made hazardous.

(ii) The property owner is encouraged to provide a copy of the profile to the local fire district and discuss the potential for impaired access and emergency services during flood conditions.

(f) If more than one covenant is required for compliance with the subsections above or if a covenant is required for more than one resultant parcel or lot, each covenant shall be recorded as a separate document.

CONSTRUCTION STANDARDS

83.600 SPECIFIC CONSTRUCTION STANDARDS FOR FLOOD ZONES

The specific standards in **BCC 83.610 through BCC 83.680** shall apply to all new construction and substantial improvements in Zones A, AE, AH, and A1-A30, in addition to the General Standards contained in **BCC 83.500 through BCC 83.520** of this ordinance.

83.610 NON-RESIDENTIAL CONSTRUCTION

(1) New or expanded primary commercial, industrial, and other non-residential structures, other than agricultural structures, are prohibited within the floodplain. If there is insufficient buildable land outside the floodplain to allow reasonable development of the property, a new or expanded primary structure may be authorized through the procedure specified in **BCC 83.620(3)**.

(2) Where allowed, new construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure, other than agricultural structures, shall either:

(a) Have the lowest floor, including basement, elevated a minimum of 18 inches above the Base Flood Elevation (BFE); or,

(b) Together with attendant utility and sanitary facilities:

(A) Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

Commented [LTA131]: Access standards previously identified in BCC 83.605(2)(b) have been relaxed per instruction from the state NFIP coordinator due to unintended potential for negative impacts to floodplain functionality and flow of floodwater during flood conditions.

Commented [LTA132]: New. This language reflects current policy to record documents separately for each type of restriction and parcel. From time to time it is necessary to release covenant language that has been recorded for a specific property.

Covenant releases are typically required due to changes in regulations or to satisfaction of standards that prompted the recording of a covenant. When language addressing more than one requirement is recorded on the same document, or when more than one property is encumbered by the same document, release of the appropriate language requires recording a release document (for the language that no longer applies) and a new covenant document (for the language that must remain in effect).

Because section 83.5520(2) has the potential to require covenants addressing multiple standards and encumbering more than a single property, it is important to clarify the current policy to record such documents separately.

Commented [LTA133]: New. This language is required to be added.

Commented [LTA134]: BCC 83.225(1)

Commented [LTA135]: BCC 83.225(3)(a)(A)

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth **BCC 83.260**.

Commented [LTA136]: BCC 83.225(3)(b)

(c) Non-residential structures that are elevated, not floodproofed, and have an enclosed area below the lowest floor shall comply with the standards for enclosed areas in section **BCC 83.660**.

Commented [LTA137]: BCC 83.225(3)(a)(B)

(d) An applicant choosing to floodproof a non-residential structure pursuant to the standards of this section shall be notified in writing that flood insurance premiums may be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood elevation will be rated as one (1) foot below that level).

Commented [LTA138]: BCC 83.240

83.620 RESIDENTIAL CONSTRUCTION

(1) Where allowed, new construction, conversion to, and substantial improvement of any residential structure (as defined in **BCC 83.020**) shall have the lowest floor, including basement, elevated a minimum of 18 inches above the Base Flood Elevation (BFE).

Commented [LTA139]: BCC 83.215(2)

(2) Where allowed, enclosed areas below the lowest floor shall be constructed with flood-specific venting (as defined in **BCC 83.020**) that complies with **BCC 83.660**.

Commented [LTA140]: BCC 83.220

(3) New dwellings, expansion of existing dwellings, and placement of manufactured dwellings are prohibited within the floodplain, with the following exceptions:

(a) New dwellings on vacant land (as defined in **BCC 83.020**) may be allowed if, through an Administrative Review the Planning Official determines that there is insufficient buildable land outside the floodplain to allow reasonable development of the property. The Planning Official may then allow a building site located partially or fully within the floodplain.

(A) In approving such a site, preference shall be given to sites that:

(i) Result in less fill and development within the floodplain;

(ii) Are of higher elevation;

(iii) Are farther from the top of bank of the adjacent water course

(iv) Minimize the risk of structural damage from flooding; and

(v) Preserve natural floodplain functions.

(B) In addition to the construction standards of this chapter, further conditions may be applied as deemed necessary by the Planning Official to minimize potential risks to the structure and potential impacts to other properties and the functioning of the floodplain.

(b) Additions to existing dwellings may be allowed if the addition either:

(A) Falls below the threshold of "substantial improvement"; or

(B) Will not result in the filling of additional floodway fringe area (such as a second story addition or a lateral addition elevated on flow-through construction).

(c) Replacement of an existing dwelling may be allowed:

(A) Within the building footprint of the dwelling being replaced;

(B) With a maximum 10% expansion or shift of the building footprint of the dwelling being replaced;

(C) With a maximum 10% expansion located elsewhere on the site, if through an Administrative Review the Planning Official determines that the relocation of the dwelling enhances stormwater and floodplain functions. The relocation shall be considered to enhance stormwater and floodplain functions if it furthers any of the following goals without worsening any other goal:

(i) Replaces standard construction with flow-through construction as defined in **BCC 83.020**;

(ii) Moves the dwelling to a higher ground elevation;

(iii) Moves the dwelling further from the top of bank of the adjacent water course;

(iv) Reduces the amount of impervious surface area in the floodway fringe;

(v) Does not negatively impact non-noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T" ; or

(D) With a greater than 10% expansion or shift of the building footprint of the dwelling being replaced if:

(i) The dwelling will be constructed with flow-through construction as defined in **BCC 83.020**;

(ii) The dwelling will be no closer to the top of bank of the adjacent water course than the existing structure; and

(iii) The expansion or shift of the building footprint does not negatively impact non- noxious riparian vegetation. Noxious vegetation is identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A," "B," and/or "T".

Commented [LTA141]: BCC 83.215(1)

(4) MANUFACTURED DWELLINGS. In addition to the standards of **subsectsions (1) through (3)** above, the following shall apply to all new and replacement manufactured dwellings, as well as substantially improved manufactured dwellings:

(a) The bottom of the longitudinal chassis frame beam shall be elevated to or above the Base Flood Elevation (BFE);

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

(c) Electrical crossover connections shall be elevated a minimum of one (1) foot above the Base Flood Elevation (BFE).

Commented [LTA142]: New. This language is required to be added.

Commented [LTA143]: BCC 83.215(3)

Commented [LTA144]: New. This language is required to be added.

83.630 RECREATIONAL VEHICLES

(1) A recreational vehicle placed within the A, AE, AH, and A1-30 Flood Zones shall:

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

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

(c) Meet the requirements of **BCC 83.620**, including requirements for anchoring and elevation, for manufactured dwellings.

Commented [LTA145]: BCC 83.215(4)

83.640 GARAGES

(1) Attached garages may be constructed with the garage floor slab below the base flood elevation (BFE) in special flood hazard areas, if the following requirements are met:

(a) Garages located partially or entirely within the floodway must comply with the requirements of **BCC 83.810**;

(b) The garage is used solely for parking, building access, and/or storage;

(c) The garage floor elevation is at or above grade along the length of at least one side;

(d) The garage is constructed with flood-specific venting (as defined in section **BCC 83.020**) in compliance with **BCC 83.660** to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters;

(e) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage as defined it FEMA technical guidance documentation;

(f) The garage is constructed in compliance with the provisions of **BCC 83.500(4) and (5)**; and

(g) The garage is constructed with electrical, mechanical, and other service facilities located and installed consistent with the provisions of **BCC 83.500(6)**.

(2) Detached garages shall be constructed in compliance with the standards for accessory structures in **BCC 83.650** or non-residential structures in **BCC 83.610**, depending on the square footage of the garage.

83.650 ACCESSORY STRUCTURES

(1) Accessory structures located partially or entirely within the floodway must comply with the requirements of **BCC 83.810**.

(2) Where allowed, new construction, conversion to, and substantial improvement of any accessory structure shall have the lowest floor, including basement, elevated a minimum of 18 inches above the Base Flood Elevation (BFE).

(3) Where allowed, enclosed areas below the lowest floor shall be constructed with flood-specific venting (as defined in section **BCC 83.020**) that complies with section **BCC 83.660**.

(4) Relief from elevation requirements of **subsection (2)** above may be granted for accessory structures that meet all of the following requirements:

(a) Shall be located on the same parcel or lot as a principal structure;

(b) Shall only be used for parking, access, and/or storage and shall not have any portion of the structure used for human habitation;

(c) Shall be limited to one-story with a maximum building footprint of 600 square feet;

(d) The portions of the accessory structure located below the Base Flood Elevation shall be built using flood resistant materials;

(e) Shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

(f) Shall be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood-specific venting in **BCC 83.660**;

(g) Shall be located and constructed to have low damage potential;

(h) Shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with **BCC 83.500(8)**; and

(i) Shall be constructed with electrical, mechanical, and other service facilities located and installed consistent with the provisions of **BCC 83.500(8)**.

(5) For any accessory structure relief granted under **subsection (4)** above, the owner shall sign the following declaratory statement to be recorded, along with a plot plan

Commented [LTA146]: New. This section is required to be added.

Commented [LTA147]: New. This section is required to be added.

Commented [LTA148]: BCC 83.225(2)(b) & BCC 83.225(3)(a)(A)

Commented [LTA149]: BCC 83.225(3)(a)(B)

Commented [LTA150]: Amended BCC 83.225
The standards identified in this section have been adjusted to include FEMA guidelines for authorizing wet-floodproofing (instead of requiring elevation or dry-floodproofing) for some types of accessory structures based on FEMA Floodplain Management Bulletin P-2140, July 2020 (*Floodplain Management Requirements for Agricultural Structures and Accessory Structures*).

Commented [LTA151]: New. This language is required to be added.

Commented [LTA152]: New. This language is required to be added.

identifying the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. Construction of the [specify type of accessory structure, i.e. detached garage, storage shed] to be used only for [specify type of use, i.e. parking, access, limited storage] has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.020, at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy.

This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

Commented [LTA153]: BCC 83.225(3)(c)(F)

Commented [LTA154]: BCC 83.015(7), BCC 83.015(17), BCC 83.220, & BCC 83.225(3)(a)(B)

83.660 ENCLOSED AREAS BELOW A STRUCTURE

(1) Fully enclosed areas below the lowest floor (excluding basements) of new and substantially improved structures in the Floodplain Management Overlay Zone are prohibited, or shall be designed to comply with the following requirements:

(a) Designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

(b) Used solely for parking, storage, or building access;

(c) Contain openings that meet or exceed the definition of flood-specific venting identified in section **BCC 83.020**, or are certified by an Oregon-registered professional engineer or architect; and

(d) Comply with all additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

83.670 BELOW-GRADE CRAWLSPACES

Commented [LTA155]: BCC 83.210(10)

(1) Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in special flood hazard areas, or successor document. (For more detailed information refer to FEMA Technical Bulletin 11-01.):

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

(b) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, shall have flood-specific venting (as that term is defined in **BCC 83.020**) that are compliant with **BCC 83.660** that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood-specific vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

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

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

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

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall shall not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas. Additionally, the height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the lowest habitable floor shall not exceed five (5) feet at any point.

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

(h) If the velocity of floodwaters at the site will exceed five (5) feet per second, other foundation types shall be used.

83.680 STANDARDS FOR SHALLOW FLOODING AREAS

(1) Shallow flooding areas appear on FIRMs as AH zones with Base Flood Elevations. For AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(2) Development within AH Zones must comply with the standards in sections 5.1, 5.2, and 5.2.5.

Commented [LTA156]: BCC 83.210(9)

Commented [LTA157]: Amended. This wording is required by FEMA

CORVALLIS URBAN FRINGE

83.700 ADDITIONAL STANDARDS IN THE CORVALLIS URBAN FRINGE. In the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the following standards shall apply in addition to other applicable provisions of this chapter. In the case of conflict, the more restrictive standard shall apply. Developers of floodplain property are strongly encouraged to schedule a pre-application conference with the Community Development Department to review floodplain considerations.

Commented [LTA158]: BCC 83.505

(1) Any proposed alteration or relocation of a watercourse within the Corvallis Urban Fringe shall comply with the standards identified in **BCC 83.230(2)**.

Commented [LTA159]: BCC 83.310(2)

(2) In areas identified on the Benton County Zoning Map as Partial-Protection Floodplain, the following shall apply:

(a) Fill or construction in the floodplain shall be compensated for by removal of an equal amount of material from the floodplain on the same property. The purpose is to ensure that the available flood volume of the special flood hazard area (100-year floodplain) is not reduced. Volumetric exchange will not be required of buildings constructed with flow-through design. Areas of fill and excavation shall be designed to accommodate floodwaters flows and shall not create barriers to the flow of floodwaters. Proposals to alter topography in the floodplain must demonstrate that they will not result in alteration of hydrology or flow regimes that would cause erosion, unwanted ponding, or other problems.

(3) In areas identified on the Benton County Zoning Map as High-Protection Floodplain, the following shall apply:

(a) Removal of vegetation from the floodplain is prohibited, except for the following purposes:

(A) Removal of a hazard tree which poses an immediate threat to life or property. Tree removal shall comply with the following standards:

(i) The stump and root wad of any altered tree shall remain undisturbed in place;

(ii) Any tree removed is required to be replaced by like native species or alternate approved native species.

(B) Maintenance of lawns, planted vegetation, and landscaping, to the extent existing on October 6, 2005.

(C) Stream restoration and enhancement programs approved by the Oregon Department of Fish and Wildlife as improving riparian function, and wetland restoration and enhancement programs approved by Oregon Department of State Lands or the Oregon Department of Fish and Wildlife.

(D) Removal of non-native, invasive, and/or noxious vegetation, as identified in the Oregon Department of Agriculture's Oregon Weed Policy and Classification System (Appendix 1) or successor document, including weeds designated as "A", "B", and/or "T". As necessary to control erosion, areas of vegetation removal shall be re-vegetated with native species. If necessary to prevent erosion prior to new vegetation becoming established, short-term, non-structural erosion control measures shall be employed;

(E) Substitution of native plant species for non-native plants. Additionally, native plants may be planted without accompanying removal of non-native plants. All new plantings shall be species listed on the City of Corvallis Native Plant List as appropriate for the proposed location. Plantings being substituted for non-native plants shall be species identified on the Corvallis Native Plant List as being in the same ecological-function category as the replaced plants. Plantings shall be maintained to ensure they become established.

(F) For the development of water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the floodplain;

(G) Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage;

(H) The minimum vegetation removal necessary to establish and maintain a fire fuel-break safety zone, as defined in **BCC 88.010(2)**, surrounding a structure. Benton County encourages property owners to consult with the Oregon Department of Fish and Wildlife on ways to minimize the impact of this vegetation removal and to mitigate the impacts that do occur.

(I) Continuation of agricultural activities, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(J) The minimum vegetation removal necessary to establish a pedestrian trail located at least 10 feet inland from the top of bank.

(K) Vegetation removal in conjunction with a development activity allowed under **BCC 83.700(3)(b)**.

(L) Commercial forestry operations authorized by the Oregon Department of Forestry.

(M) Vegetation removal within the area authorized under the provisions for a Modification to Natural Features Standards (**BCC 88.800**).

(b) Building, Paving, and Grading Activities:

(A) In the 0.2-ft. Floodway portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, no encroachments, including fill, new construction, substantial improvements, and other development are allowed, with the exception of bridges, infrastructure, utilities, or water dependent uses for which it may be demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. Such exceptions shall also be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with all applicable mandatory construction standards. Development within the 0.2-ft. Floodway shall comply with all applicable State and Federal requirements.

(B) In the Floodway Fringe portion of the Floodplain Management Overlay Zone within the Corvallis Urban Fringe, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited except as provided below. Such exceptions shall be designed and constructed to minimize adverse impacts to stormwater and floodplain functions within the floodway fringe, and comply with all applicable mandatory construction standards.

(i) Replacement of an existing structure may be allowed pursuant to **BCC 83.620(3)**.

(ii) Additions to an existing structure may be allowed pursuant to **BCC 83.620(3)**.

(iii) Accessory structures and agricultural structures, provided they are of flow-through design and construction.

(iv) Grading and excavation that are standard agricultural practices of a reoccurring character, limited to areas that have been converted to farm use prior to October 6, 2005. The property owner shall have the burden of proof in demonstrating that an area was converted prior to this date.

(v) The following types of infrastructure, provided they are designed to minimize impacts to floodplain hydrologic and ecologic function:

(a) Construction of streets, roads, public utilities, bridges, and bicycle and pedestrian ways that are included in the City of Corvallis Transportation Plan, or in other adopted City infrastructure/utility plans.

(b) Construction of streets, roads, bridges and bicycle and pedestrian ways necessary in order to maintain an acceptable functional classification of roadways adjacent to the property.

(c) Driveways necessary to provide access to an approved building site, provided the minimum floodplain area is disturbed.

(vi) Development of water-related and water-dependent uses;

(vii) Erosion control or flood control measures that have been approved by the Oregon Department of State Lands (DSL) and/or the U.S. Army Corps of Engineers, and that utilize bio-engineering methods. Streambank hardening (installation of hard- surfaced erosion- or flood-protection structures such as rip-rap) is prohibited except where necessary to address an imminent hazard to a structure built prior to October 6, 2005. Where allowed, hard-surface measures shall be designed by a Professional Engineer licensed by the State of Oregon and shall be approved by the Oregon Department of State Lands or U.S. Army Corps of Engineers, and shall at a minimum, require backfilling with soil and planting with native vegetation;

(viii) Development authorized under the provisions for Modification to Natural Features Standards (**BCC 88.800**).

FLOODWAYS

83.800 REGULATORY FLOODWAY NOT MAPPED

(1) In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones AE and A1-30 on the Benton County Flood Insurance Rate Map (FIRM), unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Commented [LTA160]: BCC 83.205(1)(b)
Amended to reflect required language.
Required by FEMA to be worded as stated.

(2) Encroachments that would result in an increase of more than one (1) foot in base flood elevations for projects in areas that do not have a mapped floodway may be authorized provided that the applicant:

(a) Receives approval for a Conditional Letter of Map Revision (CLOMR) from the Federal Insurance Administrator for the proposed encroachment which ensures

that the requirements for such revision, as established under Volume 44 of the Code of Federal Regulations, section 65.12, are fulfilled; and

(b) Submits the approved CLOMR to the Floodplain Administrator.

83.810 MAPPED REGULATORY FLOODWAY. Floodways are extremely hazardous areas due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential; therefore, if any portion of the proposed development is located in a designated floodway, the following provisions apply.

(1) Encroachments which include fill, new construction, substantial improvements and other development within the adopted regulatory floodway are prohibited unless certification by an Oregon-licensed Civil Engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) Agricultural structures and structures accessory to a dwelling are prohibited within the adopted regulatory floodway.

(3) Within a floodway in the Corvallis Urban Growth Boundary as described in **BCC 83.110(3)**, structural improvements and the placement of fill, other than in a public benefit such as a public improvement project, shall not be permitted. For the purposes of this section, public improvement projects include, but are not limited to, the construction of bridges, roads, storm water detention facilities, and water dependent uses. Public improvement projects are allowed if the applicant demonstrates, through hydrologic and hydraulic analyses, prepared by an Oregon-licensed professional engineer, that the permitted development will not result in any increase in flood levels during the occurrence of the base flood discharge.

(4) Encroachments (for development of land outside of the Corvallis Urban Growth Boundary) within the adopted regulatory floodway that would result in an increase in base flood elevations for projects in a mapped floodway may be authorized provided that the applicant:

(a) Receives approval for a Conditional Letter of Map Revision (CLOMR) from the Federal Insurance Administrator for the proposed encroachment which ensures that the requirements for such revision, as established under Volume 44 of the Code of Federal Regulations, section 65.12, are fulfilled; and

(b) Submits the approved CLOMR to the Floodplain Administrator.

(5) If all of the above applicable requirements are satisfied, all new construction, substantial improvements, and other development shall also comply with all other applicable provisions of this chapter.

(6) New and replacement fences and free-standing walls (as identified in the table below) may be allowed within the adopted regulatory floodway as follows:

Commented [LTA161]: New. This language is required to be added.

Commented [LTA162]: New. This language is required to be added.

Commented [LTA163]: BCC 83.205(1)(a) with additional language required to be added.

Commented [LTA164]: BCC 83.225(2)(a)

Commented [LTA165]: BCC 83.205(3)

Commented [LTA166]: New. This language is required to be added.
BCC 83.205(4)

Commented [LTA168]: New. This language is required to be added.

(a) Construction Types A and B may be allowed without a no-rise analysis.

(b) Construction Type C may be allowed without a no-rise analysis and upon submission of engineering calculations demonstrating that it will collapse under anticipated base flood conditions.

(c) Construction Types D through H may be allowed upon submission of a no-rise analysis, prepared using FEMA-approved engineering and modeling standards, documenting that the proposed fence or free-standing wall will not create an increase to the Base Flood Elevation.

Fencing Construction Types	
Construction Type	**Description**
A	Open barb or barb less wire. Open means no more than one horizontal strand per foot of height.
B	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.
C	Collapsible fencing that will collapse under anticipated base flood conditions. Debris impact must be considered.
D	Other wire, pipe, or mil fencing (e.g. field fence, chicken wire, etc.) which does not meet open requirements above.
E	Chain link fencing
F	Continuous wood fencing
G	Masonry walls
H	Retaining walls, bulkheads

Note: Wire fences within the floodway are encouraged to be wire-strand construction rather than woven-wire, welded-wire, or solid construction. Wire-strand construction reduces the potential for the fence to collect debris during a flood, redirect floodwaters, and/or be washed downstream.

Commented [LTA167]: BCC 83.210(8). Relocated and amended. Per guidance from the state, fencing standards applying to locations mapped as *flood fringe* have been removed; these standards now apply only to locations mapped as *floodway*.

This change is based on current FEMA guidance that regulation of fences and free-standing walls is only required when located in mapped floodways.

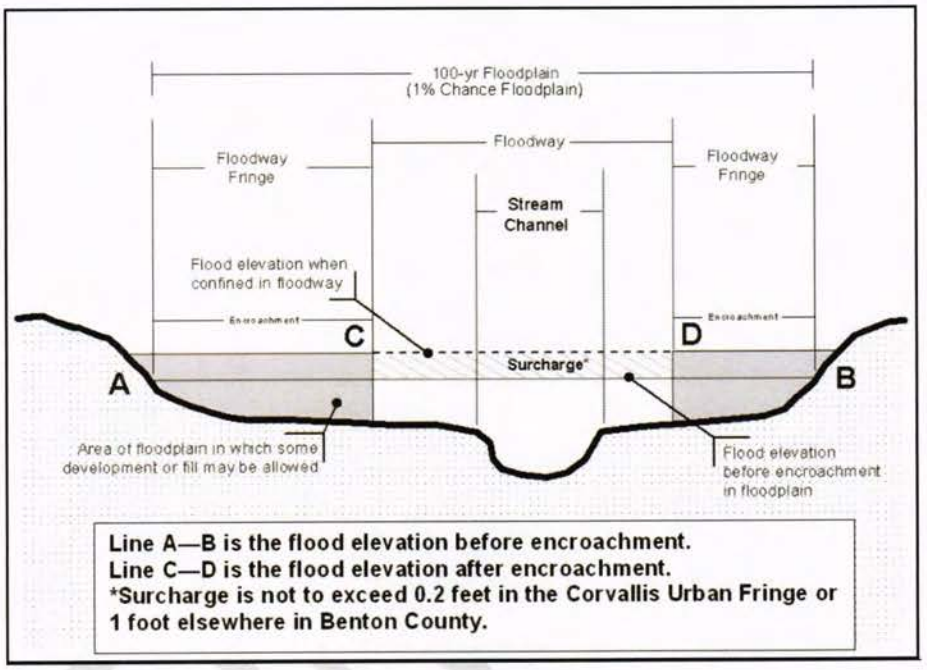

100-yr Floodplain
(1% Chance Floodplain)
Floodway
Floodway Fringe
Floodway Fringe
Stream Channel
Flood elevation when confined in floodway
Encroachment
Encroachment
C
D
Surcharge*
A
B
Area of floodplain in which some development or fill may be allowed
Flood elevation before encroachment in floodplain
Line A—B is the flood elevation before encroachment.
Line C—D is the flood elevation after encroachment.
*Surcharge is not to exceed 0.2 feet in the Corvallis Urban Fringe or 1 foot elsewhere in Benton County.

Exhibit 4

Quick-Reference Table Identifying Proposed Code Section Numbers, Existing Code Section Numbers, and Short Comments Regarding Amendments
Development Code Amendments; File No. LU-21-032

QUICK-REFERENCE TABLE OF CODE CHANGES

(Planning File LU-21-032; Floodplain Code Amendments)

Flood Ordinance Section		**Status** • Added • Existing • Amended • Deleted	**Notes:** (Examples: language missing, minimum standard not met, minimum standard met but the language does not match, higher standard language utilized)
New Code	**Current Code**		
Statutory Authority, Findings of Fact, Purpose, and Methods			
83.005 Statutory Authorization	83.005	Amended	Added FEMA required language (primarily relating to Findings of Fact and Methods of Reducing Flood Losses).
83.020 Definitions	83.015 and BCC 51.020	Amended	Added the following terms and applicable definitions: - Appeal - Area of Special Flood Hazard - Building - Conditional Letter of Map Revision (CLOMR) - Conditional Letter of Map Revision – Based on Fill (CLOMR-F) - Flood Elevation Study - Floodplain Administrator - Highest Adjacent Grade - Hazardous Material / Hazardous Waste - Historic Structure - Letter of Map Amendment (LOMA) - Letter of Map Change (LOMC) - Letter of Map Revision (LOMR) - Letter of Map Revision – Based on Fill (LOMR-F) - Lowest Adjacent Grade - Manufactured Dwelling - Manufactured Dwelling Park or Subdivision - Mean Sea Level - Residential Structure - Vacant Land - Violation Amended the following terms and applicable definitions: - Agricultural Structure - Area of shallow flooding (Shallow Flooding Area) - Critical Facility - Elevated Building (changed to Elevated Structure) - Flood (added subsection (a)(C) "mudslides") - Flood Insurance Rate Map (FIRM - Flood Insurance Study - Flood-specific Venting - Lowest floor (Lowest Regulatory Floor) - New construction

			- Special Flood Hazard Area - Start of construction - Substantial Improvement - Variance
General Provisions			
83.100 Lands to Which This Ordinance Applies	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.110 Basis for Establishing the Special Flood Hazard Areas	83.010	Amended	Added required language (*scientific and engineering report*). Added LOMRs approved since last code revision.
83.120 Coordination with Benton County Building Codes	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.130 Compliance and Penalties for Noncompliance	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.140 Abrogation and Severability	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.150 Interpretation	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.160 Warning and Disclaimer of Liability	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
Administration			
83.200 Floodplain Administrator	Missing	Added	FEMA requires this language to be included in local floodplain regulations. **This section includes:** **- Designation of the Floodplain Administrator** **- Duties & Responsibilities of the Floodplain Administrator**
83.210 Information to be Obtained and Maintained	83.100 83.210(1) 83.405	Amended	Added reference to section BCC 83.260 for required language.
83.220 Permit Review	83.110	Amended	Added required language.
83.230 Requirement to Notify Other Entities and Submit New Technical Data	83.310	Amended	FEMA requires this language to be included in local floodplain regulations. Added missing language. **This section includes:** **- Community Boundary Alterations** **- Watercourse Alterations** **- Requirement to Submit New Technical Data**

			Also added language strongly recommended by the state for inclusion: • Information intended as a means of alerting applicants to their responsibilities when applying for a CLOMR/LOMR and managing expectations. • Information to assist in conveying that a community is not required to sign a CLOMR/LOMR application if it is determined that the project does not meet the requirements of the local code, or any state or federal laws.
83.240 Substantial Improvement and Substantial Damage Assessments and Determinations	Missing	Added	Added required substantial improvement evaluation language. Added required substantial damage assessment and evaluation language.
Establishment of Development Permit			
83.250 Floodplain Development Permit Required	83.110	Amended	Added required language (*any area horizontally within the special flood hazard area*). Adjusted for consistency with model ordinance language. **This section includes:** **- Application for Development Permit**
83.260 Information Required to be Obtained, Maintained, and Submitted	83.100 83.210(1) 83.405 83.800(4)	Amended	Added required language. Amended existing wording to match required language. Added language for mid-construction elevation certificate (for consistency with State of Oregon Specialty Codes). Adjusted organization of, and clarified, elevation certificate requirements and procedures.
83.270 Floodplain Development Permit Exemptions	83.110	Amended	Amended term "standard agricultural practices" as required by the state. Added and clarified information relating to small-scale activities that may be deemed exempt from floodplain requirements.
Interpretation of Floodplain Boundaries & Use of Other Base Flood Elevation Data			
83.300 Interpretation of Floodplain Boundaries	83.105(1) 83.105(3)		Current code wording adequately addresses the subdivision proposal requirement. Amended per recommendation by the state to clarify terminology in order to ensure that it is clear and objective.
83.310 Use of Other Base Flood Elevation Data	83.105(2) 83.205(2) 83.215(2) 83.225(3)(a)(A)	Amended	Added required language. Added language required to clarify that structures in Zone A must be elevated to the same standards as structures in Zone AE.

83.400 Variance Procedure	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.410 Minor Variance for Agricultural Structures	83.800(1) 83.225(2)(a)	Amended	Per state and FEMA requirements, amended existing minor variance criteria to apply only to agricultural structures.
83.420 Discretionary Variance	83.800(2)	Amended	Added FEMA required language.
83.430 Variance Notification	83.800(2)(B) 83.800(4)	Amended	Adjusted to match required language.
Provisions for Flood Hazard Reduction			
83.500 General Floodplain Development Standards	83.210 83.700	Amended	Added and amended language to be consistent with FEMA requirements. **This section includes:** **- Alteration of Watercourses** **- Structures Located in Multiple or Partial Flood Zones** **- Critical Facilities** **- Anchoring** **- Construction Materials and Methods** **- Utilities and Equipment** **- Electrical, Mechanical, Plumbing, and Other Equipment** **- Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems** **- Tanks** Notes: 1. The wording included in the *Electrical, Mechanical, Plumbing, and Other Equipment* section is required for continued eligibility for Class 7 standing in the Community Rating System. 2. Benton County has a higher regulatory standard (1 foot above base flood elevation) for these items. Benton County current exception to 1-foot requirement (allowing elevation of items to existing floor for pre-FIRM structures) is also a higher regulatory standard and allowed to remain.
83.520 Land Division and Property Line Adjustments	83.300 83.605	Amended	Current code wording adequately addresses the subdivision proposal requirement. **This section includes:** **- Major Development Proposals** **- Parcel and Lot Design Standards** Amendments to land division standards relating to buildable area, access, and drainfield approval areas include:

			• Clarification of language relating to "suitable and adequate land" for siting a primary structure. • Relaxation of dry-land access standards to address state's concern regarding potential for unintended negative impacts of current code language on floodplain function and hazards. • Relocation of non-buildable parcel language for consistency with original intent. • Clarification of intent relating to approval of septic drainfield feasibility areas.
Construction Standards			
83.600 Specific Construction Standards for Flood Zones	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.610 Non-Residential Construction	83.225 83.240		Current code wording adequately addresses the subdivision proposal requirement.
83.620 Residential Construction	83.215(1) 83.215(2) 83.215(3) 83.220	Amended	Current code wording adequately addresses the subdivision proposal requirement. **This section includes:** **- Manufactured Dwellings** Added required language to manufactured dwelling section.
83.630 Recreational Vehicles	83.215(4)	Amended	Amended to match required language.
83.640 Garages	Missing	Added	FEMA requires this language to be included in local floodplain regulations.
83.650 Accessory Structures	83.225(2) 83.225(3)	Amended	Added language required to allow for construction of accessory structures in compliance with current FEMA guidelines for wet-floodproofing standards.
83.660 Enclosed Areas Below a Structure	83.015(7) 83.015(17) 83.220 83.225(3)	Amended	Amended to incorporate required language.
83.670 Below-Grade Crawlspaces	83.210(10)		Current code wording adequately addresses this requirement.
83.680 Standards for Shallow Flooding Areas	83.210(9)	Amended	Added required language.
83.700 Additional Standards in Corvallis Urban Fringe	83.505		Current code wording is a higher regulatory standard and is allowed to remain.

Floodways			
83.800 Regulatory Floodway Not Mapped	83.205(1)(b)	Amended	Adjusted to match required language.
83.810 Mapped Regulatory Floodway	83.205(1)(a) 83.205(3) 83.205(4) 83.210(8) 83.225(2)(a)	Amended	Added required language. Per recommendation from the state, Revised Code 83.810(4) is intended as a replacement of language currently in BCC 83.205(4). The purpose of this substitution is to allow for an increase of base flood elevation (typically caused by stream/habitat enhancement projects) through FEMA-approval of a Conditional Letter of Map Revision. [44 CFR 60.3(d)(4)] *Note: 83.205(4) is required to be removed due to the rescinded FEMA Region X policy (relating to fish enhancement projects in mapped floodways).* Per recommendation from the state, current code standards relating to construction of fences now apply only to areas mapped as floodway. This change is recommended pursuant to current FEMA guidance.

Exhibit 5

Amendments to Chapters 51, 88, 94, 95, 97, and 99 of the Benton County Development Code

Development Code Amendments; File No. LU-21-032

Added text is underlined.
Deleted text is ~~struck through~~.

Chapter 51

Development Code Administration

* * *

51.020 Definitions. As used in BCC Chapters 51 to 100:

* * *

(3) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100 year flood". Designation on Flood Insurance Rate ~~maps~~ Maps always ~~includes~~ begins with the letter "A".

* * *

(19) "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to properties and structures for the reduction or elimination of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

* * *

(21) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "Regulatory Floodway". ~~See~~ Refer to the diagram at the end of Chapter 83. Note that the "Floodway" within the Corvallis Urban Growth Boundary is based on a 0.2-foot increase in the water surface elevation (rather than a one-foot increase) as defined in BCC 83.~~010~~110(3)(a).

* * *

(80) "Winery" means a structure where grapes or other produce may be processed and converted to wine, bottled, blended, stored and sold. "Winery" includes a tasting room open to the public where wine may be sampled and purchased and where incidental wine related paraphernalia may be sold.

[Ord 7, Ord 26, Ord 90-0069, Ord 92-0092, Ord 93-0096, Ord 96-0117, Ord 96-0118, Ord 98-0134, Ord 2005-0209, Ord 2005-0210, Ord 2006-0214, Ord 2009-0233 eff. 6/2/2011, Ord 2015-0269, Ord 2021-0304]

* * *

Commented [LTA1]: Amended for clarification.

Commented [LTA2]: Amended for consistency with FEMA-required definition.

Commented [LTA3]: Amended for consistency with FEMA-required definition.

Chapter 88

Natural Features Overlay in the Corvallis Urban Fringe

* * *

88.050 Mapped Locations, Refinements and Corrections.

* * *

(2) **Floodplain.** The determination of floodplain boundaries shall be as described in BCC 83.~~010~~110(3). The regulations governing these areas are contained in BCC Chapter 83.

* * *

(10) Where there is conflict among provisions of separate sections of this chapter or other chapters applying to the same area, the more restrictive provisions shall prevail.

[Ord. 2005-0209; Ord 2005-0210; Ord 2005-0211, Ord 2021-0304]

* * *

88.310 Application.

(1) The provisions of BCC 88.300 through 88.350 shall apply to the lands identified in BCC 88.050.

(2) Note: Generally the same limitations on vegetation removal and building, paving, and grading activities described in this section likewise apply to the entire floodplain; refer to BCC 83.~~505~~ 700 for the floodplain regulations.

[Ord 2021-0304]

* * *

Chapter 94

Property Line Adjustments

* * *

94.300 General Review Standards. A property line adjustment shall, in addition to the applicable standards of BCC 94.350, 94.400 and 94.450, meet the following standards:

(1) The existing properties are legally created or will become legally created as a result of the property line adjustment;

(2) As a result of the amount of land transferred, the resulting property sizes will:

(a) Comply with the applicable minimum parcel or lot size;

(b) Not be reduced in size;

(c) Comply with applicable minimum and maximum size per BCC 100.205(6), if the properties are within the Urban Growth Boundary of Corvallis and were created pursuant to Chapter 100;

(d) Transfer no more acreage than that necessary to correct the encroachment of a legally built structure over a property line and establish the required setback to the adjusted property line; or

(e) Comply with 94.350(1)(~~e~~b), ~~or~~ 94.400(1)(a)(B), or 94.400(2)(a);

* * *

(7) One of the following is met:

(a) If both properties are entirely outside of an identified Special Flood Hazard Area (SFHA), then the property line adjustment is compliant; or

(b) If any portion of the properties is within an identified SFHA, then:

Commented [LTA4]: Adjusted to reflect removal of 94.350(1)(a).

Commented [LTA5]: Correction of accidental omission from previous code amendments to this chapter.

(A) If the area being transferred is entirely within the SFHA, then the property line adjustment is compliant; or

(B) If the area being transferred is partially or fully outside the SFHA, then the resulting properties shall comply with the building site parameters of BCC 83.520(2)(b) through (d) and the access standards of BCC 83.520(2)(e).

[Ord. 2018-0289, Ord 2021-0304]

* * *

94.350 Properties in Non-Resource Zones. An adjustment of property lines where all of the land involved is in the same non-resource-zone shall be processed through a ministerial review as provided by subsection (1) ~~or as an administrative review pursuant to BCC 53.160 as provided by subsection (2)~~.

(1) A property line adjustment shall be reviewed ministerially if the following can be met:

~~(a) Both properties are entirely outside of an identified Special Flood Hazard Area (SFHA) or no land outside of a SFHA is transferred and the standards of BCC 83.605(2)(b) are met; and~~

(ba) The resulting properties meet the size requirements of BCC 94.300(2)(a) through (d); or,

(eb) If the size requirements of BCC 94.300(2)(a) through (d) cannot be met and one or both of the existing properties are currently smaller than the minimum parcel or lot size, the following alternative outcomes are available:

(A) If only one of the existing properties is smaller than the minimum parcel or lot size, then:

(i) Both resulting properties shall be at least as large as the smallest existing property; and

(ii) At least one of the resulting properties shall meet or exceed the minimum parcel or lot size.

Example: The minimum parcel or lot size is 2 acres. If Property A is 1.5 acres and Property B is 2.5 acres, then neither property may be smaller than 1.5 acres after the property line adjustment is complete and at least one of the resulting properties has to be 2 acres or larger.

(B) If both existing properties are smaller than the minimum parcel or lot size, then:

(i) Both resulting properties shall be at least as large as the existing smallest property.

Example: The minimum parcel or lot size is 2 acres. If Property A is 1.5 acres and Property B is 1.0 acres, then neither property can be smaller than 1.0 acres after the property line adjustment is complete.

~~(2) If the criteria of subsection (1)(a) cannot be met, a property line adjustment shall be processed as an administrative review pursuant to BCC 53.160 and approved if the resulting properties meet the following:~~

~~(a) Maintain compliance with the floodplain requirements of BCC 83.605; and~~

Commented [LTA6]: No longer needed because compliance with floodplain criteria is addressed in BCC 94.300(7).

~~(b) Meet the size requirements of BCC 94.350(1)(b) or (c) above.~~

[Ord. 2018-0289, Ord 2021-0304]

94.400 Properties in Resource Zones. An adjustment of property lines where all of the land involved is in the same resource-zone shall be processed through a ministerial review as provided by subsection (1)~~, as an administrative review pursuant to BCC 53.160 as provided by subsection (2),~~ or as a quasi-judicial land use action pursuant to BCC 51.605 as provided by subsection ~~(3)~~(2). Subsections ~~(4)~~(3) and ~~(5)~~(4) shall apply to all applications.

(1) A property line adjustment shall be reviewed ministerially if ~~the following~~both (a) and (b) can be met:

(a) The resulting properties will meet the size requirements of:

(A) BCC 94.300(2)(a) through (d); or

(B) When one or both existing properties are currently smaller than the minimum parcel or lot size, the following alternative outcomes are available:

(i) If only one of the existing properties is smaller than the minimum parcel or lot size, then:

(a) Both resulting properties shall be at least as large as the smallest existing property; and

(b) At least one of the resulting properties shall meet or exceed the minimum parcel or lot size.

Example: The minimum parcel or lot size is 80 acres. If Property A is 75 acres and Property B is 100 acres, then neither property can be smaller than 75 acres after the property line adjustment is complete and at least one of the resulting properties has to be 80 acres or larger.

(ii) If both existing properties are smaller than the minimum parcel or lot size, then:

(a) Both resulting properties shall be at least as large as the smallest existing property.

Example: The minimum parcel or lot size is 80 acres. If Property A is 75 acres and Property B is 40 acres, then neither property can be smaller than 40 acres after the property line adjustment is complete.

(b) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot-of-record dwelling, or template-test dwelling, or containing a nonfarm or nonforest use, unless either:

(A) Both properties involved have been approved for one of these types of dwellings or uses; or

(B) The adjustment is consistent with an approval for a nonfarm parcel.

~~(c) Both properties are entirely outside of an identified Special Flood Hazard Area (SFHA) or no land outside of a SFHA is transferred and the standards of BCC 83.605(2)(b) are met.~~

~~(2) If subsection (1)(c) above cannot be met, a property line adjustment shall be processed~~

Commented [LTA7]: The administrative review was necessary for cases where land outside the floodplain is being transferred and a determination that a "suitable and adequate" building site remained was required (current BCC 83.605).

The proposed modifications to Chapter 83 clarifying the minimum amount of land required to be retained for a building site outside the floodplain eliminate the need for an administrative review.
These changes are also reflected in the modifications made to BCC 94.350(1)(a) above.

Commented [LTA8]: Adjusted for clarification.

Commented [LTA9]: No longer needed because compliance with floodplain criteria is addressed in BCC 94.300(7).

~~as an administrative review pursuant to BCC 53.160 and approved if the resulting properties meet the following:~~

~~(a) Maintain compliance with the floodplain requirements of BCC 83.605; and~~

~~(b) Meet the requirements of BCC 94.400(1)(a) and (b) above.~~

~~(3)~~(2) If the criteria of subsection~~s~~ (1) ~~and (2)~~ cannot be met, a property line adjustment shall be processed as a quasi-judicial land use action pursuant to BCC 51.605 and approved if the resulting properties meet the following:

(a) A resource-zoned parcel currently smaller than the minimum parcel or lot size may be reduced in size by property line adjustment if:

(A) The property line adjustment will result in a net increase in the ability to use resource- zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size;

(B) The property line adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use, and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(C) The acreage transferred from the undersized resource-zoned property will be transferred to another resource-zoned property.

(b) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot-of-record dwelling, or template-test dwelling, or containing a nonfarm or nonforest use, unless:

(A) The property line adjustment will result in a net increase in the ability to use resource-zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size.

~~(c) Maintain compliance with the floodplain requirements of BCC 83.605.~~

~~(4)~~(3) A deed restriction shall be required in the following circumstances:

* * *

~~(5)~~(4) A property line adjustment shall not:

* * *

~~(6)~~(5) Note: A property line adjustment that reconfigures a lot, parcel or tract of land, the effect of which is to cause a lot, parcel or tract to qualify for the siting of a dwelling, may disqualify the lot, parcel or tract for the siting of a dwelling pursuant to Chapter 55 or 60.

[Ord 2009-0232, Ord 2018-0289, Ord 2020-0297, Ord 2021-0304]

* * *

Commented [LTA10]: The administrative review was necessary for cases where land outside the floodplain is being transferred and a determination that a "suitable and adequate" building site remained was required (current BCC 83.605).

The proposed modifications to Chapter 83 clarifying the minimum amount of land required to be retained for a building site outside the floodplain eliminate the need for an administrative review.
These changes are also reflected in the modifications made to BCC 94.400(1)(c) above.

Commented [LTA11]: No longer needed because compliance with floodplain criteria is addressed in BCC 94.300(7).

Chapter 95

Partitions

* * *

95.120 Preliminary Approval. Preliminary approval is granted by the approving authority based on findings that the subject lot or parcel was legally created and the proposed partition complies with:

(1) The criteria for creation of new parcels of the zone in which the proposed parcels are located;

(2) The floodplain requirements of BCC 83.~~605~~520(2);

(3) All applicable provisions of Chapter 99;

(4) Complies with the provisions of all applicable overlay zones, including Chapters 82 through 88.

[Ord 7~~,~~; Ord 90-0069,; Ord 92-0092~~,~~; Ord 96-0118~~,~~; Ord 2007-0223~~,~~; Ord 2007-0224~~,~~; Ord 2009-0233, eff. 6/2/2011; Ord 2013-0253, eff. 8/15/2013~~,~~; Ord 2015-0267; Ord 2021-0304, eff. 10/7/2021]

* * *

Chapter 97

Subdivisions

* * *

97.115 Application.

(1) A complete application for a subdivision shall include fifteen copies of a preliminary plat that conforms to map standards established by the County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:

* * *

(e) The location of all areas subject to the base flood:

(A) ~~as~~ As shown on the Flood Insurance Rate Maps on file in the office of the Benton County Community Development Department; or

(B) As shown on the revised flood information prepared by the applicant if the standards of BCC 83.520(1)(b) apply.

* * *

(3) The applicant shall submit two copies of the tentative plat and the appropriate fee to the County Surveyor.

[Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2007-0223, Ord 2007-0224, Ord 2009- 0232, Ord. 2009-0233 eff. 6/2/2011; Ord 2011-0240, Ord 2021-0304]

Chapter 99

General Development Standards

* * *

99.205 Protection of Corvallis Fringe Drainageways.

* * *

(2) Any proposal to create a parcel or lot of less than five (5) acres or to develop or enlarge a selected commercial, industrial or public building shall require the dedication to the City of Corvallis for purposes of flood protection and stormwater conveyance that portion of the drainageway contained within the subject parcel or lot. The area subject to dedication is defined as that portion of the floodway identified on the Corvallis Urban Growth Boundary Floodway Maps adopted pursuant to BCC 83.~~010~~110(3).

* * *

(4) Any proposed partition, irrespective of size, which adjoins or wholly contains a drainageway shall be required to record a covenant generally describing an area subject to future dedication as described in BCC 99.205(2) and (3) and reserving the described area for the dedication upon the request of the City of Corvallis.

[Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2021-0304]

* * *

Exhibit 6

Amendments to Chapter 57 of the Benton County Development Code
Development Code Amendments; File No. LU-21-032

Added text is underlined.
Deleted text is ~~struck through~~.

Chapter 57

~~Flood Plain~~Floodplain Agriculture Zone (FPA)

57.005 Purpose. The ~~Flood Plain~~Floodplain Agriculture Zone shall preserve and protect lands for continued agricultural production, harvesting and related uses; and conserve and protect open spaces, wildlife habitats, and other such uses associated with land subject to flooding. This zone shall provide for multiple uses of ~~flood plain~~floodplain areas when such uses are compatible with recurring flooding and adjacent land utilization. [Ord 26, Ord 90-0069, Ord 2021-0304]

57.010 Standards for Application. The ~~Flood Plain~~Floodplain Agriculture Zone is applied to select areas within the Corvallis Urban Growth Boundary subject to recurring flood inundation. [Ord 26, Ord 90-0069, Ord 2021-0304]

PERMITTED USES

57.105 Permitted Uses. The following uses are allowed in the ~~Flood Plain~~Floodplain Agriculture Zone:

(1) Farm use.

(2) Forest use.

(3) One dwelling per parcel or lot.

(4) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(5) Home occupation.

(6) Day care for fewer than thirteen children.

(7) Accessory use or structure.

(8) Natural area, open space, or acquisition of greenway corridor.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210, Ord 2021-0304]

CONDITIONAL USES

57.205 Conditional Uses Approved. The following uses may be allowed in the ~~Flood Plain~~Floodplain Agriculture Zone by conditional use permit approved by the Planning Official:

(1) Public wildlife preserve.

(2) Dam, power plant, transmission line, and transmission station, together with associated structures.

(3) Water supply, water treatment facility, wastewater treatment facility, reservoir and other related facilities.

(4) Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources.

(5) Golf course.

(6) Developed park or recreation facility, and bike paths.

(7) Day care center.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210, Ord 2021-0304]

MINIMUM PARCEL OR LOT SIZE

57.305 Minimum Parcel or Lot Size. All new parcels or lots created shall be reviewed under the provisions for Planned Unit Developments (PUD) contained in BCC Chapter 100. One parcel or lot may be created under the PUD provisions per five (5.00) acres. [Ord 90-0069, Ord 98-0141]

SITING STANDARDS

57.405 Siting Standards and Requirements. All structures allowed in the ~~Flood Plain~~Floodplain Agriculture Zone shall be sited in compliance with the applicable provisions of BCC Chapters 83, BCC Chapter 88 (when located within the Corvallis Urban Fringe), BCC Chapter 99, and the following additional standards in instances when they are more restrictive than the provisions of BCC Chapters 83, 88, and 99, as applicable:

(1) A dwelling shall be placed at least thirty (30) feet from a property line, and at least forty-five (45) feet from the edge of a roadway. Architectural features shall not project more than two (2) feet into a required setback.

(2) Non-residential structures shall be placed at least twenty (20) feet from any property line, except no setback is required for a non-residential structure of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if that the structure:

(a) Is detached from other buildings by five (5) feet or more;

(b) Does not exceed a height of twenty (20) feet; and

(c) Does not exceed an area of 500 square feet.

(3) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor streams, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.

[Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210, Ord 2021-0304]

Exhibit 7

List of Amendments to the Benton County Development Code
Development Code Amendments; File No. LU-21-032

Added text is underlined.
Deleted text is ~~struck through~~.

Amendments to the Development Code

Effective May 18, 1990, the Development Code replaced the former Zoning Ordinance and Land Division Ordinance to govern land use activities in Benton County.

The legislative history of every section of the Code is listed in brackets at the end of each section. For example:

> 89.005 Purpose. This Chapter is intended to encourage continued use, rehabilitation, and preservation of significant historic sites and structures. [Ord 90-0069, Ord 91-0080]

This section appears at the beginning of Chapter 89, Historic Preservation. This section was originally adopted in 1990 by Ordinance No. 90-0069. It was revised in 1991 by Ordinance No. 91-0080.

Ord. No.	Eff. Date	File No.	Chapters Amended
90-0069	5/18/90	L-90-1	Adoption of the Development Code (50-99)
90-0073	8/11/90	L-90-2	Rezone Marys River Estates from RR-2 to RR-5
90-0074	8/11/90	L-90-4	Expand Monroe UGB
90-0075	8/11/90	L-90-5	55
90-0077	10/5/90	L-90-7	76
91-0079	2/8/91	L-80-9	50
91-0080	4/27/91	L-90-12	87, 89
91-0081	4/27/91	L-90-12	Apply Sensitive Fish & Wildlife Habitat Overlay Zone to two sites
91-0082	2/22/91	L-80-11	50, 51, 64, 65
91-0083	3/8/91	L-90-10	Apply Wetland Overlay Zone to Jackson-Frazier Wetland
92-0092	7/17/92	L-91-1	51, 55, 61, 63, 64, 65, 68, 72, 76, 78, 79, 83, 86, 91, 94, 95, 96, 97, 98, 99
92-0093	11/7/92	PC-92-5	78
92-0094	11/7/92	PC-92-5	Apply Public Zone with Use Overlay to Peavy Arboretum
93-0096	3/5/93	L-91-1	51
93-0097	3/5/93	L-91-1	64, 91, 95
93-0098	5/21/93	L-90-12	55, 87
94-0103	3/18/94	L-92-1	60
94-0104	3/18/94	L-93-1	51, 63, 64, 82, 91
94-0108	11/6/94	L-94-4 & 5	55, 56
95-0114	11/4/95	L-95-1	60
96-0117	8/12/96	L-95-3	51
96-0118	8/12/96	L-95-3	51, 55, 60, 63, 64, 65, 68, 69, 72, 73, 76, 78, 79, 83, 85, 89, 91, 94, 95, 97, 98, 99
96-0119	12/13/96	L-96-3	91
97-0131	12/12/97	L-96-2	51, 63, 64, 79, 91 and repeal 82
98-0134	3/20/98	L-97-3	51, 60, 64

Ord. No.	Eff. Date	File No.	Chapters Amended
98-0136	07/10/98	L-98-01	63, 64
98-0141	11/6/98	L-97-4	57. 64. 95, 97, 98, 100
99-0146	4/8/99	L-98-01	55, 64, 72, 79, 91
99-0147	4/8/99		52, 79
99-0148	7/8/99	L-98-03	
99-0154	2/10/2000	L-99-05	100
2000-0157	5/18/2000	L-99-06	51, 55, 83
2000-0161	10/5/2000	L-00-02	51, 53, 89
2001-0168	5/24/2001	L-01-02	100
2000-0163	7/19/2001	L-00-01	53, 55
2001-0172	8/30/2001	L-01-03	72
2001-0174	11/1/2001	L-01-01	51, 55, 60
2003-0184	6/23/2003	PC-03-01	68
2004-0196	7/8/2004	L-03-02	51, 53
2005-0209	10/6/2005	L-04-01	51, 57, 64, 72, 78, 83, 88, 100 (Corvallis Natural Features Program, Hazards Element)
2005-0210	10/6/2005	L-04-01	51, 57, 64, 72, 78, 88, 100 (Corvallis Natural Features Program, Riparian and Wetland Element)
2005-0211	11/25/2005	L-04-01	64, 88, 100 (Corvallis Natural Features Program, Significant Vegetation Element)
2006-0213	6/29/2006	LU-06-023	72
2006-0214	9/7/2006	LU-05-090	51, 53, 55, 60, 85, 94, and 99
2007-0222	8/9/2007	LU-06-058	63, 68, 70, 72, 74, 98
2007-0223	10/2/2007	LU-07-070	95, 97, 99
2007-0224	11/15/2007	LU-07-070	95, 97, 99
2008-0226	7/10/2008	LU-05-048	66 (New), 75 (New)
2009-0232	12/24/2009	LU-08-075	51, 53, 55, 60, 94, 97
2010-0235	7/1/2010	LU-09-085	76
2009-0233	6/2/2011	LU-08-096	51, 83, 94, 95, 97 (Floodplain Code Revision & Map Adoption)
2011-0240	7/1/2011	LU-10-052	97, 99, 100 (Stormwater Management)
2012-0244	3/29/2012	LU-11-053	64, 99, 100
2012-0247	9/20/2012	LU-11-052	51, 81, 91 (Special Use)
2012-0248	9/20/2012	LU-12-011	81.100 (Special Use - Children's Farm Home subzone)
2012-0249	12/20/2012	LU-12-008	81 (Special Use - Airport Industrial Park)
2013-0253	8/15/2013	LU-13-013	87 (Fender's Blue Butterfly Overlay), 51, 95

Ord. No.	Eff. Date	File No.	Chapters Amended
2013-0255	11/14/2013	LU-13-054	83 (Floodplain Code Revision & Revised Panel Adoption)
2014-0264	1/29/2015	LU-14-075	64 (Community Gathering Facilities)
2015-0265	2/19/2015	LU-14-077	76 (Use Overlay Zone)
2015-0267	7/16/2015	LU-15-018	53, 95
2015-0268	8/6/2015	LU-15-016	55
2015-0269	9/3/2015	LU-15-018	51
2015-0270	12/24/2015	LU-15-052	51, 55 (Recreational Marijuana)
2015-0271	12/24/2015	LU-15-052	66, 70, 72, 74, 75, 76, 78, 91 (Recreational Marijuana)
2016-0276	12/08/2016	LU-16-057	83 (Floodplain Code Revision & Revised Panel Adoption)
2017-0278	03/23/2017	LU-16-082	81 (Special Use – Airport Industrial Park)
2017-0282	12/21/2017	LU-15-047	60
2017-0283	12/21/2017	LU-17-012	78 (Oak Grove School)
2018-0285	06/30/2018	LU-18-016	51, 63, 64, 65, 91 (Accessory Dwelling Units)
2018-0286	07/19/2018	LU-18-016	51, 63, 64, 65, 91 (Accessory Dwelling Units)
2018-0289	01/03/2019	LU-17-022	51, 94, 95, 97
2020-0297	08/06/2020	LU-18-064	53, 55, 60, 91, 94 (Mandatory Changes)
2021-0304	10/07/2021	LU-21-032	51, 57, 83, 88, 94, 95, 97, 99 (Mandatory Floodplain Code Revision)

PH 2

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * Rebecca Taylor

Phone Extension * 0178

Meeting Attendee Name * Rebecca Taylor

Agenda Item Details

Item Title * Extension of Sunset Date for Chapter 40 -Vehicle Camping at Religious Institutions

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☑ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Board/Committee Involvement *

- ○ Yes
- ◉ No

Advertisement *

- ○ Yes
- ◉ No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

On July 20, 2021, the Benton County Board of Commissioners directed staff to prepare an ordinance extending the sunset date of the ordinance originally adopting Chapter 40 of the Benton County Code that enables the County to authorize religious institutions to offer space for up to three vehicles for camping purposes, subject to certain standards.

The purpose of this extension is to provide necessary time to conduct a public engagement effort prior to permanent adoption of Benton County Code to ensure such code will respond adequately to community needs.

No modifications have been made to the original Chapter 40 code language. The only modification is the extension of the sunset date from 12/31/2021 to 12/31/2022.

Options *

1) Conduct the first reading of the ordinance extending the sunset date of Benton County Code Chapter 40.
2) Reject conducting the first reading of the ordinance extending the sunset date of Benton County Code Chapter 40.
3) Provide alternative direction to staff.

Fiscal Impact *

- (•) Yes
- ( ) No

Fiscal Impact Description *

Marginal increase in County staff time to communicate with religious institutions, intake registration applications, and ensure compliance with code. Expected to be less than 0.1 FTE spread among several staff.

2040 Thriving Communities Initiative

Mandated Service? *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☐ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☑ Equity for Everyone
- ☑ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

Coordinated responses are needed to address the housing needs of Benton County across the entire housing spectrum. Continuing to provide options for persons experiencing houselessness supports healthier living conditions and addresses a need for a particularly vulnerable and under-represented segment of our community.

Focus Areas and Vision *

Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☑ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

The lack of housing is a key element of the topic of Housing and Growth. Chapter 40 creates a temporary housing option for people in need.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations* Staff recommends option 1.

Meeting Motions* I move to ...

1) Conduct the first reading of the ordinance extending the sunset date of Benton County Code Chapter 40 from December 31, 2021 to December 31, 2022.
OR
2) Reject conducting the first reading of the ordinance extending the sunset date of Benton County Code Chapter 40 from December 31, 2021 to December 31, 2022.
OR
3) Provide alternative direction to staff.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Sunset Extension Ordinance (Intermediate).doc 54KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver GREG VERRET

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- [x] Counsel
- [ ] Finance
- [ ] HR

Counsel Approver VANCE CRONEY

County Administrator Approver LILI'A NEVILLE

Comments

Counsel Approval

Comments

Signature



County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, COUNTY OF BENTON

In the Matter of Extending the Sunset Date of Benton County Code Chapter 40, Vehicle Camping at Religious Institutions	)))	**ORDINANCE No. 2021-0305**

WHEREAS:

The nation as a whole is facing unprecedented housing need and shortage of safe and affordable housing. The shortage has had negative impacts across Oregon's housing spectrum. Rural areas often face unique barriers to accessing resources due to limited capacity and infrastructure.

Many members of the community have vehicles as their primary shelter and no fixed place at which to safely and legally park their vehicle. Additionally, community organizations have constructed temporary transportable sleeping units ("micro-shelters") which are similar to vehicles in that they can be relocated and are not permanent installations but which provide many benefits when compared to a standard vehicle in use as a sleeping unit. Several religious institutions within the county have expressed willingness to provide space for people to camp in vehicles and/or micro-shelters.

Benton County is committed to a community dialog but the need for swift action in the face of the COVID-19 crisis combined with the challenges that the pandemic creates for public engagement necessitate the County adopting a limited-term ordinance at this time with a commitment to a robust public engagement process prior to adopting any permanent ordinance authorizing vehicle camping at religious institutions.

Pursuant to Oregon Revised Statutes (ORS) 203.082, Benton County may enact an ordinance authorizing vehicle camping at religious institutions.

///
///
///

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Extending the Sunset Date of Benton County Code Chapter Regarding Vehicle Camping at Religious Institutions.

PART II. Authority. The Board of County Commissioners of Benton County has authority to amend the County Code pursuant to the Benton County Charter.

PART III. The Benton County Code Chapter 40 is hereby amended as shown in "Exhibit 1".

PART IV. The effective date for these amendments to the Benton Code will be October 7, 2021, and this ordinance shall stand repealed at midnight on December 31, 2022, unless repealed sooner by an action of the Benton County Board of Commissioners.

First Reading: August 17, 2021

Second Reading: September 7, 2021

Effective Date: October 7, 2021

Sunset Date: December 31, 2022

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Xanthippe Augerot, Chair

_____
Nancy Wyse, Commissioner

_____
Pat Malone, Commissioner

Approved as to Form:

_____
County Counsel

_____
Recording Secretary

Exhibit 1

CHAPTER 40

VEHICLE CAMPING AT RELIGIOUS INSTITUTIONS

40.100. A church, synagogue or other religious institution located in unincorporated Benton County may allow overnight camping in vehicles, subject to the following:

(1) As used in this chapter, "vehicle" includes a licensed and operable automobile, camper, travel trailer or recreational vehicle. "Vehicle" also includes a rigid-walled, readily transportable temporary sleeping unit exempt from building code and consistent with safety standards issued by the Community Development Director.

(2) The religious institution shall register with the Benton County Community Development Department prior to establishing overnight camping in vehicles and shall submit a site plan and any other documentation required by the department's adopted procedures for ensuring compliance with this chapter.

(3) A maximum of three vehicles is allowed at the registered site at any one time.

(4) The religious institution shall provide campers with access to onsite sanitary facilities, including at minimum toilet, hand washing and trash disposal facilities.

(5) The camping occurs on the same property as the religious institution's facility or an adjacent property that the religious institution owns or leases and has land use approval for religious institutional uses. In the case of leased land, the church shall provide the County with written authorization from the property owner to establish vehicle camping.

(6) No payment of fee, rent, or other monetary charge shall be required of campers. This provision does not prevent the religious institution from accepting donations.

(7) The religious institution may select which individuals to allow to camp on the institution's property, and may revoke this permission at any time and for any reason.

(8) Vehicles and all associated outside facilities (such as toilet, trash disposal, storage unit) shall be located at least 12 feet from all property lines, road right-of-way or access easements, and each vehicle shall be located at least 12 feet from other vehicles and from associated outside facilities.

(9) All items and materials must be stored in vehicles or in separate storage unit, other than items designed and intended for outdoor use which shall be screened from adjacent properties and public rights-of-way

(10) The number of people camping per vehicle is not generally limited by this code; however, notwithstanding any other provision of this chapter, the Benton County Community Development Director or designee may limit the total number of individuals camping on a premises or prohibit vehicle camping as provided in this chapter if the

Community Development Director or designee finds that such activity on the premises constitutes a nuisance or other threat to public health, safety, or welfare. In addition to any other penalties that may be imposed, any premises used for vehicle camping in a manner not authorized by this chapter or other provisions of the Benton County Code shall constitute a nuisance and may be abated as such pursuant to Benton County Code Chapter 21 – Nuisance Abatement.

(11) Upon expiration or revocation of this chapter, all vehicle camping on registered sites shall cease. Authorization of vehicle camping on a site does not establish a land use or a vested right to continue the activity if and when this code is modified.

(12) Nothing in this chapter creates any duty on the part of the County, its employees, or its agents to ensure the protection of persons or property with regard to overnight sleeping in vehicles. {Ord. 2021-0305 establishes a sunset date of Dec. 31, 2022 for BCC ch. 40}

PH3

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Public Works

Contact Name * Gary Stockhoff

Phone Extension * 6010

Meeting Attendee Name * Gary Stockhoff

Agenda Item Details

Item Title * Public Hearing in the Matter of Annexing Properties within the Dumbeck Lane Domestic Water Supply Special District into the North Albany County Service District

Item Involves * Check all that apply

- [ ] Appointments
- [ ] Budget
- [ ] Contract/Agreement
- [ ] Discussion and Action
- [ ] Discussion Only
- [ ] Document Recording
- [ ] Employment
- [ ] Notice of Intent
- [x] Order/Resolution
- [x] Ordinance/Public Hearing 1st Reading
- [ ] Ordinance/Public Hearing 2nd Reading
- [ ] Proclamation
- [ ] Project/Committee Update
- [ ] Public Comment
- [ ] Special Report
- [ ] Other

Board/Committee Involvement *

- ( ) Yes
- (•) No

Advertisement *

- (•) Yes
- ( ) No

Names/Dates of Publications	List each publication name and date Gazette Times, Tuesday, August 10, 2021

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

The Dumbeck Lane Domestic Water Supply Special District (Dumbeck Lane) approached Benton County and the City of Albany about taking over responsibility for the day-to-day operation and administration of the District. To enable the transfer to occur, the existing area within Dumbeck Lane would be annexed into the North Albany County Service District (NACSD). The Board of Directors for the Dumbeck Lane Domestic Water Supply Special District submitted a Resolution requesting annexation into the NACSD. On July 20, 2021, the Board of Commissioners (BOC) accepted that Resolution and set a Public Hearing for August 17, 2021, to consider annexation.

The purpose of this Public Hearing is to consider whether to annex the Dumbeck Lane properties into the NACSD. Pursuant to ORS 198.850(3), the BOC does not consider approval criteria in ORS 199.462 or 198.805(1), which apply to formation of a district. Instead, the BOC may approve the proposed annexation request only if it is in accordance with the County Comprehensive Plan and the IGA Service Agreement between the City of Albany and Benton County ORS. 198.850(3). If the BOC finds the annexation request complies with the Comprehensive Plan and the Service Agreement, it adopts an Order containing the following:
(1) Statement that the Dumbeck Lane district properties will be annexed into the NACSD and become part of that service district; and
(2) The boundaries of both the Dumbeck Lane properties to be annexed and the new-expanded NACSD;
(3) The date, time and place for a second public hearing on the annexation request.
(4) A statement that written requests for an election on the annexation question must be filed at or before the second public hearing. An election will only be held if not less than 15% or 100 electors of the area to be annexed, whichever is less, file election requests. ORS 198.810(3).
(5) The Order must also declare that if not enough written requests for an election are filed, the Board will order the annexation of the Dumbeck Lane properties into the NACSD.

The first public hearing is to be held on August 17, 2021, at 11:00 a.m. The second public hearing is set for September 21, 2021, at 11:00 a.m.

One note about the annexation proposal: The City of Albany supplies the water to NACSD water users. Pursuant to Benton County's IGA with Albany for this water service, the City of Albany must approve annexation of any properties into the NACSD. Without Albany's approval, the city is not obligated to supply newly annexed properties with city water. The city is currently working with the Dumbeck Board of Directors to establish rates acceptable to both parties. Once Dumbeck Lane and the city reach agreement, we expect Albany to agree to the annexation, triggering its obligation to supply water to the newly annexed properties.

Options *

1) After reviewing the Order and supporting information, the BOC could determine that annexing the area within the Dumbeck Lane complies with the County Comprehensive Plan and the IGA Service Agreement between Benton County and the City of Albany. The BOC would then approve the Order for annexation in accordance with the applicable ORS requirements.

2) After reviewing the Order and supporting information, the BOC could determine that annexing the area within the Dumbeck Lane either does not comply with the Comprehensive Plan or the IGA with Albany and decline to annex the Dumbeck Lane properties into the NACSD. No further action would be taken by staff.

Fiscal Impact *

- (•) Yes
- ( ) No

Fiscal Impact Description *

The District has a current outstanding State Revolving Loan in the amount of approximately $428,000. The loan is administered by Business Oregon. They will require Benton County to absorb the loan to enable the annexation to be finalized. The District currently has a total cash, loan repayment, and capital reserve of approximately $405,000, which would be used to pay off the majority of the loan. The remainder of the loan will be assessed to the current Dumbeck Lane customers until the loan is retired. The monthly water invoices and payments will be administered by the City of Albany.

2040 Thriving Communities Initiative

Mandated Service? *

- (•) Yes
- ( ) No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Mandated Service Description *

If this agenda checklist describes a mandated service or other function, please describe here.

Water to the subject properties must be maintained.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- [x] Vibrant, Livable Communities
- [ ] Supportive People Resources
- [ ] High Quality Environment and Access
- [ ] Diverse Economy that Fits
- [x] Community Resilience
- [ ] Equity for Everyone
- [x] Health in All Actions
- [ ] N/A

Explain Core Values Selections *

This action will maintain water services for the affected properties to keep the area Vibrant and Livable, maintain the Community, and provide a Healthy water system for all.

Focus Areas and Vision *

Select all that apply.

- [ ] Community Safety
- [ ] Emergency Preparedness
- [ ] Outdoor Recreation
- [ ] Prosperous Economy
- [x] Environment and Natural Resources
- [ ] Mobility and Transportation
- [x] Housing and Growth
- [ ] Arts, Entertainment, Culture, and History
- [ ] Food and Agriculture
- [ ] Lifelong Learning and Education
- [ ] N/A

Explain Focus Areas and Vision Selection *

This action will maintain water services for Housing units and safe use of our Natural Resources for this Community.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Staff recommends the BOC conduct the first public hearing and hold a second public hearing as described in the Order for the request to annex the Dumbeck Lane Water Supply Special District into the North Albany County Service District.

Meeting Motions * I move to ...

I move to adopt Order No. 2021-60 to annex property within the Dumbeck Lane Domestic Water Supply Special District into the North Albany County Service District and hold a second public hearing as described in the Order.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

NACSD Dumbeck 1st hearing formation ORDER.docx 17.26KB

Comments (optional) emailing documents to Teresa. Maps will be provided at the meeting.
If you have any questions, please call ext.6800

Department Approver GARY STOCKHOFF

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- [x] Counsel
- [ ] Finance
- [ ] HR

Counsel Approver VANCE CRONEY

County Administrator Approver LILI'A NEVILLE

Comments

Counsel Approval

Comments

Signature

Vance N. Cheney

County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, COUNTY OF BENTON

In the Matter of Approving the Annexation of Property Within the Dumbeck Lane Domestic Water Supply District into the North Albany County Service District Pursuant to ORS 198.850	)))))	**ORDER No. D2021-061**

WHEREAS the Benton County Board of Commissioners held a public hearing on August 17, 2021 at 11 a.m. via GoToMeeting https://global.gotomeeting.com/join/500478005 to consider the annexation of property within the Dumbeck Lane Domestic Water Supply District into the North Albany County Service District pursuant to ORS 198.850; and

WHEREAS, it appears to the Board of Commissioners that the proposed annexation does not implicate or conflict with the Benton County Comprehensive Plan; and

WHEREAS, it further appearing to the Benton County Board of Commissioners that the proposed annexation will not conflict with or nullify any existing service agreements. Only one service agreement, between Benton County and the City of Albany, is affected by the proposed annexation and no objection to the proposed annexation has been submitted by the City of Albany. Nevertheless, the Benton County Board of Commissioners reserve the option to reject the annexation proposal if the City of Albany submits a written objection to the proposed annexation no later than the time and date set for the second public hearing below; and

WHEREAS, it further appearing to the Board of Commissioners that the District shall continue to be called North Albany County Service District, authorized to provide water supply services as specified in ORS 451.010(1)(f); and

WHEREAS, ORS 198.810(2), requires a final hearing on the petition to be held not less than 20 nor more than 50 days after the date of this order.

NOW, THEREFORE, the Benton County Board of Commissioners hereby orders:

1. The boundaries of the county service district following annexation shall include the North Albany County Service District and all the real property within the Dumbeck Lane Domestic Water Supply District as of August 17, 2021; and

2. The expanded service district will continue to meet the water supply needs of the area to be served by the district; and

3. A final hearing pursuant to ORS 198.810(2), shall be held Tuesday, September 21, 2021, at 11 a.m. Community members may attend the meeting via GoToMeeting https://global.gotomeeting.com/join/442720061 or dial 1 (571) 317-3122 use access code 442-720-061#. Notice of the final hearing shall be published one time.

Adopted this 17th day of August, 2021.

Signed this 17th day of August, 2021.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Commissioner

Approved as to form:

Vance M. Croney, County Counsel

Pat Malone, Commissioner

BOC Initial Approval

Approvals Required
- ☐ Counsel
- ☐ Finance
- ☐ HR

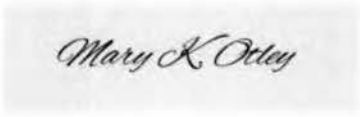
County Administrator Approver LILI'A NEVILLE

Comments

Department Approval

Comments

Signature



Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

2021 Public Notice and Notice of Public Hearing Food Bank Support.docx 15.45KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver MARY OTLEY

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Approve the grant application.

Meeting Motions * I move to ...

I move to approve the application for a Community Development Block Grant in the amount of $250,000 to be used to support the programs of Linn Benton Food Share.

2040 Thriving Communities Initiative

Mandated Service? *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☐ Vibrant, Livable Communities
- ☑ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☑ Community Resilience
- ☐ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

These grant funds will enhance the capacity of several rural food share partners. And provide food to those in need.

Focus Areas and Vision *

Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☑ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

These grant funds will enhance the capacity of several rural food share partners. And provide food to those in need.

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

Benton County is applying for a CDBG Block Grant in the amount of $250,000. This grant is specifically targeted to provide funding to be used by Linn Benton Food Share to support increased storage facilities (freezers, refrigerators, etc.) at local distribution points (food pantries) and increased transportation (trucks) ability for the distribution of food to these sites. Without these two key infrastructure supports, the Food Share fears that the incoming need will outstrip the ability of their network to provide for people as pandemic supports end and many families face eviction and food insecurity.

One of the requirements for applying to receive a CDBG Grant is to hold a public hearing and to read the announcement at said hearing.

Options *

1. Approve the grant application

2. Do not approve the grant application

Fiscal Impact *

- (•) Yes
- ( ) No

Fiscal Impact Description *

The County will receive $250,000 that will pass through to Linn Benton Food Share and pay for the administration costs.

Names/Dates of Publications	List each publication name and date Corvallis Gazette Times - August 10, 2021

PH4

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Finance

Contact Name * Mary Otley

Phone Extension * 7666767

Meeting Attendee Name * Mary Otley

Agenda Item Details

Item Title * Public Hearing regarding Benton County's intent to apply for a Community Development Block Grant

Item Involves * Check all that apply

- [ ] Appointments
- [ ] Budget
- [ ] Contract/Agreement
- [ ] Discussion and Action
- [ ] Discussion Only
- [ ] Document Recording
- [ ] Employment
- [ ] Notice of Intent
- [ ] Order/Resolution
- [x] Ordinance/Public Hearing 1st Reading
- [ ] Ordinance/Public Hearing 2nd Reading
- [ ] Proclamation
- [ ] Project/Committee Update
- [x] Public Comment
- [ ] Special Report
- [ ] Other

Board/Committee Involvement *

- ( ) Yes
- (•) No

Advertisement *

- (•) Yes
- ( ) No

NOTICE OF PUBLIC HEARING
FOR

Proposed Annexation
of the Dumbeck Lane Domestic Water Supply District
into the North Albany County Service District

Benton County Board of Commissioners Meeting
Tuesday, August 17, 2021, at 11:00 am

Please join the meeting from your computer, tablet or smartphone
https://global.gotomeeting.com/join/500478005

You can also dial in using your phone.
United States: +1 (224) 501-3412

Access Code: 500-478-005

The Benton County Board of Commissioners will hold a public hearing via GoToMeeting https://global.gotomeeting.com/join/500478005 to consider a Resolution requesting annexation of the Dumbeck Lane Domestic Water Supply District into the North Albany County Service District. The Board of Commissioners will consider the annexation boundaries and the benefit the proposed annexation will have to said district, pursuant to ORS Chapter 198. The territory being considered for annexation is described as the boundaries of all the real property within the Dumbeck Lane Domestic Water Supply District. For a boundary description of the territory, contact the Benton County Public Works Office at 541-766-6821.

Community members may attend the meeting via GoToMeeting and a reasonable opportunity will be given for testimony. Written testimony should be sent or delivered to the Benton County Board of Commissioners, 205 NW 5th Street, Corvallis, Oregon 97330. To be considered at the hearing, written testimony must be received by the Board of Commissioners Office by 5:00 p.m., ***Monday, August 16, 2021***, or must be submitted at the hearing. For further information, call the Benton County Board of Commissioners Office at 766-6800.

BOARD OF COMMISSIONERS

Xanthippe Augerot, Commissioner

Nancy Wyse, Commissioner

Patrick Malone, Commissioner

Published: Gazette Times and Albany Democrat Herald: August 10, 2021

Except the following tract of land,

Lot 1, Lakeview Estates, Benton County, Oregon

That certain tract as conveyed to Pony Dreams, LLC per Instrument No. 2011-475427, Benton County Deed Records, lying in the Southwest Quarter of Section 26, Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon, being more particularly described as follows:

Beginning at a 1/2" iron pipe at the Pony Dreams southwest corner; thence along the west line thereof, N 00°21'34"W 247.50 feet to a 1-1/4" iron pipe at the northwest corner thereof; thence along the Pony Dreams north line, N 89°51'14"E 1597.52 feet to a 5/8" iron rod; thence S 00°08'46"E 5.97 feet to a 5/8" iron rod; thence N 89°51'14"E 30.69 feet to a 5/8" iron rod; thence S 00°08'46"E 10.81 feet to a 5/8" iron rod; thence N 89°51'14"E 98.20 feet to a 5/8" iron rod; thence N 00°08'46"W 24.55 feet to a 5/8" iron rod; thence N 89°51'14"E 235.64 feet to a 5/8" iron rod on the west right-of-way line of County Road No. 14410 (NW Scenic Drive); thence Southerly along said west right-of-way line, 255.27 feet to a 5/8" iron rod at the Pony Dreams southeast corner; thence along the Pony Dreams south line, S 89°49'47"W 1964.75 feet to the point of beginning; containing 11.09 acres, more or less.

That certain tract as conveyed to Seth S. Crawford and Jessica A. Samples per Instrument No. 2018-568543, Benton County Deed Records, lying in the Southwest Quarter of Section 21, Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon, being more particularly described as follows:

Beginning at a bridge spike in the center of the abandoned Camp Adair Road, said spike lying N 89°33'00"W 686.07 feet and S 00°06'00"E 506.53 feet from the Southwest corner of the North Ell of the Lewis Morris DLC No. 70, said Township and Range, and lying on the west line of said Crawford-Samples tract; thence along said west line, N 00°06'00"W 31.59 feet to a 1/2" iron pipe at the northwest corner thereof; thence along the Crawford-Samples northerly line, S 71°51'30"E 1126.81 feet to a 3/4" iron pipe; thence continuing along said northerly line, on the arc of a 256.50 foot radius curve left (long chord: N 61°59'15"E 369.99 feet) 413.24 feet to a 3/4" iron pipe on the west right-of-way line of the Independence Highway; thence along said right-of-way line S 00°13'00"W 75.09 feet to the centerline of said Camp Adair Road; thence along said centerline, on the arc of a 286.50 foot radius curve right (long chord: S 69°16'56"W 359.51 feet) 388.62 feet to a 5/8" iron bolt; thence continuing along said centerline, N 71°51'30"W 666.74 feet to a 5/8" iron rod at the northwest corner of that certain tract conveyed to Donald and Collette Manes per M-18825-78, said Deed Records; thence along the Manes west line S 00°00'00"W 274.13 feet to a 5/8" iron rod at the southwest corner thereof on the Crawford-Samples south line; thence along said south line, S 90°00'00"W 426.90 feet to a 3/4" iron pipe at the southwest corner thereof; thence along the Crawford-Samples west line, N 00°06'00"W 414.00 feet to the point of beginning; containing 4.44 acres, more or less.

Lot 4, Supplemental Plat to Oak Hills Estates, Benton County Oregon Plat Records.

Parcel 2 of Partition Plat Number 2001-24, record of Partition Plats, Benton County, Oregon.

All of that Hough Tract of land identified as Parcel II by deed recorded in M-184840-94 of the Benton County Deed Records on June 2, 1994 and being more particularly described as follows:

Beginning at the northwest corner of said Parcel II, which point being the northwest corner of the William H. Johnson Donation Land Claim No. 63 in Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon; thence along the boundary line of said Parcel II the following six (6) courses: 1) SOUTH 1523.28 feet; 2) thence EAST 715.11 feet; 3) thence NORTH 985.28 feet to a 5/8 inch rod; 4) thence North 89°41'30" West 243.01 feet to a 5/8 inch rod; 5) thence North 00°07'21" East 537.79 feet to a 5/8 inch rod at an angle point on the north line of said Hough Tract; 6) thence South 89°52'02" West 473.25 feet to the Point of Beginning.

Beginning at the southeast corner of Lot 2 of 'OAK HILL ESTATES", a subdivision of record in Benton County , Oregon; thence North 00°22'30" West 715.82 feet to the northwest corner of said lot; thence North 89°58'00" West, along the north line of said lot, 28.67 feet; thence North 00°21'58" West 238.39 feet; thence North 00°23'30" West 170.00 feet; thence North 89°38'22" East 352.94 feet; thence South 00°16'00" East 411.04 feet to the northeast corner of Lot 3 in said 'OAK HILL ESTATES" subdivision; thence continuing along the boundary lines of said Lot 3, the following four (4) courses: 1) South 00°22'30" East 661.05 feet; 2) thence along the arc of a 330.00 foot radius curve to the left (long chord of which bears South 76°08'50" West 126.21 feet) a distance of 126.99 feet; 3) thence along the arc of a 270.00 foot radius curve to the right (long chord of which bears South 77°37'20" West 116.86 feet) a distance of 117.81 feet; 4) thence North 89°52'40" West 76.94 feet to the Point of Beginning.

Beginning at an iron rod on the east line of and South 00°25' East 660.00 feet from the northeast corner of the William J. Johnson Donation Land Claim No. 68 in Section 27, Township 10 South, Range 4 West of the Willamette Meridian in Benton County, Oregon; running thence South 00°25' East, along said east line, 345.45 feet to an iron rod on the northerly right-of-way line of a 60 foot wide roadway; thence South 89°56' West, along said roadway, 480.19 feet to an iron rod; thence along the arc of a 271.56 foot radius curve to the right a distance of 195.51 feet (long chord North 69°26'30" West 191.31) to an iron rod; thence North 48°49' West 106.14 feet to an iron rod; thence North 20°02' East 222.08 feet to an iron rod that is 660.00 feet SOUTH of the north line of said Donation Land Claim No. 68; thence North 89°58'30" East, parallel to the said North line, 660.68 feet to the Point of Beginning.

All of that land identified as Parcel II as described in that Harding Tract deed recorded in M-307500-01 of the Benton County Deed Records and being more particularly described as follows:

> Beginning at a one inch iron pipe at the northeast corner of that tract conveyed to Henry R. Alderson, Sr., et ux, by deed recorded April 11, 1966 in Book 200, Page 330, Benton County Deed Records, said northeast corner being South 89°43' East 2,113.25 feet and South 00°08' West 0.25 chains from the northwest corner of the William H. Johnson Donation Land Claim No. 63, Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon; running thence South 00°08' East 583.24 feet; thence North 89°43' West 186.68 feet; thence North 00°08' West 323.24 feet; thence South 89°43' East 126.88 feet; thence North 00°08' West 260 feet; thence South 89°43' East 60.00 feet to the Point of Beginning.

All of that land identified as Parcel 2 as described in that Dennler Tract deed recorded in M-245318-98 of the Benton County Deed Records and being more particularly described as follows:

Commencing at the northwest corner of the William Harrison Johnson Donation Land Claim No. 63 in Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon; thence South 89°41'30" East, along the north line of said Johnson Claim, 715.11 feet to a 5/8 inch rod; thence South 89°41'30" East 141.85 feet to a 5/8 inch rod that is the TRUE POINT OF BEGINNING of the hereinafter described tract; thence South 89°41'30" East 143.86 feet to the northeast corner of said Parcel 2; thence South 00°08'00" West 1523.28 feet to the southeast corner of said Parcel 2; thence North 89°43'00" West 285.71 feet to the southwest corner of said Parcel 2; thence North 00°08'00" East 1292.97 feet to the most westerly northwest corner of said Parcel 2; thence South 89°41'30" East 141.85 feet to an angle point in the boundary line of said Parcel 2; thence North 00°08'00" East 230.31 feet to the TRUE POINT OF BEGINNING.

Beginning at a point which is 15.499 chains South of the East quarter section corner of Section 27, Township 10 South, Range 4 West of the Willamette Meridian, Benton County, Oregon; thence SOUTH, along the east section line of Section 27, a distance of 1250 feet, more or less, to a 5/8 inch iron rod, said rod being the northeast corner of HOLLY ESTATE SUBDIVISION, a subdivision of record in Benton County, Oregon; thence North 89°56'25" West, along the North line of said subdivision, 949.06 feet to the southeast corner of that property described in Benton County Microfilm Records No. M-64696; thence North 00°03'35" West 253.63 feet to the northeast corner of M-64696; thence North 89°35'40" West 372.44 feet to the northwest corner of M-64696; thence NORTH, parallel with County Road No. 40, a distance of 50 feet, more or less, to the southwest corner of that property described in Microfilm Deed Records M-57771; thence South 89°35' East 466.09 feet to a 5/8 inch iron rod at the southeast corner of said property; thence North 00°03'35" East 400.00 feet to a 5/8 inch iron rod; thence North 00°24'10" East 545 feet to the north line of that property described in Microfilm Records M-4397; thence North 89°55'22" East 851.43 feet to the Point of Beginning.

Beginning at the southeast corner of that Keller Tract described by deed recorded in M-29719 of the Benton County Deed Records, which point being on the east line of and South 00°25' East 1523.10 feet from the northeast corner of the William J. Johnson Donation Land Claim No. 63 in Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon; thence South 89°58'30" West 582.57 feet to an iron rod at the southwest corner of said Keller Tract; thence NORTH, along the west line of said Keller Tract, 277.74 feet to the southwest corner of that Hale Tract described by deed recorded in Document Number 2004-370977 of the Benton County Deed Records; thence EAST 200.00 feet to the southeast corner of said Hale Tract; thence NORTH 180.00 feet to the northeast corner of said Hale Tract, which point being on the south right-of-way line of a 60-foot wide roadway conveyed to Benton County, Oregon by instrument Microfilm No. 19799, Microfilm Records of Benton County, Oregon; thence North 89°56' East 380.52 feet to the northeast corner of said Keller Tract; thence South 00°25' East 457.74 feet to the Point of Beginning.

to Roland J. and Madeleine L. Beecroft per M-40138, said Deed Records; thence along the Beecroft east line S 0°23'30"E 330.00 feet to the southeast corner thereof on the north line of the Jacob L. Halter DLC No. 73, said Township and Range; thence along the Claim line N 89°38'W 27.04 feet to the northeast corner of that tract conveyed to Hazel J. Tann per M-20779-80, said Deed Records; thence S 7°W 383.26 feet to the Tann southeast corner; thence N 89°38'W 687.04 feet to the Tann southwest corner; thence N 7°E 383.26 feet to the southeast corner of the Lewis Morris DLC No. 70, said Township and Range; thence along the east line of said Claim N 0°23'W 208.71 feet; thence S 89°52'W 208.71 feet; thence S 0°23'E 208.71 feet to the south line of said Morris Claim; thence along the Claim line West 1,238.29 feet; thence N 0°23'W 20.00 feet to the point of beginning.

Together with the following tracts of land
described on pages 8 through 17.

N 89°41'30"W 141.85 feet to a 5/8" iron rod at the northeast corner of "Parcel 1" as conveyed to Dwaine D. and Gail S. Dennler per M-245318-98, said Deed Records; thence S0°08'W 230.31 feet to a 5/8" iron rod at the Dennler southeast corner; thence N 89°41'30"W 141.85 feet to a 5/8" iron rod at the Dennler southwest corner on the east line of that tract conveyed to Paul Steven and Tonja Lynn Everest per M-345052-03, said Deed Records; thence along said east line S 0°07'21"W 307.48 feet to a 5/8" iron rod at the Everest southeast corner; thence N 89°41'30"W 243.01 feet to a 5/8" iron rod at the Everest southwest corner; thence N 0°07'21"E 537.79 feet to a 5/8" iron rod at the Everest northwest corner on the north line of said Johnson Claim; thence along the Claim line N 89°41'30"W 471.89 feet to a brass capped monument at the northwest corner thereof; thence along the west line of said Claim, being also the east line of the Supplemental Plat to Oak Hills Estates, S 0°08'05"E 349.86 feet to a 5/8" iron rod at the southeast corner of Lot 7, said Plat; thence along the south line of said Lot, S 81°49'00"W 660.51 feet to a 5/8" iron rod on the northerly right-of-way line of Public Road No. 04801 (NW Quailwood Drive); thence along said right-of-way line on the arc of a 50.00 foot radius curve left (long chord: N 71°14'16"W 89.14 feet) 110.06 feet to a 5/8" iron rod; thence along the arc of a 20.00 foot radius curve right (long chord: S 67°54'55"W 15.12 feet) 15.50 feet to a 5/8" iron rod; thence N 89°52'40"W 188.00 feet to the southwest corner of Lot 6, said Plat; thence leaving said right-of-way on the west Lot line N 0°22'30"W 661.23 feet to a 5/8" iron rod at the northwest corner thereof, being also on the south line of "Parcel 2" as conveyed to the Robert K. Webber Revocable Living Trust per M-162437-93, said Deed Records; thence along said south line N 89° 58'00"W 81.56 feet to a 5/8" iron rod at the southwest corner thereof; thence North 953.75 feet to a 5/8" iron rod at the northwest corner of said Parcel 2 on the southerly line of that tract conveyed to the Carol Webber Revocable Living Trust per M-162438-93, said Deed Records; thence along said southerly line S 77°50'W 582.96 feet to the southwest corner thereof; thence continuing S 77° 50'W 2.97 feet to the northeast corner of that tract conveyed to James N. and Berdina L. Scott per M-266958-99, said Deed Records; thence S 0°16'E 418.68 feet to a 5/8" iron rod at the Scott southeast corner; thence along the Scott south line S 89°36'30"W 352.99 feet to a 5/8" iron rod at the northeast corner of that tract conveyed to Nathan W Upton and Jennifer J. McClean per M-345904-03, said Deed Records; thence along the Upton/McClean east line and extension thereof S 0°23'30"E 400 feet to the north line of said Supplemental Plat to Oak Hill Estates; thence along said north line S 89°58'E 28.67 feet to a 5/8" iron rod at the northeast corner of Lot 2, said Plat; thence S 0°22'30"E 716.34 feet to a 5/8" iron rod at the southeast corner thereof on the north right-of-way line of said County Road No. 04700; thence along said right of way line S 89°52'40"E 76.94 feet to a 5/8" iron rod; thence S 0°07'20"W 60.00 feet to a 5/8" iron rod at the northwest corner of Lot 12, said Plat, being also the northeast corner of that tract conveyed to Gary Lynn and Laura Christeen Fosdick per M-64722, said Deed Records; thence along the Lot line S 0°22'30"E 300.00 feet to a 3/4" iron pipe at the Fosdick southeast corner; thence leaving said Lot line, along the Fosdick south line N 89°52'30"W 90.00 feet to the northeast corner of that tract conveyed

S 22°37'13"W 174.14 feet) 178.80 feet to a 5/8" iron rod; thence S 0°08'46"E 40.00 feet to a 5/8" iron rod at the southeast corner of Lot 8, said Subdivision; thence along the south line of said Subdivision S 89°51'14"W 487.06 feet to an 1-1/4" iron pipe at the southwest corner of Tract A said Subdivision; thence along the west line of said Tract A, N 0°23'44"W 405.45 feet to a 5/8" iron rod at the southeast corner of Parcel 2, Benton County Partition Plat No. 95-17; thence S 89°57'40"W 330.01 feet to a 5/8" iron rod at the Parcel 2 southwest corner, being also the southeast corner of that tract conveyed to Tony Lynn and Karen Ann Smith per M-342286-03, said Deed Records; thence along the Smith south line S 89°57'40"W 330.63 feet to a 5/8" iron rod at the southwest corner thereof; thence along the Smith west line N 0°25'W 256.0 feet to a 1/2" iron rod at the southeast corner of that tract conveyed to David D. and Jayne M. DeWilde per M-57755, said Deed Records; thence S 89°58'30"W 430.68 feet to a 1/2" iron rod at the DeWilde southwest corner, being also the southeast corner of that tract conveyed to Duane R. and Sheila A. Paxton per M-101476, said Deed Records; thence along the Paxton south line S 89°58'30"W 185.73 feet to a 1/2" iron rod at the southwest corner thereof; thence N 0°25'W 128.52 feet to a 1/2" iron rod; thence S 89°58'30"W 65.00 feet to a 1/2" iron rod at the Paxton westerly-southwest corner; thence N 0°25'W 225.48 feet to a 1/2" iron rod at the Paxton northwest corner on the south right-of-way line of NW Sweetwater Lane; thence along said right-of-way line S 89°58'30"W 409.00 feet to the westerly right-of-way line of said County Road No. 04440; thence along said right-of-way line S 0°21' 30"W 258.15 feet to a 3/4" iron pipe at the southeast corner of that tract conveyed to Raymond J. and Dianna J. Hart per M-267562-99, said Deed Records; thence along the south line of said Hart tract, the south line of that tract conveyed to Leroy A. and Carol L. Swanson per M-189066-94, said Deed Records, and the south line of that tract conveyed per M-26777, said Deed Records, N 89°43'W 695.41 feet to a 3/4" iron pipe; thence N 0°08'E 291.65 feet to the south right-of-way line of said County Road No. 04404; thence along said right-of-way line N 89°43'W 59.68 feet to the northeast corner of that tract conveyed to Phillip Hiram Harding and Amy Lynn Shippy per M-236520-97, said Deed Records; thence leaving said right-of-way line S 0°08'W 260.00 feet to the Harding/Shippy southeast corner; thence N 89°43'W 126.68 feet to the southwest corner thereof on the east line of that tract conveyed to Buford A. and Victoria E. McClanahan per M-177566-94, said Deed Records; thence along said east line S 0°08'W 323.24 feet to a 1" iron rod at the southeast corner thereof on the north line of the first described tract conveyed to Everett W. Russell per Book 118, Page 119, said Deed Records; thence along said Russell north line N 89°43'W 784.15 feet to a cast iron pipe at the southwest corner of that tract conveyed to Diane M. Proteau per M-312015-02, said Deed Records, and lying on the east line of that tract conveyed to Kirk D. Bohard and Danita B. Shattuck per M-337827-03, said Deed Records; thence along said east line S 0°08'W 940.55 feet to a 5/8" iron rod at the southeast corner thereof; thence N 89°40'W 142.96 feet to the Bohard southwest corner; thence N 0°08'E 1523.73 feet to a 5/8" iron rod at the Bohard northwest corner lying on the north line of the William Harrison Johnson DLC No. 63, said Township and Range; thence along said Claim line

thence N 89°59'E 161.00 feet to a 5/8" iron rod at the northeast corner of said Lot 5; thence along the east line of said Lot, S 0°12'E 128.87 feet to the northwest corner of Parcel 1, Benton County Partition Plat No. 92-03; thence along the north line of said Partition Plat, East 624.12 feet to a 5/8" iron rod at the northeast corner of Parcel 2 of said Partition Plat, being also the northwest corner of that tract conveyed to Norman R. and Janice L. Bethell per M-159588-93, said Deed Records; thence along the Bethell north line S 89° 59'E 624.03 feet to the northeast corner thereof; thence S 0°11'E 697.95 feet to a 3/4" iron rod at the southeast corner thereof on the north line of Lakeview Estates; thence along said north line N 89°58'03"W 309.53 feet to a 5/8" iron rod at the northwest corner of Lot 19, said Subdivision; thence along the west lines of Lots 19 and 20, S 0°19' 48"E 340.03 feet to a 5/8" iron rod at the Lot 20 southwest corner; thence along the Lot 20 south line and projection thereof S 89°58'00"E 340.01 feet to the east right-of-way line of NW Angelo Jay Drive; thence along said right-of-way line N 0°19'49"W 340.04 feet to a 5/8" iron rod at the northwest corner of Lot 18, said Subdivision; thence along the north line of said Subdivision S 89°58'03"E 463.40 feet to a 3/4" iron rod at the northeast corner of Lot 16, said Subdivision; thence S 0°13'13"E 577.23 feet to a 3/4" iron rod at the southeast corner of Lot 15, said Subdivision; thence along the north line of Lot 13 and the projection thereof, said Subdivision, S 89°58'27"E 735.23 feet to a 5/8" iron rod on the west right-of-way line of County Road No. 14410 (NW Scenic Drive), and also the easterly-northeast corner of said Lakeview Estates; thence along said right-of-way line S 0°03'48"E 278.25 feet to a 5/8" iron rod at the southeast corner of Lot 1, said Subdivision; thence leaving said right-of-way line S 89°51'14"W 212.00 feet to a 5/8" iron rod at the Lot 1 southwest corner; thence N 0°03'48"W 228.89 feet to a 5/8" iron rod at the northwest corner thereof, on the south right-of-way line of NW Camala Drive; thence along said right-of-way line N 89°58'27"W 163.04 feet to a 5/8" iron rod; thence along the arc of a 175.00 foot radius curve left (long chord = S 81°45'25"W 50.34 feet) 50.51 feet to a 5/8" iron rod at the northeast corner of Lot 3, said Subdivision; thence along said Lot line S 0°00'30"W 427.43 feet to a 5/8" iron rod at the southeast corner of said Lot 3; thence along the south line of said Subdivision, S 89°51'14"W 999.85 feet to a 5/8" iron rod at the southeast corner of Lot 7, said Subdivision on the easterly right-of-way line of NW Camala Drive; thence along the said right-of-way line N 0°08'46"W 40.00 feet to a 5/8" iron rod; thence along the arc of a 175.00 foot radius curve right (long chord: N 44°51'14"E 247.49 feet) 274.89 feet to a 5/8" iron rod; thence N 0°08'46"W 50.00 feet to a 5/8" iron rod on the northerly right-of-way line of said NW Camala Drive; thence along said right-of-way line, on the arc of a 225.00 foot radius curve left (long chord: S 86°11'47"W 28.71 feet) 28.73 feet to a 5/8" iron rod at the southeast corner of Lot 9, said Subdivision; thence N 16°45'29"W 288.64 feet to a 5/8" iron rod at the Lot 9 northeast corner; thence N 89°58'00"W 175.57 feet to a 5/8" iron rod at the Lot 9 northwest corner; thence S 9°43'51"W 198.25 feet to a 5/8" iron rod on the Lot 9 west line; thence S 48°37'33"E 217.88 feet to a 5/8" iron rod on the westerly right-of-way line of said NW Camala Drive; thence along said right-of-way line, on the arc of a 225.00 foot radius curve left (long chord:

887.04 feet to the southeast corner of that tract conveyed to the Dennis R. Schreiter Living Trust and the Laura M. Ouellette Living Trust per M-277059-99, said Deed Records; thence along the south line thereof N 89°58'W 871.43 feet to a 1/2" iron pipe on the easterly right-of-way line of said County Road No. 14430; thence along said right-of-way line S 0°23'E 130 feet to a 5/8" iron rod on the north line of "Parcel 2" per M-67616-85, said Deed Records; thence East 328.90 feet to a 5/8" iron rod at said Parcel 2 northeast corner; thence South 198.90 feet to a 5/8" iron rod at the southeast corner thereof; thence West 198.90 feet to a 5/8" iron rod at the Parcel 2 southwest corner; thence North 173.90 feet to a 5/8" iron rod; thence West 129.83 feet to a 5/8" iron rod on said east right-of-way line of County Road No. 14430; thence leaving said Parcel 2 boundary, along said right-of-way line, S 0°23'E 731.18 feet to the centerline of a roadway described in "Parcel 1" per M-58679, said Deed Records; thence along said centerline N 89° 36'30" E 190.00 feet to the southwest corner of said Parcel 1; thence N 0°23'W 250.00 feet to the northwest corner of said Parcel 1; thence N 89°36'30"E 175.00 feet to the Parcel 1 northeast corner; thence S 0°23'E 236.40 feet to the Parcel 1 southeast corner on said roadway centerline; thence along said centerline on the arc of a 200' radius curve left (long chord: N 65°55'37"E 16.94 feet) 16.94 feet; thence N 63°30'E 92.25 feet; thence along the arc of a 200 foot radius curve right (long chord: N 73°30'E 69.46 feet) 69.81 feet; thence N 83°30'E 53.93 feet; thence along the arc of a 200 foot radius curve left (long chord: N 62°00'E 146.60 feet) 150.09 feet; thence N 40°30'E 234.25 feet; thence along the arc of a 173.72 foot radius curve right (long chord: N 59°10'E 111.20 feet) 113.19 feet; thence N 77°50'E 9.28 feet to the southwest corner of that tract conveyed to the Carol A. Webber Revocable Living Trust per M-162438-93, said Deed Records; thence along the Webber west line North 489.45 feet to a 5/8" iron rod at the northwest corner thereof; thence along the north line of said Webber tract and then Parcels 1, 2, and 3 per M-162437-93, said Deed Records, S 89°58'E 1793.60 feet to a 5/8" iron rod at the northeast corner of said Parcel 1; thence along the Parcel 1 east line S 0°01'20"E 176 feet to the northwest corner of that tract conveyed to Marshall W. and Elizabeth J. Hough per M-184840-94, said Deed Records; thence East 1,061.28 feet to the Hough northeast corner; thence along the Hough east line South 1379.73 feet to the north right-of-way line of County Road No. 04404 (Dumbeck Avenue); thence along said right-of-way line East 1,598.68 feet to the centerline of County Road No. 04440 (NW Oak Grove Drive); thence along said centerline South 16.17 feet to the north right-of-way line of Public Road No. 04815 (NW Sweetwater Lane); thence along said right-of-way line N 89°59'E 595.52 feet to a 5/8" iron rod on the west line of Powers Park Subdivision; thence along said west line N 0°12'W 898.49 feet to a 5/8" iron rod at the northwest corner of Lot 5, Block 1, said Subdivision; thence N 89°59'E 201.51 feet to a 5/8" iron rod at the Lot 5 northeast corner; thence S 0°12'E 100.49 feet to a 5/8" iron rod at the Lot 5 southeast corner on the north right-of-way line of Public Road No. 04813 (NW Sox Lane); thence along said right-of-way line, and projection thereof, N 89°59'E 261.52 feet to the east right-of-way line of Public Road No. 04812 (NW Terrace Drive); thence N 0°12'W 28.72 feet to a 5/8" iron rod at the northwest corner of Lot 5, Block 3, said Subdivision;

M-53823, said Deed Records; thence continuing N 0°13'W along the west line of said Stillinger tract, and the west line of that tract conveyed to Gary A. and Rebecca L. McCluskey per M-132189-91, and the west line of that tract conveyed to Stanford L. and Patricia A. Morris per M-280516-00, said Deed Records, 767.14 feet to a 3/4" iron pipe at the Morris northwest corner; thence along the Morris north line S 89°33'E 462.56 feet to a ¾" iron pipe at the northwest corner thereof lying on the westerly right-of-way line of said County Road No. 14430, being also the southeast corner of that tract conveyed to Dorothy I. Ashling, Trustee per M-206045-95, said Deed Records; thence Northerly along said westerly right-of-way line 1,720 feet, more or less, to the Ashling northeast corner, being also the southeast corner of the third tract as conveyed to Richard D. Olson, Trustee per M-253297-98, said Deed Records; thence leaving said right-of-way line, along the Olson south line West 3032.70 feet to the southwest corner thereof; thence along the west line of both the second and third described Olson tracts North 1191.96 feet to the northwest corner of said second tract; thence East 2979.9 feet to the northeast corner of said second tract, lying on the westerly right-of-way line of said County Road No. 14430; thence along said right-of-way line N 3°30'W 825 feet, more or less, to the south line of that tract conveyed to Owen W. Cook per Book 125, Page 217, said Deed Records; thence leaving said right-of-way line, along the south line of said Cook tract, N 89°43'W 277.54 feet to a 1-1/4" iron pipe at the southwest corner thereof, on the north-south centerline of said Section 21; thence along said Section centerline N 0°21'E 279.77 feet to the 1/4 corner common to said Sections 16 and 21, being also the southwest corner of that tract conveyed to Jason L. and Debra S.A. Free per M-282561-00, said Deed Records; thence along the west line of said Free tract and that tract conveyed to Kenneth M. Kloster per M-298537-01, said Deed Records, N 0°21'E 984.79 feet to a 3/4" iron pipe at the Kloster northwest corner; thence along the Kloster north line, and projection thereof, N 89°58'E 182.26 feet to the easterly right-of-way line of said County Road No. 14430; thence Southerly along said right-of-way line 4,587 feet, more or less, to the intersection with the southerly right-of-way line of County Road No. 04406 (Palestine Avenue), being also the westerly-northwest corner of that tract conveyed to George P. and Dorthea Kurtz per M-180852-94, said Deed Records ; thence along said southerly right-of-way line N 72°34'25"E 141 feet, more or less, to the intersection with the east line of the Lewis Morris DLC No. 70, said Township and Range, being also the west line of said Kurtz tract; thence along said Claim line and the same extended N 0°23'W 180 feet, more or less, to the south line of the Tolbert Carter DLC No. 45, said Township and Range, and also the Kurtz northerly-northwest corner; thence along the Claim line East 592.61 feet to a 1" iron pipe at the Kurtz northeast corner; thence leaving the Claim line, parallel to the east line of said Morris Claim, S 0°23'E 1,576.94 feet to a 1" iron pipe at the southeast corner of that tract conveyed to Howard R. McJunkin per M-187905-94, said Deed Records, and also lying on the north line of that tract conveyed to Harry M. and Nancy A. Whitley per M-136359-91, said Deed Records; thence along said north line East 308.82 feet to the northeast corner thereof; thence parallel to said east line of the Morris Claim S 0°23'E

EXHIBIT "A"

ANNEXATION OF THE DUMBECK LANE DOMESTIC WATER SUPPLY DISTRICT INTO THE NORTH ALBANY COUNTY SERVICE DISTRICT LEGAL DESCRIPTION

A tract of land lying in Sections 16, 21, 26, 27, and 28, Township 10 South, Range 4 West, Willamette Meridian, Benton County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod on the north right-of-way line of County Road No. 04395 (Ryals Avenue), being also the southwest corner of that tract conveyed to R. Bryan and Kim A. Webber per M-254522-98, Deed Records of Benton County, and lying S 89°37'W 1,447.00 feet and N 0°23'W 20.00 feet from the southeast corner of the Lewis Morris DLC No. 70, said Township and Range; thence leaving said right-of-way line N 0°23'W 1783.69 feet to a 5/8" iron rod at the Webber northwest corner, being also the southeast corner of that tract conveyed to Frank D. and Carolynn M. Sanders per M-149598-92, said Deed Records; thence continuing N 0°23'W 932.60 feet to a 5/8" iron rod at the Sanders northwest corner, being also the southwest corner of that tract conveyed to Kenneth F. and Jo Ann Humphrey per Book 200, Page 652, said Deed Records; thence continuing N 0°23'20"W 417.43 feet to the Humphrey northwest corner; thence S 89°49'E 417.43 feet to the Humphrey northeast corner; thence S 0°23'20"E 417.43 feet to the Humphrey southeast corner on the north line of said Sanders tract; thence along said north line N 89°49'45"E 1000.71 feet to a 5/8" iron rod on the west right-of-way line for County Road No. 14430 (Independence Highway); thence along said right of way line N 0°23'20"W 721.50 feet to the most southerly corner of "Parcel 2" of M-236014-97, said Deed records; thence along the Parcel 2 southwesterly line N 45°W 247.61 feet to the south line of a 25 foot strip of land conveyed to Carl P. and Florence M. Beyer per M-21275, said Deed Records; thence leaving said Parcel 2 boundary, along said Beyer south line, N 89°48'W 845.08 feet to the easterly line of the main Beyer tract conveyed per said M-21275; thence along said easterly line S 3°57'W 401.84 feet to a 3/4" iron rod at the southeast corner thereof; thence N 89°48'W 342.74 feet to a 5/8" iron rod at the Beyer southwest corner; thence N 0°23'20"W 426.00 feet to a 5/8" iron rod at the Beyer northwest corner; thence S 89°48'E 375.00 feet to the Beyer northeast corner; thence continuing along the north line of said Beyer 25 foot strip S 89°48'E 51.90 feet to the southwest corner of that tract conveyed to Lawrence W. and Carole A. Thomas per M-10980-79, said Deed Records; thence leaving the Beyer north line along the Thomas west line N 0°06'W 274.13 feet to the northwest corner thereof; thence S 71°51'30"E 341.19 feet to the Thomas northeast corner, being also the northwest corner of that tract conveyed to Steven R. Tenney per M-98609-88, said Deed Records; thence along the Tenney northerly line S 71°51'30"E 170.58 feet to a spike; thence leaving the Tenney northerly line N 0°13'W 31.61 feet to a 2" pipe at the southwest corner of that tract conveyed to Kenneth R. and Dana E. Stillinger per

(d) No portion of the structure will be used for human habitation and or as a place of employment or entertainment. For clarification:

(A) Agricultural structures with multiple or mixed purposes, are not considered to be used exclusively for agricultural purposes and are, therefore, not agricultural structures for the purposes of this standard.

(B) Human habitation, such as a permanent or temporary residence or seasonal living quarters for workers, is not considered an agricultural purpose or use.

(C) Processing and production of agricultural commodities (outside of harvesting, storage, raising, or drying) are not considered agricultural purposes or uses.

(D) Examples activities not considered to be exclusively for agricultural purposes or uses include activities such as distilling, brewing or fermenting beverages, baking or cooking, leather tanning, packaging, and similar production processes. Structures used for these types of processes are considered places of employment and are eligible for a minor variance for an agricultural structure.

(4) The applicant shall submit the following items along with an application form and fee:

(a) Although Benton County cannot require flood insurance, the applicant shall submit a signature from a licensed insurance professional verifying the applicant has discussed flood insurance options and potential requirements for the proposed agricultural structure if a flood insurance policy were to be purchased for the structure;

(b) Acknowledgement by the property owner that structure will be built with the lowest floor below the Base Flood Elevation, the structure will be wet flood-proofed, and that the contents of the structure might not be insurable against flood loss;

(c) Building plans showing:

(A) Flood-specific venting designed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood-specific venting in **BCC 83.660**;

(B) Flood damage-resistant construction materials for all portions of the structure that are below the Base Flood Elevation. Standards for flood damage-resistant construction materials are found in FEMA Technical Bulletin 2, Flood Damage- Resistant Materials Requirements for Buildings Located in special flood hazard areas in accordance with the National Flood Insurance Program (or successor document); and

Commented [LTA107]: The standards identified in this section have been adjusted to include FEMA guidelines for authorizing wet-floodproofing for agricultural structures based on FEMA Floodplain Management Bulletin P-2140, July 2020 (*Floodplain Management Requirements for Agricultural Structures and Accessory Structures*).

(C) All electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated in accordance with **BCC 83.500(6)**;

(d) A pre-construction elevation certificate specific to proposed building site; and

(e) A site plan of the property clearly identifying the proposed building location.

Commented [LTA108]: BCC 83.800(1)(b)

(5) Upon satisfactory completion of the items listed in **subsections (3) and (4)** above, the minor variance will be granted ministerially in conjunction with the issuance of the building permit and the owner shall sign the following declaratory statement to be recorded, along with a plot plan identifying the structure location and the dimensions of the structure, in the County Deed Records for the parcel or lot upon which the building is constructed:

This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. Construction of an agricultural structure to be used only for agricultural use has been permitted by Benton County at an elevation below the base flood elevation for the site. Storage of hazardous chemicals, as defined in BCC 83.020, at an elevation below the base flood elevation within such structure is prohibited.

In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits, which may require elevation of the structure, from Benton County to convert the occupancy.

This statement further serves as notice to the owner and successors in interest that this structure, regardless of size, may be required to be insured against flood loss and that contents of the structure may not be insurable against flood loss except as provided by the insurer.

Commented [LTA109]: BCC 83.800(1)(c)

83.420 Discretionary Variance. In cases other than those listed in **BCC 83.410**, a variance may be granted pursuant to the standard variance procedure and criteria specified in Chapter 53 and the provisions of this section.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, in conformance with the provisions of sections **BCC 83.420(3) and (5)**, and **BCC 83.430**. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

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

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

County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



Public Notice and Notice of Public Hearing
Benton County is eligible to apply for a 2020 Community Development Block Grant from the Business Oregon. Community Development Block Grant funds come from the U.S. Department of Housing and Urban Development. The grants can be used for public facilities and housing improvements, primarily for persons with low and moderate incomes.

The state expects to receive approximately $13 million in new federal funds during 2021 for grants to non-entitlement cities and counties for eligible projects. The maximum grant that a city or county can receive under the COVID-19 Impact Assistance Program for Food Bank Assistance activities is $250,000. Benton County is preparing an application for a 2021 Community Development Block Grant from the Business Oregon for Food Bank Assistance for Low-to-Moderate Income residents living in Linn and Benton County. It is estimated that the proposed project will benefit over 10,000 Low-to-Moderate Income residents each month.

A public hearing will be held by the Benton County Board of Commissioners at 11:00 am on August 17, 2021 at the 205 NW 5th Street Corvallis, Oregon 97330. The purpose of this hearing is for the Board of Commissioners to obtain citizen views and to respond to questions and comments about: community development and housing needs, especially the needs of low- and moderate-income persons, as well as other needs in the community that might be assisted with a Community Development Block Grant project; and the proposed project.

Written comments are also welcome and must be received by August 12 at 205 NW 5th Street Corvallis, Oregon 97330. Both oral and written comments will be considered by the **board of commissioners** in deciding whether to apply.

The location of the hearing is accessible to persons with disabilities. Please contact **Teresa Farley** at 541-766-6890 if you will need any special accommodations to attend or participate in the meeting.

More information about Oregon Community Development Block Grants, the proposed project, and records about Benton County's past use of Community Development Block Grant funds is available for public review at 205 NW 5th Street Corvallis, Oregon 97330 during regular office hours. Advance notice is requested. If special accommodations are needed, please notify Teresa Farley at 541-766-6890 so that appropriate assistance can be provided.

Permanent involuntary displacement of persons or businesses is not anticipated as a result from the proposed project. If displacement becomes necessary, alternatives will be examined to minimize the displacement and provide required/reasonable benefits to those displaced. Any low- and moderate-income housing that is demolished or converted to another use will be replaced.

Aviso público y aviso de audiencia pública

El Condado Benton es elegible para solicitar una beca en bloque para el desarrollo comunitario 2020 de negocios Oregon (2020 Community Development Block Grant from the Business Oregon). Los fondos de la beca en bloque para el desarrollo comunitario provienen del Departamento de Vivienda y Desarrollo Urbano de EE. UU. Las becas se pueden utilizar para edificios públicos y mejoras de viviendas, principalmente para personas con ingresos bajos y moderados.

El estado espera recibir aproximadamente $ 13 millones en nuevos fondos federales durante 2021 para becas a ciudades y condados sin derechos, para proyectos elegibles. La beca máxima que una ciudad o condado puede recibir bajo el Programa de Asistencia de Impacto COVID-19 para las actividades de Asistencia del Banco de Alimentos es de $ 250,000. El Condado Benton está preparando una solicitud para una beca en bloque para el desarrollo comunitario 2021 de Negocios Oregon, para asistencia del

banco de alimentos, para residentes de ingresos bajos a moderados, que viven en los Condados Linn y Benton. Se estima que el proyecto propuesto beneficiará a más de 10,000 residentes de ingresos bajos a moderados cada mes.

La Junta de Comisionados del Condado Benton, llevará a cabo una audiencia pública a las 11:00 am. el 17 de agosto de 2021 en: 205 NW 5th Street Corvallis, Oregon 97330. El propósito de esta audiencia es que la Junta de Comisionados obtenga opiniones de los(as) ciudadanos(as) y para responder a preguntas y comentarios sobre desarrollo de la comunidad y necesidades de vivienda, especialmente las necesidades de personas de ingresos bajos y moderados, así como otras necesidades en la comunidad que podrían ser asistidas con un proyecto de beca en bloque para el desarrollo comunitario; y el proyecto propuesto.

Los comentarios escritos también son bienvenidos y deben recibirse antes del 12 de agosto en 205 NW 5th Street Corvallis, Oregon 97330. La **junta de comisionados** considerará tanto los comentarios orales como los escritos para decidir si aplican.

El lugar de la audiencia es accesible para personas con discapacidades. Comuníquese con **Teresa Farley** al 541-766-6890 si necesita alguna adaptación especial para asistir o participar en la reunión.

Más información sobre las becas en bloque para el desarrollo comunitario de Oregon, el proyecto propuesto y los registros sobre el uso pasado de los fondos de la beca en bloque para el desarrollo comunitario del Condado Benton, están disponibles para revisión pública en 205 NW 5th Street Corvallis, Oregon 97330 durante el horario de oficina. Se solicita notificación previa. Si se necesitan adaptaciones especiales, notifique a Teresa Farley al 541-766-6890 para que se pueda proporcionar la asistencia adecuada.

No se prevé el desalojo involuntario permanente de personas o empresas como resultado del proyecto propuesto. Si el desalojo se vuelve necesario, se examinarán alternativas para minimizarlo y proporcionar los beneficios requeridos / razonables a los desalojados. Cualquier vivienda de ingresos bajos y moderados que sea demolida o convertida para otro uso, será reemplazada.

6.1

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Public Works

Contact Name * Gordon Kurtz

Phone Extension * 6006

Meeting Attendee Name * Gordon Kurth & Gary Stockhoff

Agenda Item Details

Item Title * Acceptance of a Segment of Public Road into the County Road System: NW Stone Ridge Avenue, Public Road No. P04442

Item Involves * Check all that apply

- [ ] Appointments
- [ ] Budget
- [ ] Contract/Agreement
- [x] Discussion and Action
- [ ] Discussion Only
- [ ] Document Recording
- [ ] Employment
- [ ] Notice of Intent
- [x] Order/Resolution
- [ ] Ordinance/Public Hearing 1st Reading
- [ ] Ordinance/Public Hearing 2nd Reading
- [ ] Proclamation
- [ ] Project/Committee Update
- [ ] Public Comment
- [ ] Special Report
- [ ] Other

Estimated Time * 10 minutes

Board/Committee Involvement *

- ○ Yes
- ◉ No

Advertisement* ○ Yes
◉ No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

The described segment of the subject road was constructed as conditioned by Public Works in association with Planning Action LU-17-028. Adjacent property owners dedicated right of way to facilitate construction of the road segment. Public Works engineering staff oversaw and regularly inspected the work as this segment of NW Stone Ridge Avenue was constructed. Upon completion of the work, per Board of Commissioners Policy, a three-year warranty period was initiated for which a Warranty Bond was secured. The warranty period is now complete, the improvements are accepted by Public Works staff, and the bond has been released. The adjacent property owners have petitioned to have the segment of Public Road added to the County Road segment of NW Stoneridge Avenue. In a memo and petition addressed to the Board of Commissioners dated February 1, 2021, The concerned members of the Stone Ridge Estates Homeowners' Group petitioned that the segment of road described by DN 2018-570244 & DN 2018-570245 be accepted into the County Road System.

Per Benton County Administrative Policy No. 03-01, Public Works is presenting this request for acceptance of NW Stone Ridge Avenue to the Board of Commissioners. The intent of the road acceptance policy is to ensure that roads accepted into the County system are constructed to the standards and specifications prescribed by Public Works and that those facilities will be provided with adequate maintenance by the County to insure optimal service life and performance. Roads accepted by the county under the policy have performed well with minimal cost. Currently, there are 80 miles of Public Roads in Benton County that are not maintained by Public Works. Some are well maintained by road districts or neighborhood associations but service levels are inconsistent and some ultimately require County attention. County maintenance is the best option for preserving newly constructed transportation infrastructure.

Options *

1) Accept the segment of road into the County Road System.
2) Deny the petition for acceptance into the County Road System.

Fiscal Impact *

(•) Yes
( ) No

Fiscal Impact Description *

Typical annual maintenance costs for a road of this type and length, in good condition, is $600-$800 per year.

2040 Thriving Communities Initiative

Mandated Service? *

- (•) Yes
- ( ) No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Mandated Service Description *

If this agenda checklist describes a mandated service or other function, please describe here.

Right of way and County Roads are managed and maintained by the Public Works Department.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply

- [x] Vibrant, Livable Communities
- [ ] Supportive People Resources
- [ ] High Quality Environment and Access
- [ ] Diverse Economy that Fits
- [x] Community Resilience
- [ ] Equity for Everyone
- [ ] Health in All Actions
- [ ] N/A

Explain Core Values Selections *

The segment of NW Stone Ridge Avenue to be accepted was built to the same standard as the existing County road segment of the road. This facility provides a wide, reliable, well-drained travel surface for access/egress to the County transportation system as well as a safe pedestrian and cycling facility with clear sight-lines. The facility provides excellent connectivity for multi-modal transport within the development.

Focus Areas and Vision *

Select all that apply.

- [x] Community Safety
- [x] Emergency Preparedness
- [ ] Outdoor Recreation
- [ ] Prosperous Economy
- [ ] Environment and Natural Resources
- [x] Mobility and Transportation
- [x] Housing and Growth
- [ ] Arts, Entertainment, Culture, and History
- [ ] Food and Agriculture
- [ ] Lifelong Learning and Education
- [ ] N/A

Explain Focus Areas and Vision Selection *

The portion of Stone Ridge Avenue to be accepted is a short segment of Public road at the end of an existing County road. For the road system to be effectively maintained and repaired it serves the public best to make this facility a contiguous County road. The segment of road serves the adjacent properties for commercial, service, fire, and emergency services access.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Staff respectfully recommends that the Board accept the described segment of Stone Ridge Avenue NW as a County Road.

Meeting Motions * I move to ...

I move to approve Order No. 2021-0__ accepting the described portion of a Public Road within the Stone Ridge Estates Subdivision: NW Stone Ridge Avenue, Public Road No. P04442, into the County Road System.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Petition - Request to Accept into County Road System.pdf	671.63KB
081721 - Order NW Stoneridge Avenue Acceptance.pdf	86.32KB
2003-01 Road Acceptance.pdf	32.14KB

Comments (optional) emailing Order
If you have any questions, please call ext.6800

Department Approver GARY STOCKHOFF

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required	☑ Counsel ☑ Finance ☐ HR
Counsel Approver	VANCE CRONEY
Finance Approver	MARY OTLEY
County Administrator Approver	LILI'A NEVILLE
Comments	

Counsel Approval

Comments

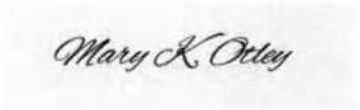
Signature

Vance K. Chaney

Finance Approval

Comments

Signature



County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON

In the Matter of Accepting a Segment of a Public Road into the County Road System: Stone Ridge Avenue, Public Road No. P04442 – as described in DN 2018-570244 & DN 2018-570245 Mile Post 0.301 to Mile Post 0.348	))))))	**ORDER NO. D2021-062**

THE ABOVE ENTITLED MATTER COMING NOW FOR THE CONSIDERATION OF THE BOARD AND,

IT APPEARING TO THE BOARD

THAT pursuant to Benton County Administrative Policy No. 03-01, the road has completed a 3-year warranty period and the Public Works Department and the County Engineer have determined that the roads have performed satisfactorily; and

THAT the Public Works Director recommends that the Board of Commissioners accept the above named road for county maintenance.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the following road segment as described in DN 2018-570244 & DN 2018-570245 be accepted into the County road system for maintenance; and added to the existing County Road No. 04442; Milepost 0.301 to Milepost 0.348, and shall be named and numbered as follows: NW Stone Ridge Avenue, County Road No. 04442.

Adopted this 17th day of August, 2021.

Signed this 17th day of August, 2021.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Commissioner

Pat Malone, Commissioner

Approved as to form:

Vance M. Croney, County Counsel

PETITION FOR ROAD ACCEPTANCE
STONE RIDGE AVENUE NW

DATE: February 1, 2021

FROM: The undersigned members of Stone Ridge Estates Homeowners' Group
Stephanie Penselin – Group Representative
(see petition – Page 2)

TO: Benton County Board of Commissioners
Xan Augerot, Chair
Pat Malone, Commissioner
Nancy Wyse, Commissioner

RE: PETITION
Acceptance of north segment of Stone Ridge Avenue NW
Public Road # P04442

We, the undersigned property owners of Stone Ridge Estates Subdivision petition the Board of Commissioners to accept the north segment of Stone Ridge Avenue as a Benton County Road (see maps – Pages 3 & 4).

This segment of Stone Ridge was constructed in 2017, has been accepted by Benton County Public Works, meets current County Standards and has reached the end of its 3-year warranty period.

The petitioners request that the north segment of the road be accepted and added to the County segment of Stone Ridge Avenue NW (County Road #04442).

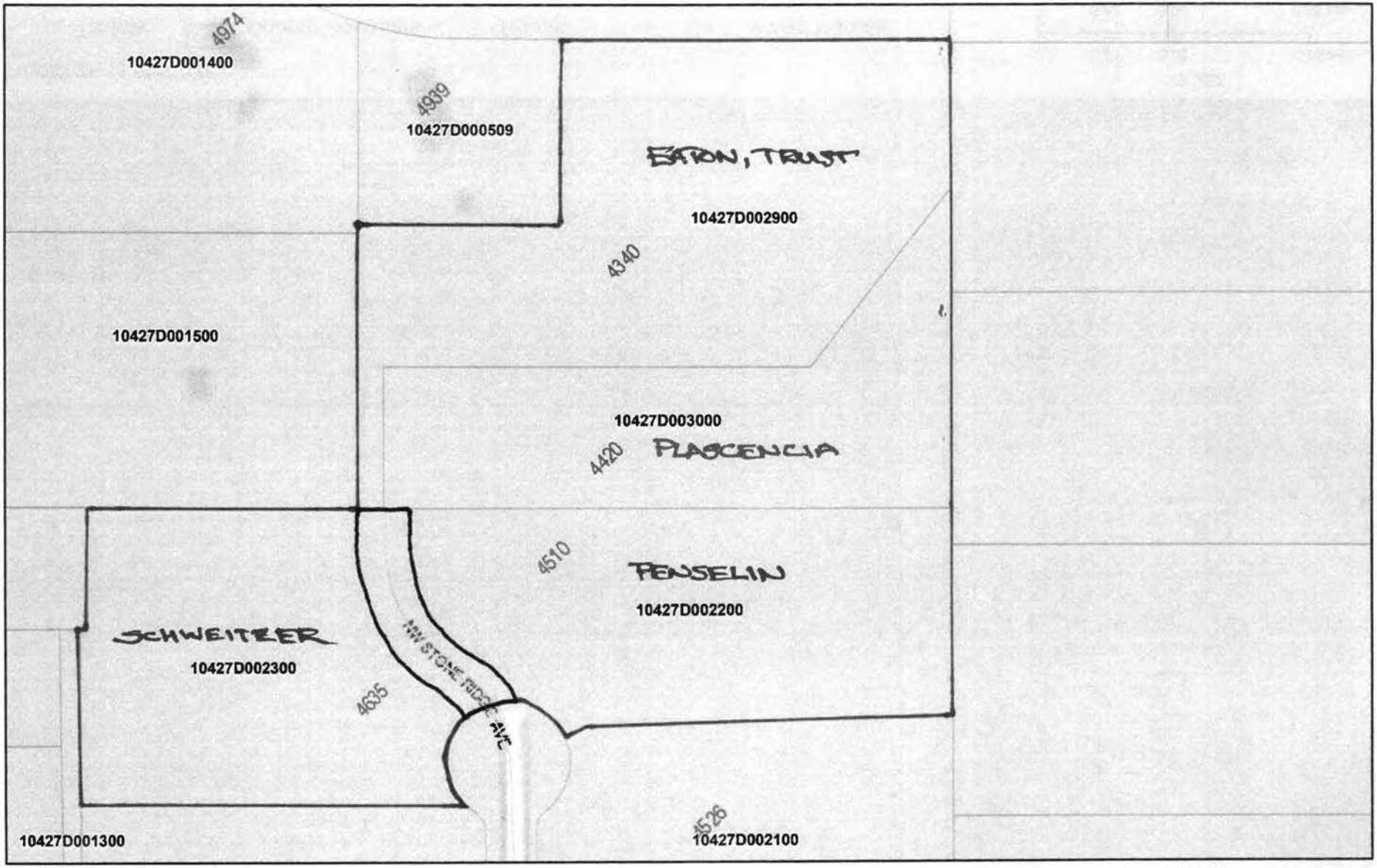
PETITION FOR ROAD ACCEPTANCE
STONE RIDGE AVENUE NW

RECEIVED
FEB [illegible] 2021
BENTON COUNTY

ORIGINAL
IF IN RED

MAP, TAXLOT & ADDRESS	OWNER	SIGNATURE
T10S – R4W – Section 27D – Tax Lot 2300 4635 STONE RIDGE AVENUE NW	Derek Schweitzer or Tami Schweitzer	
T10S – R4W – Section 27D – Tax Lot 2200 4510 STONE RIDGE AVENUE NW	Cory Penselin or Stephanie Penselin	
T10S – R4W – Section 27D – Tax Lot 2900 4340 STONE RIDGE AVENUE NW	Gary and Pamela Eaton, Trust	(Gary)
		(Pamela)
T10S – R4W – Section 27D – Tax Lot 3000 4420 STONE RIDGE AVENUE NW	Rosa Plascencia	

STONE RIDGE AVENUE-PETITIONERS



1/20/2021, 12:09:05 PM

1:2,257

0 0.01 0.03 0.05 mi

0 0.02 0.04 0.08 km

Taxlots | County Boundary | Roads | Road Names

Railroads | Cities and Places | Road Centerlines | County_Addresses

Benton County, Oregon, Esri, HERE, Garmin, (c) OpenStreetMap

Benton County, Oregon

MAY NOT BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEY PURPOSES

STONE RIDGE AVENUE-AERIAL



1/20/2021, 11:51:51 AM

1:2,257

0 0.01 0.03 0.05 mi

0 0.02 0.04 0.08 km

Taxlots | County Boundary | Roads | Road Names

Railroads | Cities and Places | Road Centerlines | County_Addresses

Benton County, Oregon, Esri, HERE, Garmin, (c) OpenStreetMap

Benton County, Oregon

MAY NOT BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEY PURPOSES

BENTON COUNTY, OREGON
ADMINISTRATIVE POLICIES MANUAL
ADMINISTRATIVE POLICY NO. 03-01

TITLE: **Benton County Road Acceptance Policy**

SECTION: **Operational**

DATE ADOPTED BY BOARD: **11/4/03** **SUPERSEDES:** **Not Applicable**

SIGNATURE OF BOARD CHAIR: **/s/**

1.0 Background

State statute provides for two types of public roads under County jurisdiction:

- *County Roads:* Roads that have been accepted into the County Road system by the Board of Commissioners and are maintained by the County.
- *Local Access (Public) Roads*: Roads that have been dedicated to the public but are not maintained by the County. These roads are maintained by adjacent landowners or in some cases by legally formed road districts that have the authority to tax and maintain roads.

The County Public Works Department is charged with the regulated use of both types of roads for transportation and utility use, construction of improvements, managing access control, and hazard abatement. County road funds are not expended on local access roads except as specifically authorized by the Board of Commissioners; typically to alleviate hazardous conditions or prevent serious damage to the function of the road.

Prior to 1973, road right of way and other lands could be dedicated to the public by owners without any action by the County. As a result, many local access roads were constructed to a wide range of standards at the discretion of the developer. In 1973, state statute required acceptance of right of way by the Board of Commissioner before a deed transferring property to the public can be recorded. Since then the County has had a practice of accepting only those roads and streets that are constructed to the minimum County standard as public facilities. Minimum road standards were first adopted by the County in the 1960s and were applied primarily to County projects. New roads created with developments were generally constructed to a standard determined by the developer or nearby cities in accordance with land use rules at the time. With the advent of State land use regulation in the 1970s, the County required construction of new roads to the County standard as a condition of accepting right of way on behalf of the public. In return, the County accepted these roads into the County maintenance system. This practice was further institutionalized in 1990, when road standards were incorporated into the Development Code.

2.0 Purpose

ORS 368.16 states that the exercise of governmental powers relating to a road within a county is a matter of county concern. As such it is in the County's interest to have a mechanism to apply that authority in a consistent and efficient manner:

- The County is best suited to providing effective maintenance of transportation facilities consistent with community goals and environmental requirements.
- Well constructed roads are the best use of material resources as they require less maintenance and produce optimal life cycle costs.
- The community has an expectation that roads will fulfill the needs of residents, emergency services, utility services, school buses, mail delivery, etc.
- Inadequate roads often require remedial attention by the County when basic road functions are not available due to damage or deterioration of the facility.

This policy will outline a process to insure that improvement of existing or newly dedicated right of way is structurally sound, protects the environment, and can be maintained in a cost effective, sustainable, and timely manner. Facilities dedicated to the public and constructed in accordance with County standards and specifications will be accepted into the County road system as provided in the policy.

3.0 Guidelines

a. Dedications of public road right of way will be accepted by the Board of Commissioners only when full County standard road improvements are installed in accordance with this policy.

b. Benton County will only accept roads into the County road system that serve a public road purpose as defined by Statute, County Code, or Board of Commissioner policy.

c. Roads within a city urban growth boundary that have been improved to city standards may be included in the County road system if it is agreed among the City, County, and road developer(s) that the road will automatically be removed from the County road system upon being annexed or incorporated into a city or road maintenance district.

d. Roads must be built or reconstructed in compliance with minimum County standards to be considered for acceptance into the County road system. The County's road construction standards can be found in the Benton County Development Code. Modifications to the standards may be made on a case-by-case basis by the County Engineer to comply with AASHTO standards, best management practice, or site conditions as long as the County Engineer finds that the facility is functionally and structurally equivalent to the adopted standard.

4.0 Process

a. Petitioners must submit a written request to the Public Works Department to begin the process of having a road accepted into the County road system. For new roads created through a subdivision or partition, the land use application shall meet this requirement.

b. Plans, specifications, and construction must be approved by the County Engineer.

c. Once a public road is accepted by the County Engineer for consideration of inclusion into the County road system, it is subject to a 3-year warranty period. During the 3-year warranty period:
   1) all costs related to road repairs will be borne by the petitioning party,
   2) the County will determine what road repairs are necessary,
   3) the petitioning party is responsible for making all road repairs, and
   4) all repairs must be completed within 1 year of notification or by the end of the 3-year period whichever comes first.

c. If at the end of the 3-year warranty period the Public Works Department and the County Engineer determine that the road has performed satisfactorily, the Department will make a satisfactory report to the Board of Commissioners recommending acceptance of the road into the County road system.

7.1

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * County Counsel

Contact Name * Vance Croney

Phone Extension * 6890

Meeting Attendee Name * Vance Croney

Agenda Item Details

Item Title * In the Matter of Amending Benton County Code Chapter 2 - Contracts, Ordinance No. 2021-0303

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☑ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Estimated Time * 5 min

Board/Committee Involvement *

- ○ Yes
- ◉ No

Advertisement* ○ Yes
◉ No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

The Benton County Contracting Manual was created and adopted in the spring of 2021. The Contracting Manual describes the internal process for soliciting contracts, contract usage and contract management. While creating the Contracting Manual, it became apparent that a number of county procurement processes were out-of-date, inconsistently applied between departments, impractical and, in some cases, no longer needed.

The Contracting Manual corrects many inconsistencies and updates the procurement process to enable greater efficiency and understanding throughout the organization. However, the Contracting Manual is not the local "law" on procurements; that stature resides in the Benton County Code. Benton County Code, Chapter 2 (BCC ch. 2) establishes the county's procurement rules and, following implementation of the Contracting Manual, is no longer aligned with the current processes described in the Contracting Manual.

Like the Contracting Manual, the largest county departments – Public Works, Health, Finance – were involved in reviewing BCC ch. 2 to make the necessary changes to bring the Code into alignment with the direction and processes outlined in the Contracting Manual. Involvement of these departments also brought about changes to the Code to reflect statutory changes and, in some cases, business changes within the organization.

The result is a proposed Code amendment that will update the County's contracting processes to reflect the best standards articulated in the Contracting Manual.

Options *

(1) Decline to enact Ord. No. 2021-0303 amending BCC ch. 2.
(2) Direct staff to make further changes to BCC ch. 2 and return at a later date.
(3) Enact Ord. No. 2021-0303 amending BCC ch. 2

Fiscal Impact *

(•) Yes
( ) No

Fiscal Impact Description *

No real fiscal impacts.

2040 Thriving Communities Initiative

Mandated Service? *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☐ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☑ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

Improves access to county contracting opportunities. Provides greater opportunities for more bidders/proposers to pursue county contracts.

Focus Areas and Vision *

Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☑ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

Spreads the opportunity to provide goods or services to the county across a wider spectrum of potential contractors.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Enactment of Ordinance no. 2021-0303 amending BCC ch. 2 to update the Benton County Contracting Code.

Meeting Motions * I move to ...

I move to enact Ordinance No. 2021-0303 amending Benton County Code ch. 2 and to conduct a second reading of the ordinance.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

CC_Amending BCC ch 2 FINAL.docx 64.68KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver VANCE CRONEY

Department Approval

Comments

Signature

Vance M. Cheney

BOC Initial Approval

Approvals Required
- ☐ Counsel
- ☐ Finance
- ☐ HR

County Administrator Approver LILI'A NEVILLE

Comments

County Administrator Approval

Comments

Signature



BOC Final Approval

Comments

Signature



BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, COUNTY OF BENTON

In the Matter of Amending Chapter 2 of the Benton County Code to Update Purchasing Rules	)))	**ORDINANCE No. 2021-0303**

THE BENTON COUNTY BOARD OF COMMISSIONERS HEREBY ORDAIN AS FOLLOWS:

WHEREAS, Benton County has created an internal Contracting Manual to achieve uniformity and consistency in its purchasing practices; and

WHEREAS, creation of the Contracting Manual has resulted in changes to contracting processes that must be codified to be effective and to achieve alignment between the Benton County Code and the Contracting Manual; and

WHEREAS, it is in the public interest to update Chapter 2 to incorporate changes necessitated by implementing the Contracting Manual; and

NOW, THEREFORE, the Board of Commissioners of Benton County ordain as follows:

PART I. **Short Title.** This ordinance shall be known as "Amendment to Benton County Code Chapter 2 to Update Purchasing Rules."

PART II. **Text Amendment.** Benton County Code Chapter 2 is hereby amended as set forth in the redline/strikethrough version attached hereto as Attachment A.

PART III. **Effective Date.** The effective date of the amendment to the Benton County Code will be:

1st Reading:	August 3, 2021
2nd Reading:	August 17, 2021
Effective Date:	September 16, 2021

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Commissioner

Pat Malone, Commissioner

Approved as to form:

Vance M. Croney, County Counsel

CHAPTER 2

COUNTY CONTRACTS

I. ADMINISTRATION

2.005 Enabling Clause. BCC Chapter 2 shall be binding upon all officers and employees of Benton County and shall govern all purchasing and contracting by officers and employees of Benton County. The Benton County Board of Commissioners may delegate all powers or duties given or assigned by this chapter to employees, officials or agents through a Board order. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205]

2.010 Local Contract Review Board. The Benton County Board of Commissioners shall act as the Local Contract Review Board pursuant to the authority granted to that Board by ORS Chapter 279A.060. [Ord. 12, adopted June 16, 1976; Ord. 85-0002; Ord. 2005-205]

2.011 Preference to Benton County Goods and Services. For purposes of awarding a public contract, a department shall give preference to goods or services that have been manufactured or produced in Benton County and immediate surrounding area if price, fitness, availability and quality are otherwise equal. [Ord. 2005-205]

2.015 Attorney General's Rules Inapplicable.

(1) The Attorney General's Model Contract Rules adopted under ORS 279A.065 do not apply to Benton County unless specifically referenced.

(2) Unless otherwise specified, this chapter shall also contain the procurement rules applicable to all County departments and divisions.

(3) The Benton County Contracting Manual contains the processes to be used when procuring goods and services. The Manual may be amended and updated from time to time by County Counsel. [Ord. 2000-162; Ord. 2005-205; Ord. 2021-0303]

2.020 Contract Signing Authority. The Board of Commissioners, Department Directors, County Counsel, County Administrator, Chief Financial Officer and persons formally designated as acting in capacity for Department Directors may act as the Public Contracting Officer for the respective departments and shall have the authority to enter into contracts on behalf of the department and the County. [Ord. 2010-0234; Ord. 2014-0260; Ord. 2021-0303]

2.025 All Contracts in Writing. All contracts to which Benton County is a party shall be in writing. [Ord. 2000-162]

2.030 Electronic Signatures.

(1) In any document accepted by the County in which a signature is required or used, the County may authorize the use of an electronic signature, so long as it complies with the requirements of this section.

(2) The use of an electronic signature shall have the same force and effect as the use of a manual signature if:

(a) The signature is capable of verification;

(b) The signature is under the sole control of the person using it; and

(c) The signature is linked to the data in such a manner that it is readily ascertainable if the data is changed after the signature is applied.

(3) The Information Technology Director shall determine acceptable technologies and vendors under this section consistent with industry best practices to ensure the security and integrity of the data and the signature. County Counsel shall determine the documents for which the County will accept electronic signatures. [Ord. 2016-0272]

II. DEFINITIONS

2.105 Definitions. As used in BCC Chapter 2:

(1) **"Bid"** means a competitive offer, binding on the Bidder and submitted in response to an Invitation to Bid.

(2) **"Board"** means the Board of Commissioners of Benton County, acting as the local Contract Review Board.

(3) **"Commissioners"** means the Benton County Board of Commissioners.

(4) **"Competitive Bid"** means issuing an invitation to bid following the formal process for advertising, bid and bid opening.

(5) **"Competitive Process"** means the solicitation of competitive offers which follow the formal process for advertising, request for proposal, bid and bid opening, and applicable rules of the Board.

(6) **"Competitive Quotes"** means the solicitation of price quotes from competing vendors by advertisement or a request to vendors to quote.

(7) **"Concession Agreement"** means a contract that authorizes and requires a public entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon lands owned by Benton County and under which the concessionaire makes payments to the County based, at least in part, on the concessionaire's revenues from sales. "Concession agreement" does not include an agreement which is merely a

flat fee or per-foot rental, lease, license, permit or other arrangement for the use of public property. A concession agreement is not a public contract subject to the provisions of this chapter.

(8) **"Consultant"** means professional and consultant services, rendered by persons who are members of a particular profession or possess a special skill and who are not employees of the County. Examples include those services acquired by the County in order to enhance its legal, economic, financial, or technical positions. Professional and consultant services are generally acquired to obtain information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance, such as studies, analyses, evaluations, liaison with other entities, or other forms of representation.

(9) **"Contract"** means any agreement to purchase, lease, sell or provide goods or services. A purchase order, once accepted, is a Contract.

(10) **"County"** means the Benton County Board of Commissioners or its public contracting officer(s).

(11) **"Department"** means a Benton County department such as, but not limited to, the Public Works Department or the Health Services Department.

(12) **"Electronic Advertisement"** means advertisement of an Offer available electronically over the internet via (i) the World Wide Web, or (ii) telnet, provided the County maintains an internet World Wide Web site that provides explicit instructions how an Entity can access the advertisement through the internet via a telnet application. The County may maintain the World Wide Web site directly or through any third party service provider.

(13) **"Electronic Data Interchange or EDI"** means the movement of electronic information from computer to computer. The electronic transfer of standard business transaction information between organizations in a structured application.

(14) **"Emergency"** means that a substantial risk of loss, damage, interruption of services, or threat to the public health or safety has arisen from circumstances that could not have been reasonably foreseen.

(15) **"Goods and Services Agreement"** means contracts let under the intermediate, RFP or sole source procurement processes. It is not used for a public improvement project where a construction contract is required.

(16) **"Intermediate Procurement"** means the middle, or second level of procurement activity level for purchases of $15,000 or greater and less than $150,000. Used when price is the sole or predominant factor in determining contractor selection.

(17) **"Invitation to Bid"** means the solicitation of competitive offers in which specification, price and delivery (or project completion) will be the predominant award criteria.

(18) **"Offer"** means a bid, proposal, or quotation.

(19) **"Offeror"** means a person or firm submitting an offer.

(20) **"Personal Property"** means everything subject to ownership which is not real property, and which has exchangeable value.

(21) **"Personal Services Contracts"** means a contract that calls for specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment. Qualifications and performance history, expertise, knowledge and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a Personal Services Contractor, with price being secondary.

(22) **"Price Agreement"** means an agreement in which the vendor agrees to supply all the purchaser's requirements that arise for an item or items within a specified time period.

(23) **"Proposal"** means a competitive Offer, binding on the Proposer and submitted in response to a Request for Proposals.

(24) **"Public Agency or Public Contracting Agency"** means any agency of the federal government, State of Oregon or any political subdivision thereof authorized by law to enter into public contracts, municipality and any other public body created by intergovernmental agreement.

(25) **"Public Contract"** means any purchase, lease or sale by a public agency of personal property, public improvements or services other than agreements which are for personal services.

(26) **"Public Contracting Officer"** means the person or persons designated by the Commissioners to negotiate public contracts for the County.

(27) **"Public Improvement"** means a project for construction, reconstruction or major renovation on real property by or for a public agency. "Public Improvement" does not include emergency work, minor alterations, ordinary repair or maintenance necessary in order to preserve a public improvement.

(28) **"Request for Proposal"** means a solicitation of competitive proposals, or offers, to be used as a basis for making an acquisition, or entering into a contract when specification and price will not necessarily be the predominant award criteria.

(29) **"Small Procurement"** means any procurement below $15,000.

(30) **"Sole Source Contract"** means a contract let, without an intermediate or formal process, following a determination that only one contractor or vendor is qualified and available to provide the particular goods, service or both.

(31) **"Solicitation document"** means an invitation for bids, a request for proposals, or a written request for quotations. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.020]

III. PROCUREMENT METHODS

2.205 Competitive Bids; Exemptions. Pursuant to the price thresholds in §2.210, all contracts shall be based upon competitive bids except the following:

(1) Contracts otherwise allowed or required in ORS 279A.025(2) (a)-(i), (q), (r), (s), (t) (4), 279A.100, 279A.105(3), 279A.125, 279A.128, 279A.185, 279B.050(2), 279C.335 or 279C.340.

(2) Contracts that are for personal services. Such contracts may include incidental materials such as written reports or opinions, architectural or engineering renderings, and other supplemental materials required for providing the services.

(3) Contracts specifically exempt under the provisions of BCC Chapter 2.

(4) Contracts that may be procured by an alternative method based on ORS 279A.050; 279A.055 and 279A.070. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; Ord. 2021-0303; formerly BCC 2.100]

2.210 Procurement Processes and Price Thresholds. When contracting for goods and/or services, the total value of the contract determines the procurement process. Except as otherwise provided in chapter 2, the following processes shall be used:

(1) **Small Procurement – up to $15,000.** When the total amount of the contract, over the entire life of the agreement, does not exceed $15,000, the County is not required to use either an intermediate or RFP procurement method to let the contract.

(2) **Intermediate Procurement – between $15,000 and $150,000.** There are two types of intermediate procurement processes: Oral and Written.

(a) An oral intermediate procurement process may be used for the selection and award of contracts for goods valued at $15,000 or greater and less than $75,000.

(A) For oral solicitations, price is the sole consideration used to select a contractor.

(B) The County may use either an oral or written intermediate procurement process for goods in this price range.

(b) A written intermediate procurement process must be used for:

(A) Services;

(B) Services and goods; or

(C) Goods that have a value of $75,000 or greater and less $150,000.

(D) For written solicitations, factors other than price may be used to select a contractor, however, price shall be no less than two-third (67%) of the total consideration.

(3) **RFP Procurement (formal) - $150,000 and above.** A Request for Proposal (RFP) or Request for Qualifications (RFQ), must be used to competitively let contracts for goods and/or services valued at $150,000 and higher and for public improvement contracts of $100,000 or greater.

(4) When the contract is for maintenance or repair of roads, highways or parking lots and is less than $100,000, the County may let the contract without competitive bidding if at least three competitive quotes are obtained. The County shall keep a written record of the source and amount of the quotes received and comply with the requirements, as applicable, of subsection (4) of this section. If three quotes are not available, a lesser number will suffice provided a written record is made of the effort to obtain the quotes.

(5) When the contract is for a "public improvement" as defined in BCC 2.105 or for "public works" as defined in ORS 279C.800, and the contract price exceeds $50,000 but is less than $100,000, the County and the contractor shall comply with:

(a) The prevailing wage provisions of ORS 279C.800 to 279C.870, when applicable;

(b) The performance bond requirements of BCC 2.395 and ORS 279C.380;

(c) The contractor registration requirements of ORS ch. 701; and

(d) Any other law applicable to such a contract. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; Ord. 2021-0303; formerly BCC 2.501][BCC 2.210 repealed by Ord. 2021-0303; Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.501]

2.215 Price Agreements.

(1) Price Agreements may be entered into without competitive bidding when it is in the best interests of the County to do so. The County may enter into Price Agreements whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price provided the term of the contract, including renewals, does not exceed five years or a total of $150,000.

(2) The County may also use a Price Agreement entered into by another public contracting agency when a formal inter-agency agreement exists between the two agencies. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; Ord. 2021-0303; formerly BCC 2.502]

2.220 Equipment Repair and Maintenance. Contracts for equipment repair or maintenance may be let without competitive bidding, if:

(1) Service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or

(2) Service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source.

(3) The following limitations apply to this section:

(a) If the contract is less than $150,000, the County shall document in its procurement file the reasons why competitive bids or quotes were deemed to be impractical, and may directly enter into the contract.

(b) If the County anticipates the contract may exceed $150,000, it may directly enter into the contract after documenting in its procurement file the reasons why competitive bids were deemed to be impractical. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; Ord. 2021-0303; formerly BCC 2.503]

2.225 Emergency Contracts.

(1) The county may, at its discretion, let public contracts without using either the intermediate or formal procurement process if an emergency exists and requires prompt execution of a contract to remedy or respond to the condition.

(2) The Commission may adopt a resolution indicating the existence of the emergency and stating with specificity the emergency conditions necessitating the prompt execution of the contract.

(3) Any contract awarded under this exemption shall be awarded within 60 days following declaration of the emergency unless an extension is granted by the Board.

(4) The Commissioners may waive requirements for performance and payment bonds in the event of an emergency.

(5) This section authorizes execution of contracts in emergency situations. To ensure emergency contracts comply with state and federal reimbursement requirements, consult the Contract Manual. [Ord. 85-0002; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.105]

IV. SOLICITATION PROCESS

2.305 Solicitation Methods.

(1) **Request for Proposal.** The county may, at its discretion, use request for proposal competitive procurement methods as described in the Contract Manual and subject to the following conditions:

(a) Contractual requirements shall be stated clearly in the solicitation document.

(b) Evaluation criteria to be applied in awarding the contract and the role of an evaluation committee shall be stated clearly in the solicitation document. Criteria used to identify the proposal that best meets the county needs may include but are not limited to cost, quality, service, compatibility, product reliability, operating efficiency and expansion potential.

(c) The solicitation document shall clearly state all complaint processes and remedies available.

(d) The solicitation document shall state the provisions made for vendors to comment on any specifications which they feel limit competition.

(2) **Invitation to Bid.** The County may use an Invitation to Bid, as outlined in the Contract Manual, if the County believes it will receive optimal value by selecting the lowest priced offer that meets the technical requirements of the County's specifications.

(3) **Negotiations.**

(a) **When All Bids Exceed Estimate.** The County may negotiate with the lowest responsible bidder or proposer submitting a responsive bid if all responsive bids from responsible bidders or proposers exceed the County's cost estimate. If a written cost estimate was not prepared prior to bidding, the amount budgeted for the public contract shall be deemed the cost estimate for the purposes of this subsection.

(b) **Other Bids.** The County may negotiate with a proposer to clarify its quote, bid or proposal or to effect modifications that will make the quote, bid or proposal acceptable or more advantageous to the County. [Ord. 85-0002; Ord. 2000-162; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.115]

2.310 Prequalification.

(1) The County, in its sole discretion, may require bidders or proposers to prequalify before being eligible to submit bids or proposals for a class of public contracts or for a particular public contract. The method used to prequalify bidders or proposers shall be determined by the Department letting the contract.

(2) The County shall, in response to the receipt of a prequalification application submitted under this section, notify the prospective bidder or proposer whether the prospective bidder or proposer is qualified based on the standards identified by the County and ORS 279B.110(2), the type and nature of contracts that the prospective bidder or proposer is qualified to compete for and the time period for which the prequalification is valid. If the County does not prequalify a prospective bidder or proposer as to any contracts covered by the prequalification process, the notice must specify which of the County's criteria and/or standards of responsibility listed in ORS 279B.110(2) the prospective bidder or proposer failed to meet. Unless the reasons are specified,

the prospective bidder or proposer shall be deemed to have been prequalified in accordance with the application.

(3) **Disqualification.** Disqualification of a previously prequalified bidder or proposer shall be in accordance with this chapter and the provisions of ORS 279B.120(3) regarding prequalification and disqualification. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.110]

2.315 Product Prequalification.

(1) When it is impractical to create or reproduce specific design or performance specifications for a type of product to be purchased, the county may specify a list of approved or qualified products by reference to a particular manufacturer or seller in accordance with the following product prequalification procedure:

(a) The County shall make reasonable efforts to notify all known manufacturers and vendors of competitive products of its intention to accept applications for inclusion in its list of prequalified products. Notification shall include advertisement in a trade journal of state-wide distribution when possible. In lieu of advertising, the County may notify vendors and manufacturers appearing on the appropriate list maintained by the State of Oregon.

(b) The County shall permit application for prequalification of similar products up to 15 days prior to advertisement for bids on the product.

(2) If an application for inclusion in a list of prequalified products is denied, or an existing prequalification revoked, the County shall notify the applicant in writing. The applicant may appeal to the local Contract Review Board. [Ord. 85-0002; BCC 2010-0234; formerly BCC 2.720]

2.320 Life Cycle Costing. In determining the lowest responsible bidder in the award of a contract, the county may use the concept of life cycle costing. As used in this section, life cycle costing means determining the cost of a product for its useful life.

(1) Prior to the time of writing specifications for the product, the public contracting agency shall identify those factors which will have cost implications over the life of the product.

(2) The Invitation to Bid shall set out clearly the factors and methodology to be used in life cycle cost adjustments.

(3) At or after the formal bid opening, the results of life cycle costing adjustments shall be applied to the base bid, and the bidder whose total bid results in the lowest ownership cost, taking into account the life cycle costing adjustments, shall be considered the lowest responsible bidder. [Ord. 85-0002; Ord. 2010-0234; formerly BCC 2.120]

2.325 Advertisement. Advertisements of invitations for bids and requests for proposals shall be published as set forth herein, and any other time the County concludes that advertisement is desirable.

(1) An advertisement, other than for a public improvement contract estimated to cost more than $125,000, shall be deemed sufficient for the purposes of this chapter if it appears once in the Oregonian, Corvallis Gazette Times, Albany Democrat Herald or the Daily Journal of Commerce, or, if the Local Contract Review Board has authorized electronic advertisement, it appears electronically in a commercially reasonable manner. Nothing in this section shall be deemed to prevent a department from satisfying the advertisement requirements of applicable statutes and this ordinance by publishing an advertisement once in any newspaper of general circulation in the Corvallis metropolitan area.

(2) An advertisement for a public improvement contract estimated to cost more than $125,000 shall be deemed sufficient if it appears once in the Daily Journal of Commerce or a similar trade newspaper of general statewide circulation and once in the Oregonian, Corvallis Gazette Times or Albany Democrat Herald.

(3) A department may publish an advertisement more than once, and, in addition to publication designed to satisfy the requirements of applicable statutes and this ordinance, may publish one or more advertisements in any local, regional, or national publication deemed by the department to be appropriate for the particular procurement.

(4) A department shall give public notice at least five (5) days before the solicitation closing date. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.125]

2.330 Contents of Advertisements. All advertisements for offers or proposals shall state:

(1) The date after which bids will not be received, which shall not be less than five (5) days after the date of the last publication of the advertisement;

(2) The date that prequalification applications must be filed and the class or classes of work for which bidders must be prequalified if prequalification is a requirement;

(3) A general description of the work to be done or the material or things to be purchased;

(4) The office where the specifications for the work, material or things may be reviewed;

(5) The name, title and address of the person designated to receive offers or proposals;

(6) The date, time and place that the County will publicly open the bids;

(7) If the contract is for a public work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U. S. C. 276a). [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.130]

2.335 Requirements for Bid Documents and Bids; Disclosure of First-tier Subcontractors.

(1) Bid or proposal documents for a public contract shall, at a minimum, include:

(a) A general description of the work to be done or the material or things to be purchased and performance expectations, including a statement that the contractor shall meet the highest applicable industry or business standards in providing the goods or services;

(b) The office where the specifications for the work, material or things may be reviewed;

(c) The date, time and place that prequalification applications must be filed and the class or classes of work for which bidders or proposers must be prequalified if prequalification is a requirement;

(d) The date and time after which bids or proposals will not be received, which shall be at least five (5) days after the date of the last publication of the advertisement;

(e) The place, name and title of the person designated for receipt of bids or proposals;

(f) The date, time and place that the County will publicly open the bids;

(g) A statement that each bid or proposal must identify whether the bidder is a resident bidder, as defined in ORS 279A.120;

(h) A statement that the County may reject any bid not in compliance with all prescribed bidding procedures and requirements, and may reject for good cause any or all bids or proposals upon a finding of the County that it is in the public interest to do so;

(i) All contractual terms and conditions applicable to the bid or proposal and consequences for failure to perform the work to industry or business standards;

(2) All bids or proposals made to the County shall be:

(a) In writing;

(b) Filed with the person designated for receipt of bids; and

(c) Bids, but not proposals, opened publicly at the time designated in the advertisement.

(3) In addition to the requirements of subsections (1) and (2) of this section, bid or proposal documents for public improvement contracts shall also include:

(a) A statement that, if the contract is for a public work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), no bid will be received or considered unless the bid or proposal contains a statement that the provisions of ORS 279C.838 or 279C.840 or 40 U.S.C. 276a are to be complied with;

(b) Information addressing whether a contractor or subcontractor must be licensed under ORS 468A.720;

(c) A statement that no bid or proposal for a public improvement contract shall be received or considered unless the bidder or proposers are licensed by the Construction Contractors Board or the State Landscape Contractors Board;

(d) A statement that every public improvement contract shall contain a condition that the contractor shall:

(A) Make payment promptly, as due, to all persons supplying to such contractor labor or material for the performance of the work provided for in such contract.

(B) Pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract.

(C) Not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

(D) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(e) In addition to the conditions specified in subsection (l) of this section, every public improvement contract shall contain a condition that the contractor shall demonstrate that an employee drug testing program is in place.

(f) Within two working hours after the date and time of the deadline when the bids or proposals are due for a public improvement, a bidder shall submit to the County a disclosure of any first-tier subcontractor that:

(A) Will be furnishing labor or labor and materials in connection with the public improvement; and

(B) Whose contract value is equal to or greater than five percent of the total project bid or $15,000, whichever is larger, or $350,000, regardless of the percentage of the total project bid.

(g) The disclosure of first-tier subcontractors shall include:

(A) The name of each subcontractor;

(B) The category of work each subcontractor will perform; and

(C) The dollar value of each subcontract.

(h) For each contract to which subsections (3) (f) and (g) applies, the County shall designate a deadline for submission of bids or proposals that has a date on a Tuesday, Wednesday or Thursday and a time between 2 p.m. and 5 p.m., except that this subsection does not apply to public contracts for maintenance or construction of highways, bridges or other transportation facilities.

(i) Subsections (3)(f) and (g) shall apply only to public improvements with an estimated contract value of more than $100,000. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.135]

2.340 Offer Preparation.

(1) **Instructions.** An offeror or proposer shall submit and sign its offer or proposal in accordance with the solicitation document. An offeror or proposer shall initial any alteration or erasure to an offer or proposal, if any, in accordance with the solicitation document.

(2) **Documents.** An offeror or proposer shall provide the County with all documents and descriptive literature required under the solicitation document.

(3) **Facsimile or EDI Submissions.** An offeror or proposer may submit its offer or proposal by facsimile or EDI only if expressly allowed under the solicitation document. The County shall not consider facsimile or EDI offers or proposals unless authorized by the solicitation document. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.140]

2.345 Method of Submitting Offers.

(1) **Receipt.** Bids must be submitted in writing. The County shall not open the offer, proposal or modification, but shall date and time stamp the offer and store it in a secure place until opening. I f the County inadvertently opens an offer, proposal or a modification, prior to the opening, the County shall reseal and store the opened offer, proposal or modification for opening. The County shall document the resealing for the solicitation file (e.g. County inadvertently opened the offer or proposal due to improper identification of the offer).

(2) **Timeliness.** Offerors or proposers are responsible for ensuring their offers or proposals are timely. The County may decline to consider a late offer, even if the offer or proposal is late because of a delay in the County's internal handling of mail or documents or because the County's receiving equipment was unavailable.

(3) **Completeness.** Offerors or proposers are responsible for ensuring their offers or proposals are received by the County in a complete, legible, ungarbled form. The County may decline to consider an offer that is incomplete, illegible, or garbled, even if the problem is caused by the County's hardware or software. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.145]

2.350 Bid and Proposal Opening.

(1) Bids shall be opened by the contracting officer as described in the solicitation documents.

(2) The County may open proposals at any time. There is no requirement for proposals to be opened in public.

(3) Subject to any exemptions under Oregon public records statutes, bids and proposals shall be available for public inspection only after the County has awarded a contract. [Ord. 2000-162; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.150]

[2.155 deleted by Ord. 2010-0234]

2.355 Retainage on Public Contracts. Retainage, if any, shall be determined on a case by case basis by the public contracting officer, shall be specified by contract between the parties and shall conform to the requirements of ORS 279C.550 through 279C.570 and ORS 701.420. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.160]

2.360 Bid Evaluation

(1) **Generally.** Opened bids shall be evaluated in accordance with applicable statutes and this Chapter. When a bid is determined to be unresponsive to the invitation for bids, it will not be evaluated further.

(2) **Correction of Certain Errors.** Arithmetic errors apparent on the face of a bid shall be corrected by the County before comparing bid prices. Discrepancies between a unit price and an extended total price for a bid item shall be resolved in favor of the unit price unless there is evidence apparent on the face of the bid establishing that the extended price is correct. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.165]

2.365 Proposal Evaluation. Proposals shall be evaluated based upon the evaluation criteria established by the request for proposals. Changes in evaluation criteria shall be communicated to all proposers or prospective proposers by addendum. If evaluation criteria are changed after proposals have been submitted, all proposers shall have an opportunity to supplement their proposals or submit best and final offers after receipt of the addendum changing the evaluation criteria. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.170]

2.370 Rejection of Bid or Proposal.

(1) The County may reject a bid or proposal if it finds:

(a) The person has not substantially complied with all prescribed bidding procedures and requirements.

(b) If it is in the public interest to reject some or all of the bids or proposals.

(c) The person has not met the standards of responsibility. In making a written determination whether a prospective bidder or proposer has met the standards of responsibility, the County shall consider whether a prospective bidder or proposer has:

(A) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the prospective bidder or proposer to meet all contractual responsibilities;

(B) Current, necessary licenses;

(C) Liability and other insurance in amounts necessary to meet bid or proposal requirements;

(D) Workers compensation coverage pursuant to ORS 656.407 or 656.128;

(E) Made the first-tier subcontractor disclosure required by ORS 279C.370;

(F) A satisfactory record of performance. The County shall document the record of performance of a prospective bidder or proposer if the County finds the prospective bidder or proposer not to be responsible under this sub-subparagraph;

(G) A satisfactory record of integrity. The County shall document the record of integrity of a prospective bidder or proposer if the County finds the prospective bidder or proposer not to be responsible under this sub-subparagraph;

(H) Qualified legally to contract with the County;

(I) Supplied all necessary information in connection with the inquiry concerning responsibility. If a prospective bidder or proposer fails to promptly supply information requested by the County concerning responsibility, the County shall base the determination of responsibility upon any available information, or may find the prospective bidder or proposer not to be responsible; and

(J) Not been debarred by the County under ORS 279B.130.

(2) The County may make such investigation as is necessary to determine whether a person is qualified. If a bidder or prospective bidder fails to supply promptly information as requested by the public contracting officer pursuant to such investigation, such failure is grounds for disqualification. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.175]

2.375 Irrevocability of Offers

(1) **Bids.** All bids received by the County for a particular public contract become binding offers when the first bid is opened, and remain irrevocable for 30 calendar days after opening unless a different period is specified in the invitation for bids.

(2) **Proposals.** All proposals received by the County for a particular contract shall become binding offers on the last date for the receipt of best and final offers or, if best and final offers are

not invited or permitted, at the beginning of the County's final evaluation of proposals, and shall remain irrevocable for 60 calendar days thereafter unless a different period is specified in the request for proposals.

(3) **Extensions by County.** The County may request, orally or in writing, that offerors extend, in writing, the time during which the County may accept their offer(s). If an offeror agrees to such extension, the offer shall be irrevocable, valid and binding on the offeror for the agreed upon extension. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.180]

[2.185 deleted by Ord. 2010-0234]

2.380 Cancellation. The County may cancel a procurement at any time before a contract is signed, if the County determines cancellation is in the County's best interests. If a procurement is canceled, the County shall not be liable for any costs incurred by prospective offerors. If a procurement is canceled before bids or proposals are opened, the bids or proposals shall be returned to the bidders and proposers unopened, except that the County may open a bid or proposal to determine the identity and address of the bidder or proposer if the name and address are not shown on the outside of the envelope. If a procurement is canceled after bids or proposals are opened, the County shall retain the bids or proposals. The reason[s] for the cancellation shall be made part of the solicitation file. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.190]

2.385 Contract Amendments. Any contract amendment, including change orders, extra work, field orders, or other change in the original specifications which increases the original contract price or alters the work to be performed, may be made with the contractor subject to the following conditions:

(1) The original contract, regardless of price, was awarded pursuant to these rules or ORS chapter 279A, 279B or 279C, unit prices or bid alternatives were provided that established the cost for additional work, and a binding obligation exists on the parties covering the terms and conditions of the additional work; or

(2) The amount of the aggregate cost increase resulting from all amendments does not exceed 20% of the initial contract, and,

(a) For small procurement contracts, no amendment shall be permitted if it causes the total contract amount to exceed $15,000.

(b) For intermediate procurement contracts for goods only, where the original contract is less than $75,000, no amendment shall cause the total contract amount to exceed $75,000.

(c) For intermediate procurement contracts for goods valued at more than $75,000 or goods and services or services, where the original contract is for $75,000 or greater, no amendment shall cause the total contract amount to exceed $150,000.

(3) Amendments made pursuant to subsection (1) of this section are not included in computing the aggregate amount under this section. [Ord. 85-0002; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.195]

2.390 Notice of Intent to Award. At least seven (7) days before the award of a public contract by bid or proposal, unless the department determines seven days is impractical, the department shall post or provide to each bidder or proposer notice of the department's intent to award a contract. This section does not apply to a contract awarded for less than $150,000, an emergency procurement, a sole source procurement or a contract awarded under any exemption or alternative contracting method listed in this chapter. [Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.196]

2.395 Performance Security Requirements.

(1) **Public Improvements Contracts.** Unless the contract review board waives the required performance bond, or in the event of an emergency, or unless the local contract review board exempts a contract or classes of contracts from the required performance bond pursuant to these rules, the contractor shall execute and deliver to the County a performance bond and a payment bond each in a sum equal to the contract price for all public improvement contracts in excess of $100,000, or in the case of contracts for highways, bridges or other transportation projects in excess of $50,000.

(2) **Public Improvement Contracts Under $100,000.** The County may require a performance bond and/or a payment bond for public improvement contracts under $100,000, but the County shall not use such requirement to discourage competition.

(3) **Other Public Contracts.** The County may require performance security for other public contracts. Such requirements shall be expressly set forth in the solicitation document.

(4) **Form of Security.** The County may accept only the following forms of Bid or Proposal security:

(a) A surety bond from a surety company authorized to do business in the State of Oregon;

(b) An irrevocable letter of credit issued by an insured institution as defined in ORS 706.008; or

(c) A cashier's check or certified check.

(5) **Time for Submission.** Upon the County's request, the apparent successful offeror must furnish the required performance bond and/or payment bond within 10 days. If the offeror fails to furnish the bond within the 10-day period, the County may reject the offer and award the contract to the next lowest responsive, responsible bidder or next highest-scoring responsive, responsible proposer, and, at the County's discretion, the offeror shall forfeit its bid or proposal security. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.205]

[2.305 deleted by Ord. 2010-0234]

V. PERSONAL SERVICES CONTRACTS

2.405 Generally.

(1) Personal service contracts are not public contracts subject to competitive bidding provisions of ORS Chapters 279A, 279B, 279C or this Chapter.

(2) A department may, subject to an analysis and determination of appropriateness in accordance with subsection 2.415 of this section, enter into a personal service contract with an independent contractor without competitive bidding when the department needs to have a personal service performed that requires the contractor to exercise a high degree of technical skill or professional judgment and expertise. Each department may establish screening and selection processes. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; former BCC 2.410 is now 2.405(2)]

2.410 Cost Analysis.

(1) No personal service contract exceeding $250,000 in total value shall be entered without competitive bidding unless a cost-benefit analysis is first performed to determine whether it is more cost efficient to perform the service in-house.

(2) A person service shall not be procured unless the department can demonstrate, in writing, by means of a cost analysis that:

(a) The overall cost to procure the service(s) is less than the cost to perform the service(s) in-house; or

(b) Performing the service(s) with existing county personnel or resources is not feasible.

(3) The cost benefit analysis shall be conducted pursuant to ORS 279B.030.

(4) A cost benefit analysis is not required for the following categories of services or contracts:

(a) Public improvement contracts;

(b) Client services, including mental health and human services described in OAR 125-246-0110; or

(c) Situations in which the county does not have the staff available or the necessary expertise to perform the service(s) [Ord. 2010-0234].

2.415 Personal Services.

(1) The nature of the tasks to be performed, the needs of the department and the interests of the public form the basis for distinguishing between personal service contracts and public contracts. Hence, if the department requires goods or services for which the department has developed or is reasonably able to develop, respectively, adequate design and/or performance specifications; and selecting a contractor on the basis of lowest price would be likely to meet the department's needs, then the tasks should be performed pursuant to a public contract let in accordance with the competitive bidding provisions of this Chapter.

(2) Conversely, if a department is reasonably unable to develop adequate design and/or performance specifications but must instead have the assistance of the contractor's training, knowledge and expertise to develop a scope of work statement and selecting the contractor on the basis of lowest price would be unlikely to meet the department's needs, then the tasks would most appropriately be performed under a personal service contract. In determining whether its needs will be met through award of a personal service contract rather than a public contract, the department should consider whether selecting the contractor on the basis of qualifications rather than lowest price will result in the department obtaining the best value for its money.

(3) A personal service contract is not appropriate where price is or should be the primary selection criterion. A public contract, in contrast to a personal service contract, will be awarded primarily on the basis of price; criteria such a technical skill, creativity, artistic ability, performance history, and demonstrated ability to be taken into account during the selection process, will be of only secondary importance. Unless otherwise statutorily excepted, a public contract must be awarded based on either competitive bidding, or an alternative competitive process under this Chapter. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; former 2.425 is now 2.415(3)]

[2.420 deleted by Ord. 2005-205; Ord. 2000-162]

2.420 Examples of Personal Service Contracts. Personal service contracts may include, but are not limited to the following:

(1) Contracts for services performed as an independent contractor in a professional capacity, including but not limited to the services of an accountant, attorney, architectural or land use planning consultant, physician or dentist, registered professional engineer, appraiser or surveyor, passenger aircraft pilot, aerial photographer, timber cruiser, information technology consultant or broadcaster;

(2) Contracts for services as an artist in the performing or fine arts, including but not limited to persons identified as photographer, film maker, painter, weaver, or sculptor;

(3) Contracts for services of a specialized creative and research-oriented, noncommercial nature;

(4) Contracts for services as a consultant;

(5) Contracts for educational and human custodial care services. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.430]

2.425 Examples of Contracts Not for Personal Services. The following are not personal service contracts:

(1) Contracts, even though in a professional capacity, if predominately for a product e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominately for a tangible product;

(2) A service contract, including a contract with a temporary service or personnel agency, to supply labor which is of a type that can generally be done by any competent worker, e.g., data entry, key punch, janitorial, security guard, crowd management, crop spraying, laundry, and landscape maintenance service contracts;

(3) Contracts for trade-related activities considered to be labor and material contracts;

(4) Contracts for services of a trade-related activity, to accomplish routine, continuing and necessary functions, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures. [Ord. 2000-162; Ord. 2010-0234; formerly BCC 2.435]

VI. CONTRACTS EXEMPT FROM COMPETITIVE BIDDING

2.505 Purchases Under Federal Contracts or from Federal Agencies

(1) When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the County may purchase the goods and services in accordance with the federal contract without subsequent competitive bidding. In exercising this authority under this exemption, the County shall:

(a) Include in the contract file a letter or memoranda from the appropriate federal agency granting permission to purchase under the federal contract; and

(b) Include in the contract file documentation showing the cost savings to be gained from anticipated purchases from the federal contract.

(2) Departments may also purchase equipment and supplies from federal government catalogues maintained by the United States Administrator of General Services without competitive bidding.

(3) Departments may purchase goods and equipment from the federal government under 10 U.S.C. 381, the Electronic Government Act of 2002 or other federal law that is similar, or section 211 of that Act.

(4) The County shall not contract pursuant to this provision if there is an existing state price agreement for the same item(s). [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234]

2.510 Food Contracts

Procurement of food or food products which are available at "lower than normal" prices. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.508]

2.515 Purchases of Used Personal Property. The County may purchase used personal property for $100,000 or less without competitive bidding if the department has determined that the direct purchase without competitive bidding will result in cost savings and if no violation of ORS 244.040 will result from the purchase. For purchases of used personal property over $100,000, three competitive quotes shall be obtained. If three quotes are not available, a written record must be made of the attempt to obtain quotes. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.510]

2.520 Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalts. The County is exempt from formal competitive bidding requirements for the purchase of gasoline, diesel fuel, heating oil, lubricants and asphalts if the county uses the written intermediate procurement process with the majority of vendors in the area, makes its purchase from the least expensive source, and retains written justification for the purchase made. This process may result in a contract not to exceed $150,000 and a term not to exceed five (5) years. [Ord. 85-0002; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.514]

2.525 Cooperative Procurements. A department that chooses to participate in, sponsor, conduct or administer a Joint Cooperative Procurement, Permissive Cooperative Procurement or Interstate Cooperative Procurement may do so only in accordance with ORS 279A.210, 279A.215 or 279A.220. If a department utilizes this exemption and the estimated value of the contract exceeds $250,000, the department shall follow the process set forth in ORS 279A.215(2) and (3). [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.519]

2.530 Hazardous Material Removal; Oil Cleanup.

(1) The County may enter into public contracts without competitive bidding, regardless of dollar amount, when ordered to clean up oil or hazardous waste pursuant to the authority granted the State Department of Environmental Quality (DEQ), under ORS chapter 466, and in particular, ORS 466.605 through 466.680. In exercising its authority under this exemption the County shall:

(a) To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;

(b) Make written findings describing the circumstances requiring cleanup or a copy of the DEQ order ordering such cleanup; and

(c) Record the measures taken under subsection (a) to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selecting the contractor selected.

(2) The County shall not contract pursuant to this exemption in the absence of an order from DEQ to clean up a site with a time limitation that would not permit hiring a contractor under the usual competitive bidding procedures. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.512]

2.535 Other Exempt Contracts. The County may, regardless of dollar value and without competitive bidding, enter into contracts for the direct purchase of the following goods or services:

(1) **Advertising and Promotional Contracts.**

(2) **Ballots, Ballot Pages, and Ballot Cards.** The County may enter into contracts for the printing of ballots, including ballot pages and labeling of ballot cards.

(3) **Copyrighted Materials.** The County may purchase copyrighted materials if there is only one known supplier available for such goods. Examples of copyrighted materials covered by this exemption may include, but are not limited to, new adopted textbooks, workbooks, curriculum kits, reference materials, books, periodicals, audio and visual media, and non-mass-marketed software.

(4) **Employee Benefit Insurance.** The County may purchase insurance products including property, liability, workers compensation and employee benefit insurance or plans.

(5) **Equipment Maintenance.** Contracts for the purchase of services, equipment, or supplies for the maintenance, repair or conversion of existing equipment are exempt if required for the efficient utilization of the equipment. Where practicable, competitive quotes shall be obtained.

(6) **Investment Contracts.** The County may contract for the purpose of the investment of public funds or the borrowing of funds pursuant to a resolution, statute, ordinance, or charter.

(7) **Laboratory and Medical Supplies.** The County may contract for the following:

(a) Drugs, including 340B pharmacy drugs (government regulated drugs), biologicals, blood fractions, and blood components;

(b) Intravenous solutions and associated supplies for administration;

(c) Microbiologicals, biochemicals, and diagnostic reagents;

(d) Surgical dressings;

(e) Heart valves;

(f) E.E.G., E.K.G, electrodes, charts, and associated supplies;

(g) Sterilizing wraps;

(h) Catheters, medical tubes, and associated supplies;

(i) Surgical and orthopedic instruments;

(j) Hearing aids;

(k) Pacemakers;

(l) Dental supplies;

(m) Laboratory small package chemicals;

(n) Biology supplies; and

(o) Therapeutic or cosmetic implants.

(8) **Medical Purchasing Cooperatives.** A department which is a member of a legally established purchasing cooperative may purchase hospital and medical supplies and equipment, as well as lab testing services and pharmacy services through the cooperative.

(9) **Office Supplies.** Consumable office supplies including, but not limited to copy paper, pens, copier toner, binders, etc.

(10) **Pass-Through Grants**. A grant under which the county passes through to another recipient all or a portion of the money or property received by the county from a federal or state agency, and/or a private grantor provided that:

(a) The county does not add or modify the original grant except as necessary to provide proper administration; and

(b) The grant contains a clause substantially in the following form: "The recipient of grant funds, pursuant to this agreement with the County, shall assume sole liability for recipient's breach of the conditions of the grant, and shall upon recipient's breach of grant conditions that causes or requires the County to return funds to the grantor, hold harmless and indemnify the County for an amount equal to the funds which the County is required to pay to the grantor".

(11) **Periodicals.** The County may purchase subscriptions for periodicals, including journals, magazines, and similar publications without competitive bidding.

(12) **Price Regulated Items.** The County may contract for the direct purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state or local regulatory authority. [Ord. 85-0002; Ord. 2000-162; ; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; Ord. 2021-0303; formerly BCC 2.504, 2.506, 2.507, 2.509, 2.511, 2.516, 2.517, 2.518, 2.520]

2.540 Specific Exemptions

(1) **Exemptions Requests.** The Contract Review Board may exempt a particular contract or contracts from the bidding requirements of this chapter or ORS 279C.335 which are not otherwise exempted under these sections upon approval of the following findings:

(a) The nature of the project;

(b) Estimated cost of the project;

(c) A narrative description of the cost savings anticipated by the exemption from competitive bidding and the reasons competitive bidding would be inappropriate;

(d) Proposed alternative contracting and purchasing practices to be employed;

(e) The estimated date by which it would be necessary to let the contract;

(f) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

(g) The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the County. In making such finding, the board may consider the type, cost and amount of the contract, number of persons available to bid and such other factors as may be deemed appropriate.

(h) Otherwise substantially promotes the public interest in a manner that could not practically be realized by complying with BCC ch. 2 or ORS 279B.055 through 279B.070; or

(i) The Board may require such additional information as is deemed necessary to determine whether a specific contract is to be exempt from competitive bidding.

(2) **Approval of Requests.** Before final adoption of the findings required by this section exempting a contract for a public improvement from the requirement of competitive bidding, the County shall hold a public hearing pursuant to ORS 279C.335(5). [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.521]

VII. DISPOSITION OF PERSONAL PROPERTY

2.605 Sales of Personal Property.

(1) Personal property may be sold at auction if the County determines that the auction contemplated may result in a higher net return than if the property were sold by competitive written bid.

(2) The County may sell personal property, including recyclable or reclaimed materials, without formal competitive bidding if it has determined that a negotiated sale will result in increased net revenue and the current market value per item is deemed to be less than $15,000. The County may establish a selling price, schedule and advertise a sale date, and sell to the first qualified buyer meeting the sale terms.

(3) When the current value per item is deemed to exceed $15,000, the personal property must be offered for competitive written bid and be advertised in accordance with BCC 2.325, or be offered for sale at public auction in accordance with this Chapter. If no bids are received or if a determination is made that the market value of the property exceeds the offer of the highest responsible bidder, all bids may be rejected and the county may negotiate a sale subject to the following conditions:

(a) An appraisal of the market value of the property is obtained and documented and the negotiated sale price exceeds the market value; or

(b) The sale amount exceeds the highest bid received through the bidding or auction process.

(3) The County may sell personal property through a commercially recognized third party liquidator if it has determined that a liquidation sale will result in increased net revenue and the selection of the liquidator was conducted, as a minimum, by the competitive request-for-proposal process governed by BCC 2.305. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.522]

2.610 Donations of Personal Property.

(1) The County may donate or sell personal property of any value, without competitive bidding, including recyclable or reclaimed materials to another public agency, or any sheltered workshop, or nonprofit organization, after a determination has been made that the personal property is not needed for other county purposes. A department or elected official proposing the disposition of personal property by donation shall offer such property to other departments of the County for at least five (5) business days prior to disposition of such property. Any other county department desiring to use such property shall have priority for use.

(2) The County shall maintain a record of all transfers or donations sales authorized by this section. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.523]

VIII. CONTRACTS REQUIRING MODIFIED PROCUREMENT PROCEDURES

2.705 Information and Telecommunication Systems Contracts.

(1) Contracts for acquisition of information technology and/or telecommunication system hardware and software may be let using alternate competitive procurement methods subject to the following conditions:

(a) If the contract amount does not exceed $150,000, the County contracting agency shall, as a minimum, follow informal competitive procurement methods. Prior to selection of a vendor, reasonable efforts will be made to solicit proposals from three or more vendors. Justification of award shall be documented and become a public record of the county.

(b) If the contract amount exceeds $150,000, the County may use the request for proposal process and shall solicit written proposals pursuant to this chapter. The County shall document the evaluation and award process, which will be part of the public record justifying the award.

(c) If the amount of the contract is estimated to exceed $500,000, in addition to the requirements of subsections (1)(b) of this section, the County shall provide proposers the opportunity to review the evaluation of their proposal before final management review and selection.

(2) Telecommunications solicitation authorized in subsection (1) shall:

(a) State the contractual requirements in the solicitation document;

(b) State the evaluation criteria to be applied in awarding the contract and the roles of any evaluation committee. Criteria that would be used to identify the proposal that best meets the County's needs may include, but are not limited to, cost, quality, service and support, compatibility and interconnectivity, product or system reliability, vendor viability and financial stability, operating efficiency, and expansion potential;

(c) State the provisions made for vendors to comment on any specifications which they feel limit competition. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.605]

2.710 Telecommunications Services and Equipment. "Telecommunications Services" has the meaning contained in OAR 125-500-0000(5).

(1) In determining the appropriate procurement method for telecommunications services, the department will determine whether competition exists. In determining competition, the department may consider the following factors:

(a) The extent to which alternative providers exist in the relevant geographic and service market. The relevant market will vary from service category to service category and cannot be pre-determined in advance. For example, an alternative long distance provider might offer services in Portland, but not in Medford, or the rest of the state.

(b) The extent to which alternative services offered are comparable or substitutable in technology, service provided, and performance. For example, if the department requirement is for digital services, analog services are not comparable or substitutable.

(c) The extent to which alternative providers can respond to the department's interests in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management, and limiting the County's liability.

(2) Upon determination that competition does not exist for the relevant service and geological area, the department may proceed to secure the service on a sole source basis. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.610]

2.715 Office Copier Purchases.

(1) The County may enter into multiple price agreements or material and service contracts for the purchase, rental or lease of office copying equipment. Except for this multiple award exemption, such agreements shall otherwise conform to the requirements of BCC 2.205.

(2) In exercising this exemption the County shall fully consider the operating capabilities, limitations and cost of each brand or model and select the brand which will produce the best combination of performance and cost per copy for each application. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.615]

2.720 Specification of Particular Brand Names or Products.

(1) (a) A brand name or equal specification may be used when the use of a brand name or equal specification is advantageous to the department, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the department.

(b) The department is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final.

(c) Nothing in this section may be construed as prohibiting a department from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the department.

(2) A brand name specification may be prepared and used only if the department determines for a solicitation or a class of solicitations, including for public improvements, that only the identified brand name specification will meet the needs of the department based on one or more of the following written findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;

(b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the department;

(c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or

(d) Efficient utilization of existing goods requires the acquisition of compatible goods or services. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; formerly BCC 2.705]

2.725 Purchasing From Sole Source, Single Seller.

(1) The County may award a contract for goods or services without using an intermediate or RFP procurement process, when there is only one source for goods or services, or a class of goods or services of the quality required by the County and only if County Counsel provides written concurrence of the decision.

(2) Before letting a sole source contract, the County must make a reasonable effort to identify and notify any potential offerors regarding the intended purchase or project. Such efforts may include, but are not limited to: direct vendor contacts, requests for information, requests for letters of interest, or requests for qualifications. If the County intends to make multiple purchases of the product or services over a period of time, that information must be included in any information given to potential offerors.

(3) Authority to make the sole source determination is granted to:

(a) Department Directors, Sheriff, District Attorney, County Administrator, Chief Financial Officer or County Counsel for contracts less than $100,000.

(b) The Board of Commissioners for contracts of $100,000 or greater, based upon proposed written findings prepared by the department pursuant to subsection (4), along with such other information as the Board may require.

(4) The County may purchase a particular product or service available from only one source, after documenting the procurement file with findings of current market research to support the determination that the product is available from only one seller or source. The County's findings shall also include:

(a) A brief description of the contract or contracts to be covered including contemplated future purchases;

(b) Description of the product or service to be purchased; and

(c) The reasons the department is seeking this procurement method, which shall include any of the following:

(A) Efficient utilization of existing goods requires the acquisition of compatible goods or services; or

(B) That the goods or services required for the exchange of software or data with other public or private entities are available from only one source; or

(C) The particular goods or services are for use in a pilot or an experimental project.

(D) Other findings that support the conclusion that the goods or services are available from only one source. [Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2021-0303; formerly BCC 2.710]

2.730 Single Manufacturer, Multiple Sellers.

(1) The County may specify a product or service available from only one manufacturer but available through multiple sellers, after documenting the procurement file with the County's information required in this subsection, and subject to the following:

(a) If the total purchase is $15,000 or more but does not exceed $150,000 and a comparable product or service is not available under an existing state requirements contract, competitive quotes shall be obtained and retained in the procurement file; or

(b) If the amount of the purchase exceeds $150,000, the product or service shall be obtained through competitive bidding.

(2) If the County intends to make several purchases of the product of a particular manufacturer or seller for a period not to exceed five years, it may so state in the solicitation file and in the solicitation document, if any. Such documentation shall be sufficient notice as to subsequent purchases. If the total purchase amount is estimated to exceed $150,000, this shall be stated in the advertisement for bids or proposals. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205; Ord. 2010-0234; Ord. 2014-0260; formerly BCC 2.715]

IX. APPEALS

2.805 Procedure. The procedure for appeals from decisions of the public contracting officer shall be as follows:

(1) Notices of appeal shall be in writing addressed to the public contracting officer and must be submitted no later than 14 calendar days from the date of the challenged decision.

(2) Immediately upon receipt of written notice of appeal, the public contracting officer shall inform the Board.

(3) Upon receipt of notice of appeal, the Board shall notify the person appealing of the time and place of the hearing.

(4) The Board shall conduct a de novo hearing according to the provisions of ORS 279.045(3) and decide the appeal within 30 days after receiving the notification and shall set forth in writing the reasons for its decisions. [Ord. 85-0002; Ord. 2000-162; Ord. 2005-205]

8.1

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * Board of Commissioners

Contact Name * JoeHahn

Phone Extension * 6851

Meeting Attendee Name * JoeHahn

Agenda Item Details

Item Title * 4500 Research Way Naming

Item Involves * Check all that apply

- [ ] Appointments
- [ ] Budget
- [ ] Contract/Agreement
- [x] Discussion and Action
- [ ] Discussion Only
- [ ] Document Recording
- [ ] Employment
- [ ] Notice of Intent
- [ ] Order/Resolution
- [ ] Ordinance/Public Hearing 1st Reading
- [ ] Ordinance/Public Hearing 2nd Reading
- [ ] Proclamation
- [x] Project/Committee Update
- [ ] Public Comment
- [ ] Special Report
- [ ] Other

Estimated Time * 5 minutes

Board/Committee Involvement *

- ( ) Yes
- (•) No

Advertisement* ○ Yes
● No

2040 Thriving Communities Initiative

Mandated Service? *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☐ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☑ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☑ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

The building is seeking LEED certification, it is important to have equity as our focus which is why it is being named Kalapuya.

Focus Areas and Vision *

Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☑ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

Historical name is chosen to help us focus the county on equity and improve collaborative efforts with indigenous people

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

Name for 4500 SW Research Way
2040 goals and focus on sustainability and equity

Options *

Accept Name: Kalapuya Building
Reject Name
Accept Name with suggested revisions

Fiscal Impact *

(•) Yes
( ) No

Fiscal Impact Description *

The fiscal impact will be the cost of naming the building with appropriate signage and arranging details for the ribbon-cutting ceremony. I am unsure of the specific costs at this time

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations *	Approve the suggested names
Work Session Motions *	I move to ... I move to name 4500 SW Research Way the "Kalapuya Building".

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

4500 Research Way Name Suggestions.pptx	4.6MB
4500 Research Way Recommendations.docx	11.89KB

Comments (optional) Both documents shown at the work session meeting already, some minor changes may be made to the powerpoint for Tuesday

If you have any questions, please call ext.6800

Department Approver LILI'A NEVILLE

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- ☐ Counsel
- ☐ Finance
- ☐ HR

County Administrator Approver TERESA FARLEY

Comments

County Administrator Approval

Comments

Signature

Teresa Farley

BOC Final Approval

Comments

Signature

Teresa Farley

4500 Research Way Recommendations

Disability

ADA Checklist

This list, still in draft form, could be helpful in informing our work here and in all other work. Following these steps will help meet a lot of ADA requirements, but we should also ensure other things are considered.

Autism Friendly spaces

While this video focuses on the experience of children, it could be a good tool for consideration as we design the building.

https://www.youtube.com/watch?v=ye14kCT7GcY

Wayfinding: A visual representation of where to go. This could be helpful with images that show the spaces in the building. Helpful for people who cannot read English, have trouble processing language, or are just more of a visual learner!

4500 Research Way Name Suggestions

JoeHahn | EDI Coordinator
8/6/2021

Background

- In February 2020 county employees suggested a variety of names for the 4500 Research Way building
- In April 2021, I was tasked with looking over the suggestions which primarily were related to Indigenous people and communities
- I also wanted to acknowledge the other names suggested and expand naming to some of the rooms in the building
- All of the name suggestions focus on people and communities with marginalized identities
- Some additional room names are still being researched
- After consultation with David Harrelson from the Confederated Tribes of Grand Ronde, I have come to the following recommendation...



The Kalapuya Building

4500 SW Research Way



Why Kalapuya?

History

- The Kalapuya people consisted of 13 different tribes that were the original caretakers of this land since time immemorial
- Colonization resulted in Kalapuya people having their land reduced with other tribes into what are now the Confederated Tribes of the Siletz and the Confederated Tribes of Grande Ronde
- Alsea were also tribes that have been impacted by colonization, and as few as 7 descendants remain.
- As settlers, it is our responsibility to acknowledge the horrible genocide our ancestors committed and the privilege we have

Moving Forward

- The Kalapuya building can't just be a name. We need to honor their heritage, their impact, and a shared vision of collaboration and community together
- Including the Confederated tribes in the ribbon cutting ceremony
- Seeking feedback from tribes and indigenous people throughout the county and state when making decisions
- With the 2040 plan we must integrate health, equity, and sustainability into all of our actions. Including "7th generation" practices that look well beyond our time

Additional Names

Holmes-Ficklin Room

- Named after Mary Jane Holmes Shipley Drake and Rueben Ficklin
- Some of the first Black residents in Benton County
- Mary Jane Holmes Shipley Drake family won a lawsuit that went all the way to the Oregon Territory Supreme Court for her freedom and her siblings freedom after their enslaver Nathaniel Ford refused to free them. Mary Jane married Rueben Ficklin and they bought land in Benton County
- Rueben was enslaved and bought his freedom
- Bought land to become the Mount Union Historical Cemetery because Black people weren't allowed to be buried elsewhere. Stipulated the land must allow Black people to be buried there.

Harriet Forest Moore Records Room

- Harriet Forest Moore was in the US Army Medical Corps as a reconstruction aid in physical therapy.
- After her service she attend Oregon State Agricultural College in 1920 for her BS and MS in Vocational Education.
- After 30 years of working around the country, she returned to Corvallis. She recorded information on head markers in Benton County cemeteries after a request from the Daughters of the Revolution.
- She began working at the Oregon State College library and was the first staff for the Archives.
- She helped students with their research and insisted on reading their first drafts to ensure they were historically accurate.
- I think naming the Public Records room after her would be an excellent way to honor her impact at the university and our community.

Next Steps

- Additional name suggestions for other rooms based on people and communities not included yet. Goal is to highlight:
  - Hispanic and Latine people
  - Asian and Pacific Islanders
  - LGBTQ+ people
- Finalize naming for 4500 Research Way/Kalapuya Building
- Other names such as Chinook, Denawi, and others were suggested, but David Harrelson's suggestions pointed toward Kalapuya being a better fit




Thank You

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 08/17/21

View Agenda Tracker

Suggested Placement * BOC Tuesday Meeting

Department * County Counsel

Contact Name * April Holland, Suzanne Hoffman

Phone Extension * 6840

Meeting Attendee Name * April Holland, Suzanne Hoffman

Agenda Item Details

Item Title * Order No. D2021-062 Requiring Face Masks in Indoor and Outdoor Public Settings

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☑ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Board/Committee Involvement *

- ○ Yes
- ◉ No

Advertisement *

- ○ Yes
- ◉ No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues*

The Delta Variant of COVID-19 has increased the transmissibility and threat of widespread illness, and possibly death, in Benton County, the State of Oregon and across the country. While many residents of Benton County and the surrounding area have received vaccinations to prevent contraction of the virus, the Delta Variant represents an increased threat to the health and safety of the residents and community members in Benton County.

To prevent the spread of the virus, to ease the strain on the medical community and medical facilities, and to protect the residents and community members of the county, the Board of Commissioners has determined it is necessary to take proactive steps to prevent the spread of the COVID-19 Delta Variant. Those steps include requiring all individuals above the age of 5 to wear masks or face coverings while in indoor public settings. This step aligns with Governor Kate Brown's executive order, issued on August 11, requiring use of masks indoors.

In addition, the Benton County Board of Commissioners, at the urging of local public health officials believe it is also necessary to extend this public safety precaution outdoors to settings where the increased threat of contracting and spreading the COVID-19 Delta Variant poses a greater threat to the health and safety of the general public.

If approved by the Board, under the current emergency declaration issued by the Benton County Board of Commissioners on March 17, 2020, the authority extended to the Board under the Benton County Charter, code and state law, these mask mandates will become effective upon adoption of Order No. D2021-062.

Options*

1) Adopt Order No. D2021-062.
2) Decline to adopt Order No. D2021-062

Fiscal Impact*

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Mandated Service? *

- ○ Yes
- ◉ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website HERE.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☐ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☑ Community Resilience
- ☐ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

Will address the well-being of our people by including health considerations in all policies, practices, activities, and operations

Focus Areas and Vision *

Select all that apply.

- ☑ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

Assists in people's safety.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations* Staff recommends the order be adopted.

Meeting Motions* I move to ...

I move to adopt Order No. D2021-062 requiring use of masks or face coverings in indoor and outdoor public settings.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

8.2 CC_Required facemasks ORDER D2021-062.pdf 9.17KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver VANCE CRONEY

Department Approval

Comments

Signature



BOC Initial Approval

Approvals Required
- ☐ Counsel
- ☐ Finance
- ☐ HR

County Administrator Approver TERESA FARLEY

Comments

County Administrator Approval

Comments

Signature

Teresa Farley

BOC Final Approval

Comments

Signature

Teresa Farley

BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, COUNTY OF BENTON

In the Matter of Requiring Personal Use of Masks or Cloth Face-coverings in Indoor and Outdoor Public Settings	)))	**ORDER #D2021-063**

WHEREAS, On March 8th, 2020 the Governor of the State of Oregon declared a state of emergency to address the threat of COVID-19 illness in the state; and

WHEREAS, On March 17th, 2020 the Benton County Commissioners declared a County State of Emergency to address the threat of COVID-19 illness in Benton County; and

WHEREAS, Benton County has extended its emergency declaration through September 30, 2021; and

WHEREAS, on August 11, 2021, the Governor issued an executive order requiring masks or personal face coverings to be worn by individuals over the age of 5 in indoor public settings; and

WHEREAS, Benton County needs to protect the gains made through COVID-19 vaccinations, social distancing, use of masks, and sanitization efforts to prevent the renewed occurrence and spread of COVID-19 illness that could cause the State or County to reimpose tighter restrictions, adversely impact the health care system, and imperil essential workers and vulnerable individuals. Additional guidance documents can be found on the Benton County website https://co.benton.or.us/covid19; and

WHEREAS, based on current medical and public health science prior emphasis on personal precautions including handwashing, personal distancing, and indoor and outdoor masking / face-covering are effective in limiting transmission of respiratory illnesses including COVID-19; and

NOW THEREFORE BE IT RESOLVED, that the Benton County Board of Commissioners, through its emergency authority and as the Board of Health, requires individuals 5 years of age and older to wear masks or face-covering at all times in indoor public settings.

BE IT FURTHER RESOLVED, that masks or face coverings shall be worn by persons 5 years of age and older in outdoor public settings where physical distancing of 6 feet is not feasible.

BE IT FURTHER RESOLVED, that this order shall be effective on upon adoption.

BE IT FURTHER RESOLVED, that this order shall be applicable within the boundaries of Benton County, including within city limits.

Adopted this 17th day of August, 2021.

Signed this 17th day of August, 2021.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Commissioner

Pat Malone, Commissioner

Approved as to form:

Vance M. Croney, County Counsel

ANTE LA JUNTA DE COMISIONADOS
PARA EL ESTADO DE OREGON, CONDADO DE BENTON

En caso de requerir el uso personal	)	
de cubrebocas o cubiertas faciales de tela	)	**ORDEN # D2021-063**
en lugares públicos interiores y exteriores	)	

CONSIDERANDO que el 8 de marzo de 2020 la Gobernadora del estado de Oregon declaró el estado de emergencia para afrontar la amenaza de la enfermedad COVID-19 en el estado; y

CONSIDERANDO que el 17 de marzo de 2020 los Comisionados del Condado de Benton declararon el Estado de emergencia del Condado para afrentar la amenaza de la enfermedad COVID-19 en el Condado de Benton; y

CONSIDERANDO que el Condado de Benton ha extendido su declaración de emergencia hasta el 30 de septiembre de 2021; y

CONSIDERANDO que, el 11 de agosto de 2021, la Gobernadora emitió una orden ejecutiva que exige que las personas mayores de 5 años usen cubrebocas o cubiertas faciales en lugares públicos cerrados; y

CONSIDERANDO que el Condado de Benton necesita proteger los logros obtenidos a través de las vacunas contra el COVID-19, el distanciamiento social, el uso de cubrebocas y los esfuerzos de sanitización para prevenir la aparición y propagación renovada de la enfermedad COVID-19 que podria hacer que el estado o el condado vuelvan a imponer restricciones más estrictas, impactar negativamente en el sistema de atención de la salud y poner en peligro a los trabajadores esenciales y a las personas vulnerables. Se pueden encontrar documentos de orientación adicionales en el sitio web del Condado de Benton https://co.benton.or.us/covid19; y

CONSIDERANDO que, con base en la ciencia médica y de salud pública actual, el énfasis previo en las precauciones personales, incluyendo el lavado de manos, el distanciamiento físico y el uso de cubrebocas / cubiertas faciales en interiores y exteriores, son efectivos para limitar la transmisión de enfermedades respiratorias, incluido el COVID-19; y

POR LO TANTO, SE RESUELVE AHORA, que la Junta de Comisionados del Condado de Benton, a través de su autoridad de emergencia y como Junta de Salud, ordena que las personas de 5 años o más, usen cubrebocas o cubiertas faciales en todo momento en el interior de lugares públicos.

SE RESUELVE ADEMÁS, que las personas de 5 años de edad o más deben usar cubrebocas o cubiertas faciales en lugares públicos al aire libre donde una distancia física de 6 pies no sea factible.

SE RESUELVE ADEMÁS, que esta orden entrará en vigencia en el momento de su adopción.

SE RESUELVE ADEMÁS, que esta orden será aplicable dentro de los límites del Condado de Benton, incluso dentro de los límites de la ciudad.

Adoptado el día 17 de agosto de 2021.

Firmado el día 17 de agosto de 2021.

JUNTA DE COMISIONADOS DEL CONDADO DE BENTON

Xanthippe Augerot, Presidenta

Nancy Wyse, Comisionado

Aprobado como forma:

Vance M. Croney, Abogado del Condado

Pat Malone, Comisionado

Benton County
OREGON

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Corvallis, OR 97330
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Orden #D2021-063

En Caso de Requerir el Uso Personal de Cubrebocas o Cubiertas Faciales de Tela en Lugares Públicos Interiores o Exteriores

Adoptado el martes 17 de agosto de 2021

Antecedentes

La significativamente más transmisible variante Delta del virus SARS-CoV-2 se ha convertido en la cepa predominante en los Estados Unidos y en el Condado de Benton, Oregon.

Si bien continuar aumentando el número de personas vacunadas es una medida de seguridad importante contra el COVID-19, se necesitan más acciones para contrarrestar la mucho más contagiosa variante Delta. El uso universal de cubiertas faciales en todos los lugares públicos, incluidos todos los lugares al aire libre donde no se pueden mantener 6 pies de distanciamiento física, es la medida menos problemática que se puede tomar en este momento. Los cubrebocas son seguros y eficaces y tendrán un impacto inmediato en nuestro aumento actual en el Condado de Benton.

El condado de Benton necesita proteger los logros obtenidos a través de las vacunas contra el COVID-19, el uso de cubrebocas y otros esfuerzos de prevención para mitigar la aparición renovada y la propagación de la enfermedad del COVID-19 que podría hacer que el estado o el condado vuelva a imponer restricciones más estrictas, impactando negativamente en el sistema de atención de la salud y ponen en peligro a los trabajadores esenciales y a las personas vulnerables.

El 17 de agosto de 2021, la Junta de Comisionados del Condado de Benton adoptó la Orden #D2021-063, que ordena que las personas de 5 años o más usen cubrebocas o cubierta facial en todo momento en lugares públicos cerrados, y ordena que las personas de 5 años o más usen cubrebocas o cubierta facial en lugares públicos al aire libre donde el distanciamiento físico de 6 pies no sea factible.

Definiciones

1) "Negocio" significa una persona, organización o entidad dedicada a actividades comerciales, industriales o profesionales
2) "Espacio común o compartido" significa un área donde las personas pueden interactuar, como un baño, sala de descanso, pasillo, ascensor, vestíbulo, salón de clases, sala grande con cubículos, sala de juntas, salón de conferencias y cualquier área abierta al público
3) "Cubierta facial" significa una tela, polipropileno, papel u otra cubierta facial que cubre la nariz y la boca y que descansa cómodamente sobre la nariz, debajo del mentón y en los lados de la cara. Las cubiertas faciales no son cubiertas que tengan una válvula diseñada

para facilitar la exhalación, máscaras de malla, máscaras de encaje u otras cubiertas con aberturas, agujeros, espacios visibles en el diseño o material, o conductos de ventilación.

4) "Protector facial" significa un protector de plástico transparente que cubre la frente, se extiende por debajo del mentón y envuelve los lados de la cara.
5) "Individuo completamente vacunado" significa un individuo que ha recibido ambas dosis de una vacuna COVID-19 de dos dosis o una dosis de una vacuna COVID-19 de dosis única y han pasado al menos 14 días desde la última dosis individual de la vacuna COVID-19.
6) "Espacios interiores" significa cualquier lugar interior, incluidos, entre otros, lugares de trabajo públicos y privados, negocios, áreas interiores abiertas al público, vestíbulos de edificios, espacios comunes o compartidos, salones de clases, ascensores, baños, servicios de transporte y otros espacios interiores donde la gente puede reunirse para cualquier propósito. Un espacio interior no incluye una residencia privada o un automóvil privado que sea para uso personal y que no se usa para compartir viajes.
7) "Espacios al aire libre" significa cualquier lugar al aire libre, incluidos, entre otros, lugares de trabajo públicos y privados, negocios, áreas al aire libre abiertas al público, espacios comunes o compartidos y otros espacios al aire libre donde las personas pueden reunirse para cualquier propósito.
8) "Cubrebocas" significa un cubrebocas de grado médico.
9) "Persona responsable de un espacio interior" significa cualquier persona o entidad gubernamental responsable de las actividades dentro de un espacio interior.
10) "Persona responsable de un espacio al aire libre" significa cualquier persona o entidad gubernamental responsable de las actividades dentro de un espacio al aire libre.
11) "Espacio de trabajo individual privado" significa un espacio interior dentro de un lugar de trabajo público o privado utilizado para el trabajo por un individuo a la vez que está cerrado por todos lados con paredes desde el piso hasta el techo y con una puerta cerrada.
12) "Lugares de trabajo públicos y privados": lugares interiores y exteriores donde las personas trabajan, incluidos, entre otros, negocios, bancos, plantas de procesamiento de alimentos, instalaciones de fabricación, sitios de construcción, bodegas y granjas.
13) "Transporte público" significa cualquier forma de transporte abierta al público, incluidos, entre otros, trenes, autobuses, trolebuses, tranvías, camionetas, autobuses escolares, aviones, barcos, servicios de viajes compartidos. El transporte público no incluye vehículos privados a menos que el vehículo privado se utilice para transporte público, como servicios de viajes compartidos.
14) "Servicios de viajes compartidos" se refiere a los servicios de transporte, ya sean públicos o privados, en los que un conductor transporta a un individuo o un grupo de personas en un vehículo y cobra una tarifa o factura por los servicios. Los servicios de viajes compartidos incluyen, entre otros, taxis, Uber y Lyft.

Guía General

La orden no prohíbe a una persona, incluida un negocio, aplicar mayores medidas preventivas.

La orden no tiene la intención de prohibir que un empleador o un lugar de alojamiento público realice adaptaciones razonables para cumplir con la ley Americans with Disabilities Act (ADA), el Título VII de la Ley de Derechos Civiles, ORS 659.850 o las disposiciones aplicables del capítulo 659A de la ORS.

Un individuo o persona responsable de un espacio interior y / o exterior que viole cualquier disposición de la Orden #D2021-063 está sujeto a un proceso de quejas cada vez mayor que incluye educación y divulgación, provisión de señalización y recursos educativos, cartas de

notificación y visitas al sitio. Las infracciones en interiores están sujetas a OSHA bajo OAR 437-001-0744 (3)(b).

Guía para las Personas

Las personas, independientemente del estado de vacunación, deben usar un cubrebocas, una cubierta facial o un protector facial cuando se encuentren en un espacio interior, a menos que la persona:

1) Sea menor de cinco años; a menos que una persona esté usando transporte público o en centros de transporte, en cuyo caso no se requiere que una persona menor de dos años use un cubrebocas, una cubierta facial o un protector facial.
2) Esté durmiendo.
3) Esté comiendo o bebiendo activamente
4) Está involucrado en una actividad que hace que el uso de una máscara, una cubierta facial o un protector facial no sea factible, como cuando está nadando activamente.
5) Esté en un espacio de trabajo individual privado.
6) Deba quitarse la máscara, la cubierta facial o el protector facial brevemente porque la identidad de la persona debe confirmarse mediante una comparación visual, como en un banco o si interactúa con la policía.
7) Esté practicando o jugando un deporte competitivo a cualquier nivel.
8) Esté actuando, incluido, entre otros, tocando música, dando un discurso a una audiencia y teatro.

Las personas, independientemente del estado de vacunación, deben continuar siguiendo las pautas de CDC para personas no vacunadas o personas completamente vacunadas para protegerse a sí mismos y a los demás.

Guía para Espacios Interiores

Una persona responsable de un espacio interior debe:

1) Asegurarse de que los empleados, contratistas y voluntarios cumplan con la Orden #D2021-063 dentro del espacio interior.
2) Hacer los esfuerzos razonables para garantizar que los clientes, invitados, visitantes y otras personas cumplan con esta orden dentro del espacio interior.
3) Colocar letreros en cada entrada al espacio interior que indique que se requieren cubiertas faciales como se describe en esta orden.

Guía para Espacios Exteriores

Una persona responsable de un espacio exterior debe:

1) Asegúrese de que los empleados, contratistas y voluntarios cumplan con la Orden #D2021-063 mientras se encuentren en el espacio al aire libre.
2) Hacer los esfuerzos razonables para garantizar que los clientes, invitados, visitantes y otras personas cumplan con esta orden en el espacio al aire libre.
3) Colocar letreros en cada entrada al espacio exterior que indique que se requieren cubiertas faciales como se describe en esta orden.