

**City of Rainier
Regular City Council Meeting
April 4, 2022
6 p.m.
Rainier City Hall**

Mayor Jerry Cole called the Regular Council Meeting to order at 6:01 p.m.

Council Present: Connie Budge, Scott Cooper, Robert duPlessis, Jeremy Howell Mike Kreger, Levi Richardson and Denise Watson

Council Absent:

City Attorney Present: No

City Staff Present: Sarah Blodgett, City Recorder; Gregg Griffith, Police Chief; W. Scott Jorgensen, City Administrator; Sue Lawrence, Public Works Director

Flag Salute

Additions/Deletions from the Agenda: Councilor Connie Budge moved to add compliance review for qualified voters under new business. That motion was seconded by Councilor Scott Cooper and adopted unanimously.

Mayor's Address: Mayor Jerry Cole read a proclamation into the record declaring April as HOPE month. He then presented awards to several local students. Rainier High School seniors Jenna Kamppi, Arianna Ojeda Ronan, Chloe Crawford, Emmalee Melvin, Jamie Knox, Jiri Antonu, Jeremiah duPlessis, Kalli Budge and Aubrey Sorensen were honored for their involvement with Rho Kappa. Kandence Stout and Savanna Cook were honored for being History Cub officers of the year and Clayton Orman was honored for being History Club member of the year.

Visitor Comments: There were no visitor comments at this time.

Consider Approval of the Consent Agenda

Consider Approval of the March 7, 2022 Regular Council Meeting and March 14, 2022 Goal Setting Work Session Minutes—Council President Mike Kreger moved to approve the consent agenda, with the addition of the document showing the council goals. That motion was seconded by Councilor Robert duPlessis and adopted unanimously.

New Business

a. Audit Report Presentation by Tracy Jones from Pauly, Rogers and Co.—

Cole asked why there was a delay in filing the audit with the Secretary of State's office. Jones said the firm lost staff during its busy season. Cole said the firm did their best to make it right and city staff was not responsible for the delay. Jones said the city is in compliance. There were no exceptions or issues requiring comment. There was no separate management letter and no significant deficiencies discovered. Capital assets and depreciations are not tracked in the audit. That's considered a best practice but it's not required for cash accrual based accounting, like the city uses. The council provides the government body monitoring and the city carries cash in excess of its fidelity insurance coverage. There's some exposure there and needs more oversight. In terms of IT controls, there are no internal policies requiring characters in passwords. Budge asked if the city should do a capital assets inventory. Jones said it's not required because the city does its accounting on a cash accrual basis. Budge asked how the council can improve its monitoring of the city's finances. Jones said that's all being recorded in council minutes and asked if the mayor signs checks. City Administrator W. Scott Jorgensen explained that there are four check signers and it's split evenly between staff and councilors. The signers are him, Police Chief Gregg Griffith, Cole and Kreger. Jones said that some organizations have their board members review financial statements on a quarterly basis because it gives more oversight. Jorgensen said he spoke with the city's CPA and she had recommendations for the budget document that align with suggestions made by councilors. He asked Jones what she thought of the city possibly going to a biennial budget. She said she has no experience with that.

- b. Banners for Downtown Beautification—Jorgensen said this was a council goal. He's seen it used well in other cities to differentiate their various districts. Lawrence said she looked at all the light poles in the city that can host banners. There are 20 in the plaza area, 12 along A street, seven by Veterans Way, 16 along B Street, seven by the boat launch, 10 by the park and six from West A Street to the boat launch. Budge asked if this will be part of the next fiscal year budget. Lawrence said yes. Budge suggested that this matter be put before the Parks Committee for its recommendations. Cooper asked if banners had been considered years ago. Cole said there was a coloring contest. He likes the idea of honoring the city's veterans with the banners on Veterans Way. The banners will cost around \$10,000 total, but maybe some of them can be sponsored by local businesses and organizations. Budge suggested having some banners near pocket park properties. Kreger said he could get input from the local VFW about the banners on Veterans Way. Cole said this can be brought back to the next meeting. The city doesn't have to do banners at every pole, it can be every other one. He suggested that Jorgensen reach out to the Chamber of Commerce for its input. Perhaps the museum would have some input as well. Jorgensen said that the City of Aurora had purchased some

trash cans for its downtown area and used historic photos to decorate them. It looks nice and has gone over well with the tourists who come to that town. Cole said he would like to see LED lights installed at city hall to shine colors for different occasions. Budge said that back in 1959, the fire hydrants in town were all painted and downtown businesses had historical displays in their windows.

- c. Planning Update—Jorgensen informed the council that planning commission passed the annexation ordinance. A public hearing has been scheduled for the next council meeting for that ordinance, a flood plain ordinance and a text amendment for the waterfront mixed use zone. The commission won't meet in April and he may have to advertise at least one position on there in the meantime. The commission was looking for direction on a couple of matters. The first is the garage code. Garages currently have a minimum of 120 square feet, which doesn't seem adequate. The commission discussed having it be 300 square feet, or possibly 240. What would council like to see? A building permit is required once a garage reaches 200 square feet. Cole said the commission should look at what Clatskanie, St. Helens and Scappoose have in their codes. Jorgensen said the other issue that's come up involves shipping containers. The city has received inquiries about using them in residential areas for storage. Some cities allow them with conditions. Kreger said they should have to abide by building codes. Cole said there was a project in St. Helens that used them for duplexes and they look good. Jorgensen said he can see what other cities are doing. Cooper said they can be permitted but regulated, with building permits required. Jorgensen said he got a note from Cole about fixing the sign ordinance to allow for sandwich board signs. They aren't currently allowed under code. Cole said he's seen some around town and is not against them. But the code needs to be changed to allow them because it's important to business owners. Cooper suggested having the commission review what the city already has in place. Kreger said the commission should look at where they can be placed. Cole said their allowable size should also be reviewed.
- d. First Reading of Ordinance 1086—Adopting the Codification of the Rainier Municipal Code Enforcement Procedures
- e. First Reading of Ordinance 1087—Establishing Rules and Regulations for Recreational Vehicles—Cole suggested some revisions to reflect that many residents own boats. The ordinance will be changed and brought back to the May meeting.
- f. Emergency Operations Plan Update—Griffith said the plan needs to be reviewed and updated every three to five years. Staff has reviewed it, but the signature page is from 2013 and most of the people on it are no longer on the council. The plan has five parts and focuses on prevention, protection, mitigation, response and recovery. Staff will send the plan to council and bring the signature page to the next meeting to update it.
- g. Police Department IT Equipment Request—Griffith said his

department's computers are old and incompatible with newer software. Because they've been short one officer, they have the money in the budget to replace those computers. He got a quote from the city's IT provider for five computers at \$21,500. Cooper moved to approve the request. That motion was seconded by Kreger and adopted unanimously.

- h. Resolution 22-04-01—To Increase the City's Credit Card Limit to \$15,000—Lawrence said the limit is currently \$5,000, split between three different departments. It's easy for that to get maxed out. There have been problems with cards being declined when department heads try to make purchases. Kreger moved to approve the resolution. That motion was seconded by Cooper and adopted unanimously.
- i. Resolution 22-04-02—To Adjust the Water Capital Improvement Fund-Capital Outlay to Reflect the Costs of Repairing the Water Treatment Plant Facility—Lawrence said that the city's insurance company has thus far reimbursed the city for \$300,000 to repair the facility. This resolution is needed in order to expend those funds. Budge moved to approve the resolution. That motion was seconded by Councilor Robert duPlessis and adopted unanimously.
- j. Inflow and Infiltration Study Contract Extension—Lawrence said this is the next step towards DEQ compliance. It will involve further smoke testing of the system and upgrades and repairs to lines in the collection system. The cost is around \$93,000, to come out of the sewer capital fund. Jorgensen said that getting this kind of work done helps when he and Lawrence talk to DEQ officials. The city has been receiving notices from that agency about the ongoing issues. Cole said fines from DEQ for non-compliance could exceed the cost of the study contract extension. Budge moved to approve the contract extension. That motion was seconded by Cooper and adopted unanimously.
- k. Parks Committee Master Plan Recommendation—Jorgensen said the committee recommended that the city do the study. Its cost is estimated at \$35,000. Lawrence said she would do more research to find the line item to fund it. Cole said this item could be brought back under unfinished business at the next council meeting.
- l. Park Asphalt Path Repair Bid—Lawrence said the bid is to pave a section of the path and adding a walking area for seniors. Once the project is finished, there will be complete handicapped access between the senior center and the park. She's waiting on other bids, but they've yet to be received. The bid is for \$10,975, to come out of the riverfront trail line item in the budget. Cooper moved to approve the lowest bid that comes in. That motion was seconded by Budge and adopted unanimously.
- m. Parks Committee Update—Jorgensen said the committee is working on planning an event for the riverfront trail completion. It will have fun runs with different age categories and a bike parade. This could even become an annual event if it goes well. The original date the committee considered was May 1, but the project may not be done by then. May 22 is what they decided on. Cole and others said they would be out of

- town that day and suggested that it be held on May 29 instead.
- n. League of Oregon Cities Conference—Jorgensen said the conference is scheduled for October 5 through 7 in Bend. He wanted to see if any of the councilors were interested in attending. Cole, Kreger and Budge said they would like to.
 - o. Councilor Statements of Economic Interest for the Oregon Government Ethics Commission—Cole reminded councilors that the deadline to file those statements is April 15.
 - p. Qualified Voter Compliance Review—Budge said the application for city councilors should include verification of their status as qualified voters. Jorgensen said he could add that to the form. There should also be a line for email addresses.

Unfinished Business

- a. Riverfront Trail Update—Lawrence said the work to set the bridge in place should be done the week of the 11th, with the paving tentatively scheduled for the last week in April.
- b. Fox Creek Update—Lawrence said the first meeting for the feasibility study was held. Jorgensen said he was the guest speaker at the Friends of Fox Creek annual meeting and updated that group about the status of the study.
- c. Senior and Multigenerational Housing

Staff Report—Griffith said the background check for the possible new officer is almost completed. The department's new car should be on the road fairly soon. The suspects who recently did graffiti in town were caught and the case has been referred to the courts. Jorgensen said he spoke to the district attorney about having them do community service in town. Lawrence said the design work for the repair of the water treatment plant roof is being done. She's getting an estimate for maintenance work at the boat launch dock. City Recorder Sarah Blodgett said the application deadline for the utility billing clerk position has closed. There is a good pool of applicants and interviews will be conducted the following week. Jorgensen attended meetings for Col-Pac, the Rainier Chamber of Commerce and the Rainier Oregon Historical Society. He also met with the county emergency manager. The lien for recovering the city's costs to abate the nuisance property at 313 West 7th Street has been filed. The city's new contract CPA has been onboarded and met with staff via telephone to start the budget process. Updates have been made to the city's website based on input from the council goal setting session. Along with Cooper, he attended the St. Patrick's Day luncheon at the senior center. He and Kreger arranged the council chambers for the previous Saturday's town hall meeting with Senator Rachel Armitage. They discovered that the PA system wasn't working, so he had to replace it. He and Lawrence met with DEQ officials to set goals and timelines towards compliance.

Council Reports—duPlessis said he attended the town hall meeting with Armitage. He also toured the water plant building, the A Street Plaza, park and wastewater plant buildings with public works. Budge said Armitage

expressed interest in doing a town hall at the senior center. Cooper praised public works for cleaning up the graffiti.

City Calendar/Announcements

Cole adjourned the regular council meeting at 8:05 p.m.

Mayor Jerry Cole

W. Scott Jorgensen, City Administrator

DRAFT

COMMUNICATION SITE LAND LEASE

Agreement No. _____

BY THIS LEASE between the City of Rainier, hereinafter called the "City" and [CSI Communications Inc. Day Management Corporation](#) dba Day Wireless Systems, hereinafter called "Lessee", a lease for an electronic telecommunications site on the described premises [as provided in Exhibit A, below, and](#) hereinafter referred to as the "Premises", in Columbia County, Oregon.

SECTION 1: OCCUPANCY

- 1.01 **Term.** The term of this lease shall commence upon its acceptance and shall be for a period of five (5) years thereafter. This lease shall automatically renew at five (5) year intervals not to exceed ~~twenty (20)~~ [twenty five \(25\)](#) years in total.
- 1.02 **New Lease.** If Lessee desires to obtain a new lease, Lessee must notify the City in writing at least [one hundred eighty \(180\)](#) days prior to the Termination date of the lease. Lessee shall not be in breach in the performance of any of the terms or conditions. The City reserves the right to deny a new lease.

Commented [KB1]: Our contract standard is a 25 year lease with five intervals of 5 years.

SECTION 2: USE OF SITE

- 2.01 **Permitted Use.** The non-exclusive use of the Premises shall be to construct, install, maintain, repair, and operate electronic telecommunications [facility and](#) equipment including but not limited to the transmission and reception of radio communication signals in all frequencies authorized by governmental authorities (permitted use). The entirety of the installations, improvements, equipment, and units to be constructed, maintained, repaired, or operated by Lessee, is referred to herein by "Premises or Project". [A map of the electronic telecommunications facility is provided as Exhibit B, below. A schedule of electronic telecommunications equipment installed and maintained on the Premises will be provided to the City through a copy of Lessee's license agreement. Copies of modified license agreements will likewise be forwarded to the City.](#) Lessee shall have the unrestricted ability to sublease space to its customers in the Premises or Project.

(1) [Lessee is granted the right to place necessary guy wires and anchors on the adjacent land of the City, and to have and to hold said Premises with the right of peaceable possession and quiet enjoyment. The City represents and warrants to Lessee that the City is the lawful owner of the Premises, that the Premises is not otherwise encumbered and that the undersigned is authorized to execute this agreement.](#)

(2) [The installation, maintenance and removal of Lessee's Premises or Project shall be done in a good and workmanlike manner in accordance with accepted engineering standards. Upon removal, foundations will be removed to 1'-0" below grade. The parties may mutually agree in writing that certain improvements may remain upon the expiration or termination of the lease.](#)

Commented [KB2]: These issues were assumed with the initial contract; we are putting this wording in as it is part of our standard contract language.

- 2.02 **Antenna Facilities.** Shall include but not be limited to all improvements, personal property, and related facilities for Lessee's "Permitted Use" which includes the transmission and reception of any and all radio communication signals in all frequencies authorized by the governmental authorities.

Commented [KB3]: In our standard contract language; this language speaks to expectations for Day Wireless actions to be taken.

- 2.03 **Gross Revenues:** Defined as total gross revenues actually received by Lessee.

2.04 **Electrical Power.** Electricity provided to the Premises or Project by Lessee shall be made available to the City at a metered cost without the inclusion of installation or delivery costs, conditioned on the existing availability of additional electricity provided to the Premises.

SECTION 3: PAYMENT

3.01 **Payment.** Payments made hereunder will be as follows:

(1) Intending to sublease power and building space to third parties, Lessee shall pay the City thirty five percent (35%) of the monthly gross rental revenues for this site, paid quarterly in arrears. Lessee shall provide the City with an accounting of the revenue payment including each tenant and the rate paid per tenant. with an accounting of the revenue payment including each tenant and the rate paid per tenant.

Commented [KB4]: Revision of % and timing of monthly gross rental revenues to be paid to the City of Rainier.

3.02 Adjustment.

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- A. Deleted.
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C. **Audit.** All amounts paid shall be subject to audit and recomputation by the City for a period of three (3) years after receipt thereof, after which payments shall be final, except in the case of fraud or willful misconduct.

Commented [KB5]: Deletion of "either/or" concept for payment.

3.03 **Place of Payment.** All payments shall be paid to City Hall at the address shown on the signature page.

3.04 **Failure to Pay.** Any failure to pay the amount specified in this Section 3, or any other amount to be paid by Lessee under terms of this lease within forty-five (45) days after the due date, shall be a material breach hereunder by Lessee and such breach shall entitle the City to pursue all remedies specified in the lease, including the right to terminate this lease. Failure to exercise such right shall not be construed as a waiver of the right and hereafter pursue any remedies available to exercise such right and thereafter pursue any remedies available at law or equity.

3.05 **Late Charge.** In the event Lessee fails to make any payment of rent or any other payment due hereunder upon the due date, the City shall be entitled to collect from Lessee a late charge equal to twelve percent (12%) of the amount of the delinquent payment.

3.06 **Interest Charge.** Any payment of rent or other payments received after the due date under this lease shall be subject to an additional charge of twelve percent (12%) per annum. Acceptance of late rent payments or any other payment by the City from Lessee after any breach by Lessee shall not constitute a waiver of any such breach.

3.07 **Rent Forfeiture.** Advance rent payments will not be refunded to Lessee if Lessee terminates the lease prior to the end of the annual rent period.

SECTION 4: RESERVATIONS

4.01 **City May Inspect Premises or Project.** Lessee shall permit the City and its agents to enter into and upon the Premises or Project at all reasonable times for the purpose of inspecting the same, provided that, except in case of an emergency, the City shall provide Lessee at least forty-eight (48) hours prior notice.

4.02 **Access and Development.** The City reserves for itself and its successors and assigns the right at all times for any purpose to cross the Premises at any place on grade or otherwise, and to use the Premises or Project for road

purposes, insofar as is compatible with Lessee's operation. Such reserved rights shall be exercised in a manner that does not unreasonably interfere with Lessee's operation. This agreement provides Lessee with unrestricted twenty-four (24) hour, seven (7) days a week access to the Premises.

The City reserves to itself and its successors and assigns, the right to develop, improve, and utilize the land and natural resources thereon, insofar as such reservations are compatible with Lessee's operation. Such reservation includes the right to grant easements of leases on the Premises or Project, which do not unreasonably interfere with Lessee's operation.

The development of the Project desires the minimization of the number of buildings and towers. Lessee agrees to negotiate in good faith with any subsequent party regarding co-locations on Lessee's lease area, in Lessee's building or Lessee's tower if such options are feasible and reasonable.

4.03 Resource Disposal. The City reserves to itself, and its successors and assigns, the right to sell, lease, or otherwise dispose of minerals, coal, oil, gas, timber or other valuable materials from the Premises.

4.04 Restrictions on Use.

- (1) Lessee shall conform to applicable laws and regulations of any public authority affecting the Premises or Project and the use thereon and assure, at Lessee's sole expense, any costs of such compliance including any fines and/or penalties. Lessee shall obtain all Federal, State, and local permits and licenses to operate under this lease.
- (2) Lessee shall remove no valuable materials, minerals, coal, oil, timber or gas without written consent of the City.
- (3) To the extent possible, Lessee, shall protect the Premises or Project from fire and shall report any fires on the Premises or Project to the City, by phone, as soon as possible.
- (4) Lessee shall not allow debris or refuse to accumulate on the Premises or Project.
- (5) Lessee, upon written notification by the City and pursuant to protocol established by the Federal Communications Commission, shall immediately take remedial action to eliminate interference caused by its operations.

Commented [KB6]: Language updated to confirm that FCC compliance/protocol is the mandatory interference policy.

Commented [KB7]: In that this indicates we will respond immediately, A and B below are not needed.

Commented [KB8]: The FCC has the ability to disconnect transmitters causing interference – We act as the facilitator when issues such as this arise, but we (and the site owner) do not have the authorization to disconnect power.

SECTION 5: REQUIREMENTS

5.01 Assignment. Lessee shall not hypothecate, mortgage, assign, transfer, or otherwise alienate this lease, or any interest therein, without prior written consent of the City, which consent shall be at the reasonable discretion of the City.

Lessee shall not assign or otherwise transfer the Premises or Project or any interest therein without prior written consent of the City, not to be unreasonably withheld. In granting any such consent under this clause, the City shall be entitled to consider, among other items, the proposed assignee's or transferee's financial condition,

business reputation, business and such other factors as may reasonably bear upon the suitability of the assignee or transferee as a lessee of the Premises or Project.

The consent of the City to any one assignment shall not constitute a waiver of the City's right to consent to subsequent assignments, nor shall consent of the City of any one assignment relieve any part previously liable as Lessee from any obligations under the lease. The acceptance by the City of the payment of rent following an assignment shall not consent to any assignment and the City's consent shall be evidenced only in writing.

5.02 Lessee's Indemnity and Casualty Insurance

(1) Indemnity.

Lessee agrees to indemnify, defend and hold harmless the City from any and all claims or liabilities for loss Lessee agrees to indemnify, defend and hold harmless the City from any and all claims or liabilities for loss Lessee agrees to indemnify, defend and hold harmless the City from any and all claims or liabilities for loss Lessee agrees to indemnify, defend and hold harmless the City from any and all claims or liabilities for loss Lessee agrees to indemnify, defend and hold harmless the City from any and all claims or liabilities for loss or damage to property or injury to, or death of persons, arising out of or in any way relating to Lessee's, its agents', employees', representatives' or contractors' negligent use, installation, operation, maintenance and/or removal of the Premises or Project upon the Property. The City agrees to indemnify, defend and hold harmless Lessee from any and all claims or liabilities for loss or damage to property or injury to, or death of persons, arising out of or in any way relating to the City's, its agents', representatives' or invitees' negligent acts or omissions upon the Property.

Commented [KB9]: Adjustment to reflect that City has responsibility for its actions when on site.

- (2) **Evidence of Insurance.** Lessee must furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the City, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements set forth below.
- (3) **Cancellation.** The Certificate(s) of Insurance must provide thirty (30) days written notice to the City before the cancellation, non-renewal, or material change of any insurance coverage included therein. Notices must be sent to Rainier City Hall via certified mail.
- (4) **Minimum Coverage Requirements.** The Minimum Coverage Requirements set forth below identify the minimum limits of insurance Lessee must purchase. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these minimum limits of coverage does not relieve Lessee from liability for losses and settlement expenses greater than these amounts.

During the term of this Agreement, Lessee must purchase and maintain, and shall require all independent contractors to maintain while performing work on the premises, the minimum insurance coverage and limits specified below, which may be increased by City at its sole discretion.

- a. **Commercial General Liability (CGL) Insurance.** Lessee must purchase and maintain CGL covering liability from Premises, operations, independent contractors, personal injury, and liability assumed under an insured contract. Such insurance must be provided on an occurrence basis. Insurance must include liability coverage with limits not less than those specified below:

Description

General Aggregate Limit \$5,000,000

Each Occurrence Limit \$1,000,000

- b. **Builders Risk Insurance.** If a period of construction is in progress and until completion of the project Lessee shall maintain in force builder's risk insurance. The insurance shall name as additional insured the City of Rainier, Lessee, and all subcontractors and sub-subcontractors in the work. Insurance shall be written to cover all risks of physical loss except those specifically excluded in the policy, including loss or damage caused by collapse and shall cover the entire work at the site.
- c. **Other Insurance.** Lessee must purchase and maintain adequate insurance obligations imposed by Federal and State statutes having jurisdiction over any types of its activities and/or operations.

5.03 **Insolvency.** If a receiver or trustee is appointed to take possession of all or substantially all of the assets of Lessee; or if any action taken or suffered by Lessee pursuant to an insolvency, bankruptcy or reorganization act, or if Lessee makes a general assignment for the benefit of its creditors, and if such appointment, action or assignment continues for a period of thirty (30) days, it shall, at the City's option, constitute a material breach by Lessee and the City shall be entitled to the remedies set forth in Section 5.05 below.

5.04 **Breach by Lessee.** In event of any breach of this lease by Lessee, the breach shall be deemed a default entitling the City to the remedies set forth in this lease or otherwise available at law or equity, after the City has delivered to Lessee notice of the breach and a demand that the same be remedied immediately; provided that, if the breach pertains to a matter other than the payment of any monies due under the lease, Lessee shall not be in default after receipt of the notice if Lessee shall promptly commence to cure the breach and shall cure the breach within forty-five (45) calendar days after receipt of the notice, or if the breach pertains to the payment of rent Lessee shall have ten (10) calendar days after due date to cure the breach; provided however, if such breach is non-monetary in nature, and as determined by the City, is not reasonably susceptible of being cured in said forty-five (45) calendar days (provided that the lack of funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure), Lessee shall commence to cure such breach within said period and diligently pursue such action with continuity to completion. Except as otherwise provided herein, if a breach has been cured within the grace periods permitted by this Section, it shall no longer constitute default.

5.05 **Default Remedy.** If Lessee breaches or defaults on any undertaking, promise or performance called for herein, the City may terminate this lease, provided that Lessee has been notified of the default as indicated in Section 5.04. Upon termination, the City shall have the right to re-enter the Premises or Project. Upon termination, all improvements on the Premises or Project shall become the property of the City subject only to any previously approved security interest. The City may seek damages for any such breach or default with or without termination of this lease. The City reserves the right to disconnect the power source fifteen (15) calendar days after Lessee receives the notice to cure a breach because of non-payment of monies due under this lease.

If Lessee fails to perform any undertaking or promise contained herein, the City shall have the option to make such performance forty-five (45) calendar days after expiration of the notice to cure defaults started above. The City's expenditures to correct Lessee's failure to perform shall be reimbursed by Lessee together with interest (12%) per annum.

5.06 **Survey.** Lessee shall cooperate with the City if at some time in the future the City desires to complete a survey for the Premises or Project area.

5.07 **Hazardous, Toxic, or Harmful Substances.**

- (1) **Deleterious Material.** Lessee shall not make, or suffer to be made, any filling in of the Premises or Project or any deposit of rock, earth, ballast, refuse, garbage, waste matter, chemical, biological, or other wastes, hydrocarbons, or other matter within or upon the Premises or Project, except as approved in writing by the City. If Lessee fails to remove all non-approved fill material, refuse, garbage, wastes or any other of the above materials from the Premises or Project, Lessee agrees that the City may, but is not obligated to, remove such materials and charge Lessee for the cost of removal and disposal, a two hundred fifty (\$250.00) dollar administrative fee, and any other reasonable costs.

Lessee shall not keep on or about the Premises or Project, any substances now or hereinafter designated as or containing components designated as hazardous, toxic, dangerous, or harmful (and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance hereinafter collectively referred to as "Hazardous Substances").

5.08 **Non-ionizing Electromagnetic Radiation (NIER).** Lessee shall comply with all applicable standards or requirements in effect as established by all Federal, State, and local governing agencies.

SECTION 6: ACCESS ROADS AND ROAD MAINTENANCE

6.01 **Access.** Provisions for the use of rights of way across City land, including the Premises or Project and adjacent land, are as follows:

A nonexclusive right to use existing roads over and across the location for the purpose of operating equipment commonly used for the [survey](#), construction, [installation](#), repair, [improvement](#) and maintenance of (a unit(s) or equipment / a communication site) on a seven (7) day, twenty-four (24) hour basis. [Lessee shall have the right to park vehicles on or about the Premises or Project and the lands of the City adjacent to the Premises or Project during the periods of such surveys, construction, installation, repair, and maintenance and at times of necessity to perform studies and site inspection and repair work. Lessee shall have the right to survey, construct, install, maintain, improve and repair across the Premises or Project, lands of the City or roadway, such poles, wires, pipes, cables, conduits and related appurtenances as shall be necessary for the conduct of Lessee's business and use of the Premises or Project for electricity, water, telephone and gas utility services.](#)

If the site lacks an existing road Lessee may, subject to City approval construct and use a new road over and across the location for the purpose of operating equipment commonly used for the construction, repair, and maintenance of (a unit(s) or equipment / a communication site). All road construction will be in compliance with current City standards and requires prior written approval by the City.

6.02 **Trees and Vegetation.** [In the event that Lessee determines that trees or other vegetation growing upon the Premises cause disruption or interference with the Premises or Project, or the intended use of the Premises or Project, or utilities, guy anchors and roadway appurtenant to the Premises or Project, or the microwaves transmitted or relayed to or from such site, then Lessee may cut, trim or remove such trees or vegetation as may be necessary in accordance with all local rules, regulations and ordinances.](#)

Commented [KB10]: These issues were assumed with the initial contract; we are putting this wording in as it is part of our standard contract language.

Commented [KB11]: Part of our standard contract language.

SECTION 7: IMPROVEMENTS

7.01 **Development Plan.** Lessee shall submit a development plan to the City for review prior to any constructing of new improvements. The City will review and notify Lessee of its decision, [not to be unreasonably denied](#), within fifteen (15) calendar days. The plan shall include, but is not limited to the following:

- (1) Description of proposed improvements, including floor plan, building materials, exterior finish, fence materials, tower, power source and cost.
- (2) Time schedule for start, completion, and any construction phasing.
- (3) Site plan map showing the location of proposed improvements, parking areas, landscape plans and other design features.
- (4) Existing improvements are accepted by the City.

7.02 **Unauthorized Improvements.** All improvements made on the Premises or Project without the written consent of the City are unauthorized and shall, at the option of the City, be removed by Lessee, removed by the City at the cost to Lessee, or become the property of the City. This does not include existing improvements at the time of this lease's commencement.

7.03 **Maintenance and Repair of Improvements.** Lessee shall maintain and repair its improvements at its own cost.

7.04 **Removal of Improvements.** [In the event that Lessee determines that it is unable to use the Premises or Project for any reason Lessee may terminate this agreement with three months' notice by giving written notice to Lessor. Lessee shall, upon expiration of the Term or within sixty \(60\) days after any earlier termination of this agreement, remove its building\(s\), antenna\(s\), equipment, conduits, fixtures, and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted.](#) All improvements placed on the premises by Lessee, including fixtures, which remain upon the Premises or Project sixty (60) days from the Termination Date shall become the property of the City unless approval to remain longer is requested by Lessee and granted by the City. Lessee shall be liable for additional rent at the rate specified under the lease until the improvements are removed. At the City's option, Lessee may be required to remove said improvements at its cost or the City may remove the improvements and charge Lessee for its costs.

Commented [KB12]: Part of our standard contract language; adjusted to reflect 60 day notice to match other wording in this section 7.04 – our standard is 90 day removal allowance.

7.05 **Timely Completion.** Timely completion of the development plan and maintenance of improvements are material inducements to the City in entering this lease.

SECTION 8: MISCELLANEOUS

8.01 **No Partnership.** The City is not a partner with Lessee in connection with the business carried on under this lease and shall have no obligation with respect to Lessee's debts or other liabilities.

8.02 **Non-Waiver.** Waiver by either party of strict performance of any provisions of this lease shall not be a waiver of, nor prejudice the party's right to require strict performance of the same provision in the future of any other provisions.

8.03 **Governing Law, Attorney Fees and Venue.** [This agreement will be governed by the laws of the State of Oregon.](#) Each party shall be responsible for their own attorney fees in the event of a dispute arising out of this lease

Commented [KB13]: For sake of clarity.

except as set forth in Section 5.02 and 8.06. Venue for resolving such disputes shall be in Columbia County District Court.

8.04 Interpretation and Numbering. This has been submitted to the security of all parties hereto and their counsel if desired and shall be given a fair and reasonable interpretation in accordance with the words hereof, without consideration or weight being given to its having been drafted by any party hereto or its counsel. Section numbers or titles are not to be considered in interpreting this lease.

8.05 Notices.

- (1) Any notice given under this lease shall be deemed as received when delivered by hand or three (3) business days after deposit in the United States certified mail with first class postage affixed.
- (2) Lessee shall notify the City within thirty (30) calendar days of any change of address, business name, contact person's name, or other changes that may affect the lease.

8.06 Liens. Lessee shall not suffer or permit any lien to be filed against Lessee's leasehold interest in the Premises or Project or any improvement thereon by reason of work, labor, services or materials performed or supplied to Lessee or anyone holding the Premises or Project or any part thereof under the lease. If any such lien is filed against Lessee's leasehold interest or any improvements thereon, Lessee shall cause the same to be discharged of record within thirty (30) calendar days after the date of filing the same unless other arrangements are authorized in writing by the City. Lessee shall indemnify the City for any costs, damages, or expenses (including attorneys' fees) incurred as a result of the filling of lien or in obtaining their discharge whether such costs, damages or expenses were incurred prior or subsequent to lease termination.

8.07 Remedies Cumulative. The specified remedies to which the City or Lessee may resort under the terms of the lease are cumulative and are not intended to be exclusive of any other remedies or means to which the City or Lessee may lawfully be entitled in case of any breach or threatened breach by the City or Lessee of any provision of this lease.

8.08 Force Majeure. The City's or Lessee's failure to perform any of its obligations under the lease shall be excused if due to causes beyond its control and without the fault or negligence of the City or Lessee, including but restricted to acts of God, acts of the public enemy, acts of any government, vandalism, fires, lightning, floods, epidemics, or labor strikes.

8.09 Preservation of Markers. Any legal land subdivision survey corners, reference points, or monuments are to be preserved. If such are destroyed or disturbed by Lessee, Lessee shall reestablish them by a licensed land surveyor in accordance with U.S. General Land Office standards at their own expense. Corners, reference points or monuments that must necessarily be disturbed or destroyed in the process of carrying out the operations allowed by lease must be adequately referenced and/or replaced. Such references must be approved by the City prior to removal of said corners, reference point or monuments.

8.10 Amendments. This Agreement contains all of the covenants and understandings between the parties and may not be altered or modified unless in writing and signed by both parties.

Commented [KB14]: For sake of clarity.

Signed this ____ day of _____, 2022.

By: _____
Name Title

Address: City of Rainier
PO Box 100
Rainier, OR 97048

Phone: 503-556-7301

Signed this ____ day of _____, 2022.

By: _____
Name Title

Address: Day Management Corporation
dba Day Wireless Systems
4700 SE International Way
Milwaukie, OR 97222

Phone: 503-659-1240

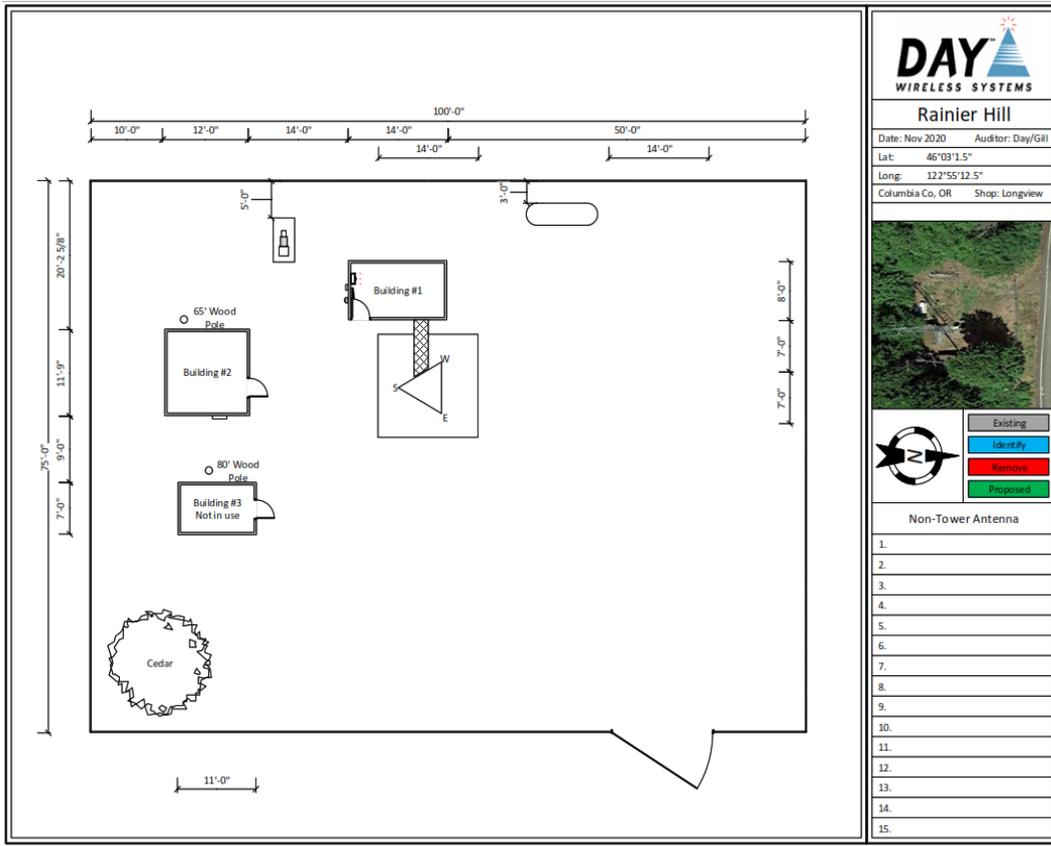
Exhibit A

Description of Premises

A parcel of land being 100 feet by 100 feet situated on Timoney Road Hill in Section 34, Township 7 North, Range 2 West of the Willamette Meridian, in the City of Rainier, Columbia County, Oregon, with the boundaries thereof being described as follows:

Beginning at a point, said point being on the West side of Timoney Road, and being the common point of the Northeast corner of the following described parcel of land leased by the City of Rainier to Brix Maritime Co., Inc., a 50 foot by 50 foot parcel of ground situated on Timoney Road Hill, Rainier, Columbia County, Oregon, the center of which is 46° 03' 15" North Latitude and 122° 56' 6" West Longitude, in Section 34, Township 7 North, Range 2 West, Willamette meridian; thence in a generally Northerly direction along said Timoney Road for a distance of 100 feet; thence at a right angle in a generally Westerly direction 100 feet; thence at a right angle in a generally Easterly direction 100 feet to the true point of beginning; the Easterly 50 feet of the Southern boundary of said described parcel being adjacent to the Northerly boundary of the hereinabove described parcel leased to Brix Maritime Co., Inc.

EXHIBIT B
Site Plan – Rainier Hill



**City of Rainier
2022/2023 Budget Calendar**

Budget Committee Meeting	May 16, 2022 6:00 p.m.
April 28, 2022 Publish Notice of Budget Committee Meeting	
May 5, 2022 Publish 2 nd Notice of Budget Committee Meeting	
2 nd Budget Committee Meeting (if necessary)	May 23, 2022 6:00 p.m.
Publish Budget Hearing and Financial Summary Notice	May 27, 2022
Budget Hearing	June 6, 2022
Adopt Budget	6:00 p.m.
Approve Resolution to Receive State Revenues	
Approve Tax Levy	
Approve Appropriations	
File Notice of Property Tax Certification (File with Assessor)	July 8, 2022

REDCO
2022/2023 Budget Calendar

Budget Committee Meeting (quorum required)	May 16, 2022 5:00 p.m.
Reconvene 2 nd Budget Committee Meeting (if necessary)	May 23, 2022 5:00 p.m.
Publish Budget Hearing and Financial Summary Notice	May 27, 2022
Budget Hearing Adopt Budget Approve Tax Levy Approve Appropriations	June 6, 2022 5:00 p.m.
File Notice of Property Tax Certification (File with Assessor)	July 8, 2022

**BEFORE THE CITY COUNCIL OF
THE CITY OF RAINIER**

RESOLUTION #22-05-01

**A RESOLUTION ADOPTING CITY PROCUREMENT POLICY AND REPEALING
RESOLUTION NO. 19-12-09**

WHEREAS, Oregon Revised Statute, Administrative Rule 279A.010-279C.875 identifies the State Statute Public Contracting Code; and

WHEREAS, the City of Rainier will adopt the State of Oregon Public Contracting Code 279.A.010-279C.875; and

WHEREAS, the city's current procurement limits are established by Resolution 19-12-09; and

WHEREAS, the City seeks to align its public contracting policies with those set forth in ORS, Administrative Rule 279A.010-279C.875 and State of Oregon Public Contracting Code 279.A.010-279C.875.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Common Council of the City of Rainier, Oregon that:

Resolution 19-12-09 is hereby repealed, and the City will revert to the public contracting policies set forth in ORS, Administrative Rule 279A.010-279C.875 and State of Oregon Public Contracting Code 279.A.010-279C.875.

PASSED AND ADOPTED by the City Council of the City of Rainier, Oregon this _____ day of _____, 2022.

Attested:

Jerry Cole, Mayor

W. Scott Jorgensen, City Administrator

ORDINANCE NO. 1087

AN ORDINANCE OF THE CITY OF RAINIER ESTABLISHING RULES AND REGULATIONS FOR RECREATIONAL VEHICLES

Section 1. Purpose.

The purpose of this ordinance is to limit the use of camper vehicles and other nonpermanent structures for permanent human habitation because it is the determination of the city council that their use in the city for permanent habitation is deleterious to the health, safety and welfare not only of the persons residing therein, but, additionally, of the public at large. Portable heating devices, nonstandard electrical connections, a lack of approved sanitary facilities including, but not limited to, bathrooms with toilets, sinks or showers or bathtubs and standard kitchen facilities, among other facilities associated with safe places or permanent human habitation, all lend themselves to unhealthful, unsanitary and hazardous living conditions, if utilized for extended periods of time, occasioned in part because camper vehicles and other nonpermanent structures are not intended for use as places of permanent human habitation and do not adequately provide for the needs associated with human habitation.

Notwithstanding the foregoing, this ordinance shall make allowances for safe, comfortable and sanitary use of camper vehicles and other nonpermanent structures for short-term, temporary use for human habitation purposes.

Section 2. Bus, camper, motor home recreational vehicle and boat restrictions.

A. No person shall at any time park or leave standing a camper, house trailer, motor bus, motor truck, motor home, boat trailer, vehicle with camper or recreational vehicle, whether attended or unattended, on any public highway, public street or other public way within the city limits, for a period greater than thirty (30) minutes, between the hours of 12:01 a.m. and 6 a.m.

B. A recreational vehicle, house trailer or motor home may be parked on a public street longer than the period allowed in Section 2 (A) if;

1. It is owned by the resident or guest of the resident of the property in front of which it is parked, and
2. It is parked on the public street no longer than fourteen (14) days in any calendar year, and
3. Such vehicle is parked in a manner, which does not interfere with traffic or create a hazard by obstructing the view of drivers.

Section 3. Occupying recreational vehicles.

It is unlawful for any recreational vehicle to be occupied, lived in or otherwise used as a residence within the city, unless such use is specifically approved by the city, except a private, residentially zoned property is permitted to use a recreational vehicle to house guests no more than a total of fourteen (14) days in a calendar year.

- A. Recreational vehicles shall be mobile and fully operable, on inflated wheels, and licensed with the Department of Motor Vehicles at all times.
- B. Recreational vehicles may be brought to a lot by guests and for no more than a total of fourteen (14) days in a calendar year.
- C. Porches and awnings and related structural projections may not be constructed adjacent or attached to a recreational vehicle.
- D. Temporary siting and occupancy may be allowed at the discretion of city staff. Any temporary use must comply with the provisions of section 18.153 of the Rainier Municipal Code with lawful connection to city water and sewer services in a manner approved by the public works director. A denial of a temporary use by staff may be appealed to the city council.

Section 4. Penalties.

- A. Any person adjudged to have violation any of the provisions, except in cases where a different punishment is prescribed by any ordinance of the city, shall pay a penalty of not less than \$250 per violation, unless superseded by state law.
- B. Each and every day during any portion of which any violation of any provision of the ordinance is committed, continued or permitted by any person shall constitute a separate violation.
- C. The penalty or fine for a third or any subsequent separate judgment of violation of the same offense by the same person shall be no less than \$1,000, unless superseded by state law.

Passed by the City of Rainier council and approved by the mayor on the ____ date of _____, 2022.

Attested:

BY: _____

Jerry Cole, Mayor

BY: _____

Scott Jorgensen, City Administrator

ORDINANCE NO. 1086

**AN ORDINANCE OF THE CITY OF RAINIER, OREGON, ADOPTING THE
CODIFICATION OF THE RAINIER MUNICIPAL CODE ENFORCEMENT
PROCEDURES**

WHEREAS, the Rainier City Council desires to enhance the livability of residents in the community; and

WHEREAS, proper enforcement of the City of Rainier's Municipal Code can contribute to that enhanced livability; and

WHEREAS, many of the penalties for code enforcement violations currently in the city's municipal code are inadequate for enforcement purposes; and

WHEREAS, a procedure for enforcing the code shall be adopted.

NOW, THEREFORE, the City of Rainier ordains as follows:

Section 1. There is hereby adopted a new Chapter 11 of the Rainier Municipal Code to read as follows:

**Chapter 11
Code Enforcement Procedures**

Sections:

11.10 Title.

11.20 Purpose.

11.30 Definitions.

11.40 Remedial action by city-Costs.

11.50 Warning methods.

11.60 Uniform violation summons and citation-Service-Failure to receive-Default.

11.70 Use of citation.

11.80 Contents.

11.90 Summons issuance-Required information.

11.100 Alleged violation-Required information.

11.110 Appearance of defendant in court.

11.120 Hearing request or waiver-Payment of bail.

11.130 Civil penalty-General penalty-Assessment of fees.

11.140 Default judgement.

11.150 Enforcement-Rules and regulations.

11.160 Failure to comply-Failure to appear-Penalty.

11.170 Lien filing and docketing, collection.

11.10 Title.

The provisions of this chapter may be cited as the Rainier “short-form complaint and code enforcement procedure code.”

11.20 Purpose.

(1) This chapter authorizes the use of a short-form uniform complaint and citation in certain cases by certain code enforcement personnel and describes the content of the form.

(2) This chapter describes the procedures for use of complainant, court or defendant.

(3) The procedures prescribed by this chapter are not the exclusive procedures for imposing civil penalties. This section shall not be read to prohibit in any way alternative remedies set out in the Rainier Municipal Code which are intended to abate or alleviate code violations, nor shall the city be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code violation. The penalties and civil remedies for violations of this chapter shall be in addition to, not in lieu of, other penalties or remedies established by city ordinance or state or federal law.

11.30 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(1) “Code enforcement officer” means any individual or individuals specifically authorized by the city administrator to issue citations for the commission of violations, as specified at Rainier Municipal Code 11.70.

(2) “Defendant” means a person charged with a code violation.

(3) “Violation” means a violation of the provisions of the Rainier Municipal Code.

11.40 Remedial action by city-Costs.

(1) In the event that there is an imminent danger to the public health, safety or welfare caused by a violation, the city may, without notice, remedy the violation and charge the remedial costs back to the defendant.

(2) The code enforcement officer shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or remedy the violation.

(3) The city recorder shall keep an accurate record of the costs incurred by the city in remedying the violation. The city recorder shall notify the defendant by certified mail, return receipt requested, of these costs and advise the defendant that the costs will be assessed to and become a lien against the defendant’s property, if not paid within 30 days of the notice, and shall further notify the defendant that the defendant is entitled to a hearing to contest the amount of the costs to be assessed.

(4) The defendant shall be entitled to request that the code enforcement officer schedule a hearing to consider the amount of the costs assessed to remedy the alleged violation. That hearing shall be conducted pursuant to the procedures established in Rainier Municipal Code 11.110 through 11.160.

(5) If the remedial costs are not paid, the city recorder shall follow the procedures set forth for lien filing and docketing as contained in Rainier Municipal Code 11.170.

11.50 Warning methods.

(1) A warning of the alleged violation may be given to the defendant in person by the code enforcement officer.

(2) Warning of the alleged violation may be by a telephone call to the defendant. If a warning is given in this manner, the defendant shall also be provided with a warning of violation by first class mail sent to his or her last known address as soon as possible after the initial notice by telephone.

(3) A warning of the alleged violation may be given by mail to the defendant at his or her last known address a warning of violation by registered mail, return receipt requested.

(4) Nothing in this section shall be construed to require a warning notice be given to any defendant prior to issuing a citation or taking any other enforcement or abatement procedure.

11.60 Uniform violation summons and citation-Service-Failure to receive-Default.

(1) Service of the uniform summons and citation may be by personal service on the defendant or an agent of the defendant authorized to receive process; by substitute service at the defendant’s dwelling or office; or by registered mail, return receipt requested, to the defendant at his or her

last known address. In the event of substitute service at the defendant's dwelling, the person served must be at least 14 years of age and residing in the defendant's place of abode. Service at the defendant's office must be made during regular business hours to the person who is apparently in charge. If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time and place at which service was made, must be mailed to the defendant at the defendant's last known address. Service will be considered complete upon such a mailing. Service by any other method reasonably calculated, under all the circumstances, to apprise the defendant of the existence and pendency of the violation and to afford a reasonable opportunity to respond shall be acceptable.

(2) Service on particular defendants, such as minors, incapacitated persons, corporations, limited partnerships, the State of Oregon, other public bodies and general partnerships, shall be the same as prescribed for the service of a civil summons and compliant by the Oregon Rules of Civil Procedure.

(3) No default shall be entered against any defendant without proof that the defendant had notice of the uniform violation summons and complaint. Either a sworn affidavit of the code enforcement officer outlining the method of service, including the date, time and place of service, a return receipt of registered mailing which indicates delivery of the summons and complaint to defendant's last known address, or a registered letter returned as "unclaimed" which indicates attempt of the same, shall create a rebuttable presumption that the defendant had such notice.

11.70 Use of citation.

A citation conforming to the requirements of this chapter may be used by code enforcement officers to initiate enforcement action for violations of city ordinances. Nothing in this section shall be construed to prevent the use of a complaint charging a violation of ordinance in a form or manner otherwise prescribed by law for criminal complaints; further, as provided by law, two or more persons may be charged jointly on such a complaint.

Further, nothing in this chapter shall be construed to prevent the filing of a complaint complying in all other respects with the provisions of this chapter and charging a violation of a city code occurring in the presence of a citizen.

11.80 Contents.

(1) Citation used may consist of at least three parts: the complaint, the record and the summons. Additional parts may be inserted for administrative purposes by departments charged with the enforcement of the ordinance. The form may contain the following information or may be blank when such information is not readily available to the code enforcement officer:

- (a) The name of the court and the court's docket or file number;
- (b) The name of the person or persons cited;
- (c) The offense charged, the time and place, the date on which the citation was issued, the name of the complainant, and, in the case of zoning violations, the designation of the zone in which the violation occurred;

- (d) The hour and date which the person cited is to appear in court;
- (e) The bail, if any, fixed for the offense.

(2) The form may also contain such identifying and additional information as may be necessary or appropriate for administrative departments of the city. In the case of an appropriate violation, it may include an indication of whether a written warning was previously issued to the defendant for the same violation if it is a continuing one.

(3) The complaint shall contain a form of verification by the complainant to the effect that the complaint swears or affirms that he or she has reasonable grounds to believe, and does believe, that the person named committed the offense contrary to the ordinance.

11.90 Summons issuance-Required information.

A summons issued pursuant to this chapter is sufficient if it contains the following information:

- (1) The name of the court, the name of the person or persons cited, the date on which the citation was issued, the name of the complainant, the time at which the person cited is to appear in court;
- (2) A statement or designation of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so and the date and place of offense alleged to have occurred;
- (3) The amount of bail, if any, fixed for the offense.

11.100 Alleged violation-Required information.

A complaint of an alleged violation or an offense under this chapter is sufficient if it contains the following:

- (1) The name of the court, the name of the city in whose name action is brought and the name of the defendant or defendants;
- (2) A statement or designation of offense in such manner as can be readily understood by a person making a reasonable effort to do so and the date and a place of the alleged offense.

11.110 Appearance of defendant in court.

The defendant shall either appear in court at the time indicated in the summons, or, prior to such time, deliver to the court the summons, together with the bail amount set forth in the summons, enclosing therewith a request for a hearing, or statement of matters and explanation or mitigation of the offense, or an executed appearance, waiver of hearing, and plea of “guilty” appearing on the summons.

11.120 Hearing request or waiver-Payment of bail.

(1) If the defendant has submitted to the court a written statement with his bail, as provided in this chapter, it constitutes a waiver of hearing and a consent to judgement by court declaring a forfeiture of bail on the basis of such statement and any testimony or written statement of the arresting officer, or other witness, or city employee, as provided in this chapter, which may be presented to the court. If the defendant requests a hearing, or, if the court directs that hearing be

had, the court shall fix the date and time of the hearing and, unless notice is waived, mail to the defendant notice of the date and time so set at least five days prior to the trial date.

(2) In any case, the court may direct that a hearing be held; otherwise, the court may enter the appropriate judgement, impose a fine, direct that the fine be paid out of the bail deposited by the defendant, and remit to the defendant any amount by which the bail exceeds the fine. No fine may be imposed in excess of the bail deposited by the defendant, unless a hearing is held.

11.130 Civil penalty-General penalty-Assessment of fees.

(1) Upon a finding that the violation was committed by the defendant, the court:

- (a) Shall assess a penalty pursuant to the applicable code penalty section;
- (b) May assess hearing costs and witness fees, if any;
- (c) Shall order the defendant to abate the code violation; and
- (d) May order the defendant to appear at a subsequent hearing for the presentation of evidence of abatement.

(2) Any person adjudged to have violation any of the provisions or to have failed to comply with any of the mandatory requirements of any ordinance of the city, except in cases where a different punishment is prescribed by any ordinance of the city, shall pay a penalty of not less than \$150 nor more than \$500, unless superseded by state law.

(3) Each and every day during any portion of which any violation of any provision of an ordinance is committed, continued or permitted by any person shall constitute a separate violation.

(4) The penalty or fine for a third or any subsequent separate judgment of violation of the same offense by the same person shall be no less than \$1,000, unless superseded by state law.

(5) Any penalty and costs assessed shall be paid no later than 30 days after the final order. Such period may be extended upon order of the court.

(6) Any penalty and costs assessed shall be a judgement against defendant in favor of the city.

11.140 Default judgement.

Subject to the limitations set forth in Rainier Municipal Code 11.060, a default judgement shall be entered for the maximum civil penalty applicable to the charged violation if the defendant fails to appear at the scheduled hearing. If the defendant fails to appear for the hearing, any security fees posted shall be forfeited to the city.

11.150 Enforcement-Rules and regulations.

The municipal court judge is authorized to promulgate any procedural rules he or she considers necessary to enforce this chapter and to punish for contempt of court.

11.160 Failure to comply-Failure to appear-Penalty.

(1) The failure to comply with the provisions of this chapter constitutes a violation.

(2) If any person knowingly fails to comply with an order of the court, the person is in contempt of court.

(3) If any person knowingly fails to appear before the municipal court pursuant to a citation issued and served under authority of this chapter or pursuant to an order of the court, the person is in contempt of court.

(4) Contempt of court shall be punishable in the same manner prescribed by law for the circuit courts of this state, and all relevant provisions of Oregon Revised Statutes 33.015 through 33.155 are incorporated herein by this reference.

11.170 Lien filing and docketing, collection.

(1) When a judgement is rendered by the municipal court judge in favor of the city for a sum of \$10 or more, exclusive of costs and disbursements, the code enforcement officer shall, at any time thereafter while the judgement is enforceable, file with the city recorder a certified transcript of all those entries made in the docket of the court clerk with respect to the action in which the judgement was entered.

(2) Upon receipt of this transcript, the city recorder shall enter the judgement of the court clerk on the city's lien docket.

(3) From the time of entry of the judgement on the city's lien docket, the judgement shall be a lien upon the real property of the person against whom the judgement was entered in the trial. Except as provided in subsection (4) of this section, entry of the judgement in the city's lien docket shall not thereby extend the lien of the judgement more than 10 years from the original entry of the judgement at the hearing.

(4) Whenever a judgement of the municipal court judge which has been entered pursuant to this subsection is renewed by the judge, the lien established by subsection (3) of this section is automatically extended 10 years from the date of the renewal order.

(5) The city recorder shall file the transcript of the judgement with the Columbia County clerk for entry in the judgement docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the judgement.

(6) Judgements may, in addition to any other method, be collected or enforced pursuant to Oregon Revised Statutes 30.310.

Passed by the City of Rainier council and approved by the mayor on the ____ date of _____, 2022.

Attested:

BY: _____

Jerry Cole, Mayor

BY: _____

Scott Jorgensen, City Administrator

City Administrator Report
May 2, 2022 Rainier Council Meeting

Mayor Cole and Members of the Council,

On March 29, Sue and I attended the Fox Creek culvert passage pre-consultation meeting. Fox Creek Culvert Passage pre-consultation meeting March 29. Two days later, Council President Kreger and I set up the council chambers for the April 2 town hall meeting hosted by Oregon State Senator Rachel Armitage. We realized the PA system was broken, so I went and bought a newer one to replace it.

I met with Rainier School District Superintendent Joseph Hattrick April 1 about the IGA for library services. On April 5, I conducted a county housing implementation strategy jurisdictional interview with Cascadia Partners. The following day, I spoke with an official from the Oregon Water Resources Department about possible state funding to shore up the wooden dam in the city's watershed. I also touched bases with the city's planning commissioners to remind them to file their statements of economic interest with the Oregon Government Ethics Commission.

Staff conducted the panel interviews for the utility billing clerk position on the afternoons of April 12 and 13. On April 12, I began advertising for the current planning commission vacancy.

On April 13, I drafted a letter of support for the Rainier Oregon Historical Museum project and handed it to State Representative Suzanne Weber at an event she held in Clatskanie. I also met with City Forester Patrick McCoy.

I attended meetings of the Rainier Chamber of Commerce and the ROHM on April 14 and also met with Paul Vogel from Columbia Economic Team.

During the week of April 18, I facilitated a meeting between Columbia County Emergency Manager Chris Carey and representatives of the Rainier Drainage Improvement District and attended the Rainier Chamber board meeting the following day.

Lastly, much time this month has also been spent coordinating with staff to put together the budget, preparing for union negotiations and making arrangements for the upcoming May 29 riverfront bridge dedication event.

Sincerely,

W. Scott Jorgensen, Executive MPA
City Administrator

ORDINANCE NO. 1082

AN ORDINANCE PERTAINING TO FLOOD DAMAGE PREVENTION IN THE CITY OF RAINIER

STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

1.1 STATUTORY AUTHORIZATION

The State of Oregon has in OR ORS 197.175 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, the City of Rainier does ordain as follows:

1.2 FINDINGS OF FACT

- A. The flood hazard areas of the City of Rainier 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.

1.3 STATEMENT OF PURPOSE

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 flood hazard areas by provisions designed to:

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

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

- G. Notify potential buyers that the property is in a special flood hazard area
- H. Notify those who occupy special flood hazard areas that they assume responsibility for their actions
- I. Participate in and maintain eligibility for flood insurance and disaster relief.

1.4 METHODS OF REDUCING FLOOD LOSSES

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

- 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 flood waters;
- 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 flood waters or may increase flood hazards in other areas.

DEFINITIONS

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.

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

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

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

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

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

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

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

Flood or Flooding:

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

Flood elevation study: See “Flood Insurance Study.”

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

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

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be

reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

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

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

Historic structure: Any structure that is:

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

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

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

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

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a

community's Flood Insurance Rate Map are referenced.

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

Recreational vehicle: A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

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

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

1. 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
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance: A grant of relief by the City of Rainier from the terms of a flood plain management regulation.

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

GENERAL PROVISIONS

1.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Rainier.

1.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for the City of Rainier, Oregon (Flood Map 41009C010D, dated November 26, 2010, with accompanying Flood Insurance Rate Maps (FIRMs) 410038, is hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the Columbia County Planning Department, St. Helens, Oregon, and available online at <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd&extent=-122.97294158263547,46.07290874175574,-122.90565032286993,46.102672907506594>.

1.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that the City of Rainier administers and enforces the State of Oregon Specialty Codes, the City of Rainier does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

1.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

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.

PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class I misdemeanor, punishable by a \$500 fine. Nothing contained herein shall prevent the City of Rainier from taking such other lawful action as is necessary to prevent or remedy any violation.

1.5 ABROGATION AND SEVERABILITY

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.

SEVERABILITY

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

1.6 INTERPRETATION

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

1.7 WARNING AND DISCLAIMER OF LIABILITY

WARNING

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

flood damages.

DISCLAIMER OF LIABILITY

This ordinance shall not create liability on the part of the City of Rainier, 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.

ADMINISTRATION

1.8 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

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

1.9 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:
PERMIT REVIEW

Review all development permits to determine that:

- A. The permit requirements of this ordinance have been satisfied;
- B. All other required local, state, and federal permits have been obtained and approved.
- C. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section 0 are met; and
- D. Review all development permits to determine if 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 sections 5.1.7; and
- E. Provide to building officials the Base Flood Elevation (BFE) with an additional two-foot freeboard height applicable to any building requiring a development permit.
- F. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section 2.0.
- G. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 5.1.1.
- H. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

INFORMATION TO BE OBTAINED AND MAINTAINED

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

- A. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section **5.1.7**.
- B. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections **5.2.4**, **5.3.1(F)**, **4.2.1(B)** are adhered to.
- C. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- D. Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- E. Maintain all Elevation Certificates (EC) submitted to the community;
- F. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section **5.1.7**.
- G. Maintain all floodproofing certificates required under this ordinance;
- H. Record and maintain all variance actions, including justification for their issuance;
- I. Obtain and maintain all hydrologic and hydraulic analyses performed as required under section **5.2.4**.
- J. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section **4.2.4**.
- K. Maintain for public inspection all records pertaining to the provisions of this ordinance.

REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

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.

WATERCOURSE ALTERATIONS

Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- 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.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section **4.2.3.3**. Ensure compliance with all applicable requirements in sections **4.2.3.3** and **5.1.1**.

REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

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

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

- 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.

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).

SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) (as defined in section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 4.2.2. Conduct Substantial Damage (SD) (as defined in section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 3.2) 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.

1.10 ESTABLISHMENT OF DEVELOPMENT PERMIT

FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 3.2. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 2.0, including fill and other development activities.

APPLICATION FOR DEVELOPMENT PERMIT

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

- A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 4.2.2.
- B. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
- C. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section 5.2.3.3.
- D. Description of the extent to which any watercourse will be altered or relocated.
- E. Base Flood Elevation data for subdivision proposals or other development when required per sections 4.2.1 and 5.1.6.
- F. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- G. The amount and location of any fill or excavation activities proposed.

1.11 VARIANCE PROCEDURE

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

CONDITIONS FOR VARIANCES

- A.** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections 4.4.1 (C) and (E), and 4.4.2. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- B.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C.** Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- D.** Variances shall only be issued upon:
 - 1.** A showing of good and sufficient cause;
 - 2.** A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 3.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- E.** Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section 4.4.1 (B) – (D) 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.

VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 4.2.2.

PROVISIONS FOR FLOOD HAZARD REDUCTION

1.12 GENERAL STANDARDS

In all special flood hazard areas, the following standards shall be adhered to:

ALTERATION OF WATERCOURSES

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 4.2.3.2 and 4.2.3.3.

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 section 5.2.3.4.

CONSTRUCTION MATERIALS AND METHODS

- A.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B.** All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

UTILITIES AND EQUIPMENT

WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS

- A.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- B.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- 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.

ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level an additional 24 inches or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section if replaced as part of a substantial improvement.

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 at or above the base flood level and an additional two-feet of freeboard height or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

SUBDIVISION PROPOSALS & OTHER PROPOSED DEVELOPMENTS

- A. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
- B. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:
 - 1. Be consistent with the need to minimize flood damage.
 - 2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
 - 3. Have adequate drainage provided to reduce exposure to flood hazards.

USE OF OTHER BASE FLOOD ELEVATION DATA

When Base Flood Elevation data has not been provided in accordance with section 3.2 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section 5.0. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section 5.1.6.

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc... where available. See FIRM 410038. When no Base Flood Elevation data is available the elevation requirement is two feet above the highest adjacent grade. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

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.

1.13 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 5.1 of this ordinance.

FLOOD OPENINGS

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- A.** Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- B.** Be used solely for parking, storage, or building access;
- C.** Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - 1.** A minimum of two openings,
 - 2.** The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
 - 3.** The bottom of all openings shall be no higher than one foot above grade.
 - 4.** Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
 - 5.** 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.

GARAGES

- A.** Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
 - 1.** If located within a floodway the proposed garage must comply with the requirements of section 5.2.4.
 - 2.** The floors are at or above grade on not less than one side;
 - 3.** The garage is used solely for parking, building access, and/or storage;
 - 4.** The garage is constructed with flood openings in compliance with section 5.2.1 to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - 5.** The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - 6.** The garage is constructed in compliance with the standards in section 5.1; and
 - 7.** The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating

within the components during conditions of the base flood.

- B.** Detached garages must be constructed in compliance with the standards for appurtenant structures in section 5.2.3.6 or non-residential structures in section 5.2.3.3 depending on the square footage of the garage.

FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS

In addition to the general standards listed in section 5.1 the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

BEFORE REGULATORY FLOODWAY

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

RESIDENTIAL CONSTRUCTION

- A.** New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE) a minimum of two feet of freeboard.
- B.** Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 5.2.1.

NON-RESIDENTIAL CONSTRUCTION

- A.** New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:
 - 1.** Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) by two feet freeboard;Or, together with attendant utility and sanitary facilities:

Additional Recommended Language Provided in Appendix B

- i.** Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- ii.** Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- iii.** 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 section 4.2.2.

- B.** Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section 5.2.1.
- C.** Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below).

MANUFACTURED DWELLINGS

- A.** Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with section 5.2.1;
- B.** The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
- C.** Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- D.** Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to:

- A.** Be on the site for fewer than 180 consecutive days, and
- B.** Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- C.** Meet the requirements of section 5.2.3.4, including the anchoring and elevation requirements for manufactured dwellings.

APPURTENANT (ACCESSORY) STRUCTURES

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

- A.** Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found

in section 5.2.4.

- B.** Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
- C.** In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.
- D.** The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- E.** The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- F.** The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 5.2.1;
- G.** Appurtenant structures shall be located and constructed to have low damage potential;
- H.** Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with section 5.1.5.
- I.** Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

FLOODWAYS

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

- A.** Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
 - 1.** Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;
 - Or,
 - 2.** A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations,

provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

- B.** If the requirements of section 5.2.4 (A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 5.0.
 - 1.** hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 5.2.3.3(A)(4).
- B.** Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
 - 1.** Be on the site for fewer than 180 consecutive days, and
 - 2.** Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - 3.** Meet the elevation requirements of section 5.2.5.2(A), and the anchoring and other requirements for manufactured dwellings of section 5.2.3.4.
- C.** In AO zones, new and substantially improved appurtenant structures must comply with the standards in section 5.2.3.6.
- D.** In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section 5.2.1.

Appendix A –Definitions

Building: See "Structure."

Critical facility: Means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

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

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

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

Floodplain management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

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

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

- (a) Hazardous waste as defined in ORS 466.005;
- (b) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under 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;
- (i) Dry cleaning solvent as defined by ORS 465.200(9).

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

- (a) **Conditional Letter of Map Amendment (CLOMA):** A CLOMA is FEMA’s comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
- (b) **Conditional Letter of Map Revision (CLOMR):** A CLOMR is 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.
- (c) **Conditional Letter of Map Revision based on Fill (CLOMR-F):** A CLOMR-F is 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.
- (d) **Letter of Map Amendment (LOMA):** An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.
- (e) **Letter of Map Revision (LOMR):** A LOMR is 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 SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
- (f) **Letter of Map Revision based on Fill (LOMR-F):** A LOMR-F is 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.
- (g) **PMR:** A PMR is FEMA’s physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or 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.

Regulatory floodway: See “Floodway.”

Sheet flow area: See "Area of shallow flooding."

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

Water surface elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas; to include Columbia River Datum (CRD).

Passed by the City of Rainier council and approved by the mayor on the ____ date of _____, 2022.

Attested:

BY: _____
Jerry Cole, Mayor

BY: _____
Scott Jorgensen, City Administrator

ORDINANCE NO. 1083

AN ORDINANCE OF THE CITY OF RAINIER, OREGON REGARDING THE ANNEXATION OF CONTIGUOUS PROPERTIES AND ANNEXATION OF PROPERTIES THAT ARE A DANGER TO PUBLIC HEALTH

WHEREAS, on August 25, 1983, the City of Rainier's land use regulations were officially acknowledged by the Oregon Land Conservation and Development Commission; and

WHEREAS, the City of Rainier Municipal Code, Zoning Code Title 18, Chapter 18.10.070: and Ordinance 974 provides the standards, procedures, and factors by which the City evaluates annexation proposals; and

WHEREAS, the City of Rainier shall provide clear and in-depth regulations in relation to the annexation application and approval process to ensure that annexations are timely, orderly and efficient; and

WHEREAS, Rainier City Council held a meeting on August 2, 2021 and the Planning Commission on September 22, 2021 to discuss code amendments and annexation regulations; and

WHEREAS, the Planning Commission held a public hearing on October 20, 2021 and found that the proposed annexation process and amendments pursuant to ORS 197.175: Cities' and counties' planning responsibilities; rules on incorporations; compliant with goals.

WHEREAS, the Rainier City Council recognizes that the City has historically processed annexations without applications having to be voted on; and

WHEREAS, property owners interested in annexation may initiate their own annexation process if the properties are contiguous to existing City limits through the Expedited Annexation process, which does not require a public hearing, and

WHEREAS, the provision of future city services shall be limited to properties within the City limits, and

WHEREAS, city services shall be provided to only structures within the city limits and will actively pursue the annexation of all properties currently served by city services outside of the city, and

WHEREAS, the City of Rainier shall be able to initiate annexations; and

WHEREAS, annexations shall be completed without a citywide election; and

WHEREAS, properties that are within the Urban Growth Boundary and a danger to public health due to inadequate water or septic systems shall be annexed into the City to protect public health or for a reason that the City deems necessary; and

WHEREAS, the Rainier City Council finds that annexation of developed property is in the best interest of the City and of the contiguous territory; now therefore,

BE IT RESOLVED, that the Rainier City Council does hereby allow annexation of properties within the Urban Growth Boundary into city limits by property owner initiation and City initiated annexation of properties that are a danger to public health or for a reason that the City deems necessary.

Adopted by the Rainier City Council at a regularly scheduled meeting thereof, on the ____ day of _____, 202_ and effective this date.

City of Rainier, Oregon

Jerry Cole, Mayor

ATTEST:

City Recorder

Division III

Chapter 18.

ANNEXATIONS

Sections

18.00.00 Purpose

18.00.00 State and regional regulations regarding annexations

18.00.00 Definitions

18.00.00 General Procedures

18.00.00 Initiation Procedures

18.00.00 Annexation Procedures

18.00.00 Submittal Requirements

18.00.00 Approval Criteria

18.00.00 Purpose

The purpose of this section is to establish the necessary procedures and criteria under Oregon Revised Statutes Chapter 222 and all related chapters. The provisions of this section are hereby adopted to achieve orderly and efficient annexation of lands into the City of Rainier city limits.

- A. The procedures and standards set forth in this section are required for review and decision of proposed annexations and will ensure that:
 - a. A system for measuring the physical, environmental, fiscal and related social effects of proposed annexations is established;
 - b. The City of Rainier will be able to initiate annexations;
 - c. The City of Rainier will not be required to hold citywide elections for annexations;
 - d. The City of Rainier will not be held responsible for providing services to any structures outside of city limits; and
 - e. Ensure adequate time for review by staff.

18.00.00 State and regional regulations regarding annexations.

The regulations and requirements of Oregon Revised Statute Chapter 222 are concurrent obligations for annexation and are not affected by the provisions of this chapter.

18.00.00 Definitions

The following definitions shall be used in this chapter:

“Annexation” means boundary change due to an annexation or withdrawal of territory to from a city or district, or from a city/county to a city; and the extra-territorial extension of water or sewer service by a city or district.

“City” means to the City of Rainier

“Commission” means the City of Rainier Planning Commission

“Contiguous” means sharing a common border or touching

“Council” means the City of Rainier City Council

18.00.00 General Procedures

The general procedures stated in this section shall apply to all annexation proposals.

- A. Annexation proposals shall be considered by the Council pursuant to the Type IV legislative process, as stated in Chapter 18.160, except that the Commission shall conduct no public hearing or recommendation. The Council decision shall be the “Final Decision” for purposes of compliance with 18.160.050.
- B. Notice
 - a. The City Planning Official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.
 - b. Written notice may also be conducted electronically through Plan Amendments (PAPA) online through DLCD.
 - c. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - i. Each owner whose property would be directly affected by the proposal;
 - ii. Any affected governmental agency;
 - iii. Any person who requests notice in writing.
 - d. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
 - e. For each mailing and publication of notice, the City Planning Official shall keep an affidavit of mailing/publication in the record.

C. A staff report shall be issued prior to Final Decision by the Council.

D. The decision made by Council shall be in writing

18.00.00 Initiation Procedures

Initiation Procedures shall apply to annexation proposals.

A. An annexation proposal may be initiated by the City of Rainier through the Council, on its own motion, as set forth in this section. The Council may terminate proceedings under this section at any time.

B. An annexation proposal may be initiated pursuant to the state law Health Hazard Abatement annexation process.

C. An annexation proposal may be initiated pursuant to the state law Island annexation process.

D. An annexation proposal may be initiated by submission of city forms of property owner(s) of the area to be annexed as set forth in this section.

a. When all of the owners of land in the territory to be annexed ~~and not less than 50% of the electors, if any, residing in the territory to be annexed,~~ consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.

~~b. When a majority of the electors registered in the territory proposed to be annexed consent in writing to the annexation and the owners of more than half of the land in the territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.~~

c. A pre-application conference is strongly encouraged prior to the submittal of an annexation partition.

18.00.00 Annexation Procedures

A. A proposal shall be considered by the City Council without a public hearing and may be placed on the Council consent agenda. The Council decision on the proposal shall be considered the “Final Decision.”

B. The petition requirements for expedited applications must be accompanied by the written consent of 100% of the property owners ~~and at least 50% of the electors, if any,~~ within the affected territory.

- C. Notice of petition for an expedited process must be provided a minimum of 20 days prior to the final decision and shall follow the notification procedures as required for Type IV Comprehensive Plan amendments.
- D. A brief staff report shall be issued at least seven days prior to the decision date.
- E. An expedited process cannot be used if a necessary party gives written notice to contest the decision.

18.00.00 Submittal Requirements

An applicant for annexation shall submit six copies of the application materials. The City may require additional copies if deemed necessary. The application materials shall include:

- A. A complete and signed annexation application packet of forms provided to the City.
- B. A petition, on City forms, completed by property owners ~~and/or electors~~ residing in the affected territory that meets the minimum petition requirements set forth by the City.
- C. A metes and bounds legal description of the territory to be annexed, meeting the relevant requirements of ORS 308.225. A lot and block description may be substituted if the area is platted. If the legal description contains any deed or book and page references, legible copies of these shall be submitted with the legal description.
- D. A map showing the affected territory, any public streets to be annexed and parcels within 300 feet of the affected territory including any public streets. The affected territory shall be identified on the map. The map shall be submitted on an 11 x 17-inch map and shall show scale and a north arrow.
- E. A narrative which addresses the approval criteria.
- F. A request for an expedited procedure if desired by the applicant.
- G. The applicant is responsible for all fees related to the annexation process.

18.00.00 Approval Criteria

The City Council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

- A. Findings conducted by the City Planning Official or other City staff.
- B. The affected territory must be located within the City's Urban Growth Boundary.
- C. The affected territory is contiguous to the existing city limits.

- D. The city will attempt to apply zoning which is most like the county zone. Try to avoid nonconforming uses.
- E. A City of Rainier Covenant of Waiver of Rights and Remedies City form has been executed by all owners of the property to be annexed and all owners of any interest in the property to be annexed regarding waiver of any statutory or constitutional regulatory provisions, including but not limited to, Ballot Measure 37 (effective December 2, 2004) as amended by Ballot Measure 49. This section only applies to those property owners who have consented in writing to annexation.
- F. That either:
 - a. That funding mechanisms required to construct transportation, wastewater, water, stormwater and park facilities consistent with adopted Public Facility or Utility Master Plans, Parks and/or Transportation System Plans are in place or;
 - b. In lieu, a Public Facilities, Parks, and Transportation Agreement is executed that funding will be in place prior to or concurrent with a development permit application.
- G. That the public interest would be furthered by the annexation.

18.00.00 Fiscal Impact Statement

The City shall prepare a fiscal impact statement, which shall estimate the fiscal impact that the proposed annexation would have on the City's general fund. The fiscal impact information shall be utilized in the determination of whether the public interest would be furthered by the approval of the annexation.

18.00.00 Appeals

The City Council decision may be appealed according to state law.

ORDINANCE NO. 1084

**AN ORDINANCE OF THE CITY OF RAINIER
REPEALING ORDINANCE 1055**

WHEREAS, on November 17, 2010, the City of Rainier adopted Ordinance No. 1055 Adopting Amendments to the City of Rainier Comprehensive Plan and Zoning Ordinance, and

WHEREAS, Ordinance No. 1055 was codified as Chapter 18.120 of the Rainier Municipal Code, and

WHEREAS, city staff has consulted with officials from the Oregon Department of Land Conservation and Development (DLCD) about updating the City's flood plain regulations, and

WHEREAS, the Rainier Planning Commission voted unanimously to recommend council passage of Ordinance 1082 to update the City's flood plain regulations, and

WHEREAS, upon council's adoption of Ordinance 1082, it will be the most recent update to the City's flood plain regulations, and

WHEREAS, upon the adoption of Ordinance 1082, Ordinance 1055 will be outdated, and

WHEREAS, based on the input from DLCD, city staff has decided that Ordinance 1055 should be repealed, as it is outdated and no longer serving its intended purpose;

WHEREAS, it appears to the City of Rainier council that the public interest will best be served by repealing this ordinance.

NOW, THEREFORE, the City of Rainier ordains as follows: Ordinance No. 1055, adopted on November 17, 2010, is hereby repealed.

Passed by the City of Rainier council and approved by the mayor on the ____ date of _____, 2022.

Attested:

BY: _____
Jerry Cole, Mayor

BY: _____
Scott Jorgensen, City Administrator

Chapter 18.50 WATERFRONT MIXED USE OVERLAY ZONE (WM OVERLAY)

Sections:

- 18.50.010 Purpose and intent.**
- 18.50.012 Design objectives for framework plan.**
- 18.50.015 Role of the framework plan.**
- 18.50.020 Permitted uses.**
- 18.50.030 Conditional uses.**
- 18.50.040 Development standards.**
- 18.50.050 Design review.**

18.50.010 Purpose and intent.

This overlay zone is intended to accommodate development of a cohesive community within the context of the Rainier mixed use waterfront framework plan. A primarily residential community is envisioned, including a variety of housing types. Public open space is also an important component of the framework plan, including public access to and along the Columbia River. In addition to residential and public uses, other commercial service, retail, office and marine-related retail and recreational uses are permitted to provide market flexibility and the opportunity for mixed use development. Quality building design and a pedestrian-friendly character for streets are also intended. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.012 Design objectives for framework plan.

The framework plan for the waterfront mixed use overlay zone was developed through a public, collaborative process. The following design objectives shaped the framework plan:

- A. Create a residential community – a place where neighbors know each other.
- B. Provide a variety of housing that balances quality with appropriate pricing.
- C. Provide for mixed use – living, working, and community gathering.
- D. Link the physical design of the community to Rainier’s small town character.
- E. Provide public access to, and along, the waterfront.
- F. Provide open spaces and river views.
- G. Coordinate with adjacent park lands and the boat launch.

H. Design streets that are attractive for walking.

I. Be flexible – provide for phased development over time. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8.2), 1998)

18.50.015 Role of the framework plan.

The framework plan for the waterfront mixed use overlay zone is attached as Exhibit A to the ordinance codified in this chapter and is incorporated into the zoning ordinance by this reference. The framework plan illustrates the key elements for development in the zone, including the following:

A. Westerly extension of “A” Street and approximate location of north-south local street connections. Cross-sections for “A” Street and local streets are attached as examples.

B. Designation of the Riverfront Greenway and Trail. Approximate locations for riverfront access/viewpoints are also shown. A cross-section for the Riverfront Trail is attached as an example.

C. Identification of a “core area” as the most appropriate location for civic, mixed use development and higher density residential uses to serve and support the adjacent neighborhood areas identified in the framework plan. The core area is also the preferred location for a public park.

D. Identification of “neighborhood edge” areas as the transition where civic, mixed use and higher density uses are also appropriate, but where design and development needs to promote transition and compatibility between the core and the neighborhoods.

Regulatory elements of the framework plan are implemented through the development standards of this zone (see RMC [18.50.040](#)). An illustrative plan has been prepared to show one approach for development that is consistent with the framework plan. The illustrative plan is not regulatory or binding, and it is intended only as a guide for potential development. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8.3), 1998)

18.50.020 Permitted uses.

The following categories of uses are permitted outright in the waterfront mixed use overlay zone (WM overlay):

A. Residential Uses.

1. Detached single-family dwelling (excluding manufactured homes).
2. Zero lot line dwelling.
3. Attached single-family dwelling.

4. Two-family dwelling.
5. Multifamily dwelling.
6. Senior housing, congregate care, assisted living, adult foster care.

B. Commercial/Office/Public Uses.

1. Commercial service uses (for example, barber and beauty shop, laundry, shoe repair, dry cleaner, tailor).
2. Commercial retail uses (for example, grocery store, drug store, restaurant, tavern, garden store, department or furniture store, secondhand store), provided no single retail establishment exceeds 20,000 square feet in floor area.
3. Professional office or clinic (for example, medical or dental office, tax preparation service, veterinary clinic).
4. General business or corporate office uses (for example, offices of financial, insurance, real estate and government organizations).
5. Tourist-oriented uses (for example, motel/hotel, gift shop).
6. Public park. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.030 Conditional uses.

The following uses are permitted in the waterfront mixed use overlay zone (WM overlay) when a conditional use permit is approved subject to Chapter [18.130](#) RMC.

A. Any of the following water-oriented uses:

1. Marina.
2. Boat sales or service.
3. Boat launching facility.
4. Public or private dock.
5. Storage of marine equipment in buildings with less than 5,000 square feet total space.

B. Public use (public parks are permitted).

C. Semipublic use. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.040 Development standards.

The following development standards apply in the waterfront mixed use overlay zone (WM overlay) to implement the framework plan.

A. Street Connectivity and Formation of Block Required. In order to promote efficient vehicular and pedestrian circulation through the waterfront mixed use overlay zone (WM overlay) and compatibility with the established street grid of Rainier, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets.

1. Block Length and Perimeter. A block length of 320 feet is recommended for compatibility with the established street grid of Rainier. Block lengths shall not exceed 400 feet and the block perimeter shall not exceed 1,200 feet in the waterfront mixed use overlay zone (WM overlay).

2. Exception. The planning commission may grant an exception to the block length and perimeter standard when blocks are divided by one or more pathway(s). Pathways shall be provided at or near midblock where the block length exceeds the 400-foot standards. Pathways shall be located to minimize out-of-direction travel by pedestrians and cyclists.

Additionally, the planning commission may grant an exception to the block length and perimeter standard for publicly owned parks and for blocks in the waterfront mixed use overlay zone (WM overlay) that abut public parks or industrial zones; or for large commercial or residential uses deemed appropriate by the commission.

B. Street Standards. Public and private streets in the waterfront mixed use overlay zone (WM overlay) shall conform to city standards. Private streets are permitted with planning commission approval subject to the following limitations:

1. Private streets shall be built to city standards.
2. Private streets shall include permanent easements for public access.
3. Private streets shall include provisions and an agreement for maintenance.

Alleys are encouraged but not required in the waterfront mixed use overlay zone (WM overlay).

C. Columbia River Greenway and Trail. Increasing public access to and along the Columbia River is one of the key goals of the Rainier waterfront urban renewal plan and the framework plan. As depicted on these plans, development adjacent to the Columbia River shall maintain a 45-foot setback from the riverfront property line. Public dedication of the greenway and trail is preferred. A cross-section for the landscape treatment and trail

construction within the greenway is shown in the plan. Access to the greenway trail shall be provided from the end of the north/south streets, as depicted on the framework plan.

D. Development Adjacent to the Greenway. Development adjacent to the greenway shall include appropriate breaks between buildings so as to avoid a “wall” effect. Buildings should not exceed 100 feet in length and should be separated by at least 15 feet along the greenway.

E. Lot Standards. The following lot standards are designed to accommodate a variety of housing and building types in the waterfront mixed use overlay zone (WM overlay).

Land Use	Min. Lot Area	Min. Lot Width
Detached SF housing	3,500 sf	35 ft.
Attached SF housing	2,400 sf	24 ft.
Duplex	5,000 sf	50 ft.
MF housing (+ 3 units)	9,000 sf	90 ft.
Commercial/office	No minimum	50 ft.
Public/semipublic	No minimum	50 ft.

F. Residential Densities. To assure efficient use of land in the waterfront mixed use overlay zone (WM overlay), residential projects shall be developed at a minimum density of 10 units per net acre (excluding area devoted to streets). Minimum densities shall be calculated on a project-by-project basis and may include multiple contiguous parcels and phased developments. There are no minimum density requirements when residential units are developed above first floor commercial or office uses.

Maximum density in the waterfront mixed use overlay zone (WM overlay) is 25 units per net acre. Assisted living facilities are not subject to this maximum density, and are limited only by maximum building heights and setbacks.

G. Building Setbacks. Building setbacks provide space for private yards and building separation for fire protection, building maintenance, sunlight and air circulation. Building setbacks can also promote human-scale design and neighborhood security by placing buildings close to and oriented to the street.

1. Front Yard Setbacks – Residential Uses.

a. A minimum setback of 10 feet is required outside of the core area. A zero setback is allowed in the core area. An unenclosed front porch may encroach into the front yard setback, as long as it does not encroach into a public utility easement.

b. Residential uses shall not exceed a maximum front yard setback of 25 feet.

c. Garages and carports shall be accessed from alleys or recessed behind the front building elevation by a minimum of two feet.

2. Side and Rear Yard Setbacks – Residential Uses.

a. A minimum side yard setback of five feet is required for detached single-family and multifamily dwellings.

b. A minimum rear yard setback of 10 feet is required for all residential dwellings.

3. Setbacks – Commercial/Office/Public/Semipublic Uses.

a. No minimum front yard setback is required, except as necessary to comply with vision clearance standards.

b. A maximum front yard setback of 25 feet is required. This standard is met when a minimum of 50 percent of the front building elevation is placed 25 feet or closer to the front property line. On parcels with more than one building, this standard applies to the largest building.

c. The maximum front yard setback standard shall not apply to buildings that do not receive the public (e.g., buildings used for storage or housing mechanical equipment, and similar uses).

d. No minimum side or rear yard setback is required, except where such yards abut existing or approved residential uses. In such cases, the side or rear yard requirement shall match the yard requirement for the residential use.

H. Building Heights. In order to provide a step-down in building heights toward the Columbia River, building heights in the east and west neighborhoods shall not exceed two stories or 35 feet to the north of the A Street extension, and shall not exceed four stories or 55 feet to the south of the A Street extension. Buildings in the core area shall not exceed three stories or 45 feet.

I. Building Orientation. The following standards are intended to orient buildings to streets to promote human-scale development, slow traffic, and encourage walking in neighborhoods. Placing residences and other buildings close to

the street also encourages security and safety by having more “eyes on the street.” The building orientation standards are applicable to all housing types and to nonresidential buildings.

1. All buildings shall have their primary entrance(s) oriented to the street. Multifamily and commercial building entrances may include entrances to individual units, lobby entrances, or breezeway/courtyard entrances.
2. Off-street parking areas shall not be placed between the primary entrance and the street. Vehicles may be parked in driveways serving detached and attached single-family housing. However, garages must be recessed a minimum of two feet from the front facade of the dwelling, as specified in subsection (G)(1)(c) of this section.
3. The building orientation standards are not applicable to nonresidential buildings which do not receive the public such as storage or utility buildings. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.050 Design review.

All new development in the waterfront mixed use overlay zone (WM overlay), including single-family housing types, is subject to design review. In addition to the criteria for design review approval set forth in Chapter [18.145](#) RMC, the following additional criteria are applicable in the waterfront mixed use overlay zone (WM overlay):

- A. Consistency with Design Objectives and Framework Plan. The proposed development is consistent with the design objectives and the framework plan for the waterfront mixed use overlay zone.
- B. Consistency with Development Standards. The proposed development is consistent with the development standards for the waterfront mixed use overlay zone.
- C. Design Guidelines for Residential Buildings. Residential buildings should address the following guidelines:

1. Garage Placement. The garage must not be the dominant feature of the front of the dwelling. Side placement, rear placement, or a recess of two feet minimum are preferred. Overhangs and front porches may be incorporated into addressing this guideline.

2. Quality of Materials.

- a. Buildings should use high quality materials.

At least two different types of materials should be provided on the sides of buildings that face streets. Variation in the patterns of the same materials is an acceptable alternative.

3. Porches. Usable front porches (approximately six feet by eight feet minimum) that are covered should be provided on at least 50 percent of the buildings.

4. Roof Pitch. A minimum roof pitch of 4:12 should be provided.

5. Building and Roof Articulation. Exterior offsets, balconies, projections, window reveals, variations in roof pitch and similar elements details should be provided.

6. Variation in Color. Developments should avoid overuse of the same exterior paint colors. As a guideline, color should vary on every block face.

D. Design Guidelines for Civic, Commercial and Mixed-Use Buildings. Civic, commercial and mixed-use buildings should address the following guidelines:

1. Location of Entries. The building orientation standards in this chapter shall be met. On corner lot, corner entrances are encouraged and may substitute for having an separate entry on each street side of the building.

2. Quality of Materials. a. Buildings should use high quality materials.

At least two different types of materials should be provided on the sides of buildings that face streets. Variation in the patterns of the same materials is an acceptable alternative.

3. Weather Protection. Buildings that abut the public sidewalk should provide awnings or canopies along appropriate lengths of the building facade.

4. Building and Roof Articulation. Exterior offsets, balconies, projections, window reveals, variations in roof pitch and similar elements details should be provided.

5. Ground Floor Windows and Doors. Ground floor windows should occupy the majority of the street side facade. A guideline of 60 percent of the length and 25 percent of the first 12 feet of height is suggested.

6. Pedestrian Amenities. Street-side amenities are encouraged. Examples include benches, plazas, planters, seating walls, and public art.

E. Where the standards of the waterfront mixed use overlay zone (WM overlay) conflict with other standards in the zoning ordinance, the land division ordinance or the transportation system plan, the standards of the waterfront mixed use overlay zone (WM overlay) shall control. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

Chapter 18.50
WATERFRONT MIXED USE OVERLAY ZONE (WM OVERLAY)

Sections:

- 18.50.010 Purpose and intent.**
- 18.50.012 Design objectives for framework plan.**
- 18.50.015 Role of the framework plan.**
- 18.50.020 Permitted uses.**
- 18.50.030 Conditional uses.**
- 18.50.040 Development standards.**
- 18.50.050 Design review.**

18.50.010 Purpose and intent.

This overlay zone is intended to accommodate development of a cohesive community within the context of the Rainier mixed use waterfront framework plan. A primarily residential community is envisioned, including a variety of housing types. Public open space is also an important component of the framework plan, including public access to and along the Columbia River. In addition to residential and public uses, other commercial service, retail, office and marine-related retail and recreational uses are permitted to provide market flexibility and the opportunity for mixed use development. Quality building design and a pedestrian-friendly character for streets are also intended. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.012 Design objectives for framework plan.

The framework plan for the waterfront mixed use overlay zone was developed through a public, collaborative process. The following design objectives shaped the framework plan:

- A. Create a residential community – a place where neighbors know each other.
- B. Provide a variety of housing that balances quality with appropriate pricing.
- C. Provide for mixed use – living, working, and community gathering.
- D. Link the physical design of the community to Rainier’s small town character.
- E. Provide public access to, and along, the waterfront.
- F. Provide open spaces and river views.
- G. Coordinate with adjacent park lands and the boat launch.

H. Design streets that are attractive for walking.

I. Be flexible – provide for phased development over time. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8.2), 1998)

18.50.015 Role of the framework plan.

The framework plan for the waterfront mixed use overlay zone is attached as Exhibit A to the ordinance codified in this chapter and is incorporated into the zoning ordinance by this reference. The framework plan illustrates the key elements for development in the zone, including the following:

A. Westerly extension of “A” Street and approximate location of north-south local street connections. Cross-sections for “A” Street and local streets are attached as examples.

B. Designation of the Riverfront Greenway and Trail. Approximate locations for riverfront access/viewpoints are also shown. A cross-section for the Riverfront Trail is attached as an example.

C. Identification of a “core area” as the most appropriate location for civic, mixed use development and higher density residential uses to serve and support the adjacent neighborhood areas identified in the framework plan. The core area is also the preferred location for a public park.

D. Identification of “neighborhood edge” areas as the transition where civic, mixed use and higher density uses are also appropriate, but where design and development needs to promote transition and compatibility between the core and the neighborhoods.

Regulatory elements of the framework plan are implemented through the development standards of this zone (see RMC [18.50.040](#)). An illustrative plan has been prepared to show one approach for development that is consistent with the framework plan. The illustrative plan is not regulatory or binding, and it is intended only as a guide for potential development. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8.3), 1998)

18.50.020 Permitted uses.

The following categories of uses are permitted outright in the waterfront mixed use overlay zone (WM overlay):

A. Residential Uses.

1. Detached single-family dwelling (excluding manufactured homes).
2. Zero lot line dwelling.
3. Attached single-family dwelling.

4. Two-family dwelling.
5. Multifamily dwelling.
6. Senior housing, congregate care, assisted living, adult foster care.

B. Commercial/Office/Public Uses.

1. Commercial service uses (for example, barber and beauty shop, laundry, shoe repair, dry cleaner, tailor).
2. Commercial retail uses (for example, grocery store, drug store, restaurant, tavern, garden store, department or furniture store, secondhand store), provided no single retail establishment exceeds 20,000 square feet in floor area.
3. Professional office or clinic (for example, medical or dental office, tax preparation service, veterinary clinic).
4. General business or corporate office uses (for example, offices of financial, insurance, real estate and government organizations).
5. Tourist-oriented uses (for example, motel/hotel, gift shop).
6. Public park. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.030 Conditional uses.

The following uses are permitted in the waterfront mixed use overlay zone (WM overlay) when a conditional use permit is approved subject to Chapter [18.130](#) RMC.

A. Any of the following water-oriented uses:

1. Marina.
2. Boat sales or service.
3. Boat launching facility.
4. Public or private dock.
5. Storage of marine equipment in buildings with less than 5,000 square feet total space.

B. Public use (public parks are permitted).

C. Semipublic use. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.040 Development standards.

The following development standards apply in the waterfront mixed use overlay zone (WM overlay) to implement the framework plan.

A. Street Connectivity and Formation of Block Required. In order to promote efficient vehicular and pedestrian circulation through the waterfront mixed use overlay zone (WM overlay) and compatibility with the established street grid of Rainier, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets.

1. Block Length and Perimeter. A block length of 320 feet is recommended for compatibility with the established street grid of Rainier. Block lengths shall not exceed 400 feet and the block perimeter shall not exceed 1,200 feet in the waterfront mixed use overlay zone (WM overlay).

2. Exception. The planning commission may grant an exception to the block length and perimeter standard when blocks are divided by one or more pathway(s). Pathways shall be provided at or near midblock where the block length exceeds the 400-foot standards. Pathways shall be located to minimize out-of-direction travel by pedestrians and cyclists.

Additionally, the planning commission may grant an exception to the block length and perimeter standard for publicly owned parks and for blocks in the waterfront mixed use overlay zone (WM overlay) that abut public parks or industrial zones; or for large commercial or residential uses deemed appropriate by the commission.

B. Street Standards. Public and private streets in the waterfront mixed use overlay zone (WM overlay) shall conform to city standards. Private streets are permitted with planning commission approval subject to the following limitations:

1. Private streets shall be built to city standards.
2. Private streets shall include permanent easements for public access.
3. Private streets shall include provisions and an agreement for maintenance.

Alleys are encouraged but not required in the waterfront mixed use overlay zone (WM overlay).

C. Columbia River Greenway and Trail. Increasing public access to and along the Columbia River is one of the key goals of the Rainier waterfront urban renewal plan and the framework plan. As depicted on these plans, development adjacent to the Columbia River shall maintain a 45-foot setback from the riverfront property line. Public dedication of the greenway and trail is preferred. A cross-section for the landscape treatment and trail

construction within the greenway is shown in the plan. Access to the greenway trail shall be provided from the end of the north/south streets, as depicted on the framework plan.

D. Development Adjacent to the Greenway. Development adjacent to the greenway shall include appropriate breaks between buildings so as to avoid a “wall” effect. Buildings should not exceed 100 feet in length and should be separated by at least 15 feet along the greenway.

E. Lot Standards. The following lot standards are designed to accommodate a variety of housing and building types in the waterfront mixed use overlay zone (WM overlay).

Land Use	Min. Lot Area	Min.
		Lot Width
Detached SF housing	3,500 sf	35 ft.
Attached SF housing	2,400 sf	24 ft.
Duplex	5,000 sf	50 ft.
MF housing (+ 3 units)	9,000 sf	90 ft.
Commercial/office	No minimum	50 ft.
Public/semipublic	No minimum	50 ft.

F. Residential Densities. To assure efficient use of land in the waterfront mixed use overlay zone (WM overlay), residential projects shall be developed at a minimum density of 10 units per net acre (excluding area devoted to streets). Minimum densities shall be calculated on a project-by-project basis and may include multiple contiguous parcels and phased developments. There are no minimum density requirements when residential units are developed above first floor commercial or office uses.

Maximum density in the waterfront mixed use overlay zone (WM overlay) is 25 units per net acre. Assisted living facilities are not subject to this maximum density, and are limited only by maximum building heights and setbacks.

G. Building Setbacks. Building setbacks provide space for private yards and building separation for fire protection, building maintenance, sunlight and air circulation. Building setbacks can also promote human-scale design and neighborhood security by placing buildings close to and oriented to the street.

1. Front Yard Setbacks – Residential Uses.

a. A minimum setback of 10 feet is required outside of the core area. A zero setback is allowed in the core area. An unenclosed front porch may encroach into the front yard setback, as long as it does not encroach into a public utility easement.

b. Residential uses shall not exceed a maximum front yard setback of 25 feet.

c. Garages and carports shall be accessed from alleys or recessed behind the front building elevation by a minimum of two feet.

2. Side and Rear Yard Setbacks – Residential Uses.

a. A minimum side yard setback of five feet is required for detached single-family and multifamily dwellings.

b. A minimum rear yard setback of 10 feet is required for all residential dwellings.

3. Setbacks – Commercial/Office/Public/Semipublic Uses.

a. No minimum front yard setback is required, except as necessary to comply with vision clearance standards.

b. A maximum front yard setback of 25 feet is required. This standard is met when a minimum of 50 percent of the front building elevation is placed 25 feet or closer to the front property line. On parcels with more than one building, this standard applies to the largest building.

c. The maximum front yard setback standard shall not apply to buildings that do not receive the public (e.g., buildings used for storage or housing mechanical equipment, and similar uses).

d. No minimum side or rear yard setback is required, except where such yards abut existing or approved residential uses. In such cases, the side or rear yard requirement shall match the yard requirement for the residential use.

H. Building Heights. In order to provide a step-down in building heights toward the Columbia River, building heights in the east and west neighborhoods shall not exceed two stories or 35 feet to the north of the A Street extension, and shall not exceed four stories or 55 feet to the south of the A Street extension. Buildings in the core area shall not exceed three stories or 45 feet.

I. Building Orientation. The following standards are intended to orient buildings to streets to promote human-scale development, slow traffic, and encourage walking in neighborhoods. Placing residences and other buildings close to

the street also encourages security and safety by having more “eyes on the street.” The building orientation standards are applicable to all housing types and to nonresidential buildings.

1. All buildings shall have their primary entrance(s) oriented to the street. Multifamily and commercial building entrances may include entrances to individual units, lobby entrances, or breezeway/courtyard entrances.
2. Off-street parking areas shall not be placed between the primary entrance and the street. Vehicles may be parked in driveways serving detached and attached single-family housing. However, garages must be recessed a minimum of two feet from the front facade of the dwelling, as specified in subsection (G)(1)(c) of this section.
3. The building orientation standards are not applicable to nonresidential buildings which do not receive the public such as storage or utility buildings. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)

18.50.050 Design review.

All new development in the waterfront mixed use overlay zone (WM overlay), including single-family housing types, is subject to design review. In addition to the criteria for design review approval set forth in Chapter [18.145 RMC](#), the following additional criteria are applicable in the waterfront mixed use overlay zone (WM overlay):

- A. Consistency with Design Objectives and Framework Plan. The proposed development is consistent with the design objectives and the framework plan for the waterfront mixed use overlay zone.
- B. Consistency with Development Standards. The proposed development is consistent with the development standards for the waterfront mixed use overlay zone.
- C. Design Guidelines for Residential Buildings. Residential buildings should address the following guidelines:

1. Garage Placement. The garage must not be the dominant feature of the front of the dwelling. Side placement, rear placement, or a recess of two feet minimum are preferred. Overhangs and front porches may be incorporated into addressing this guideline.

2. Quality ~~of and Variety of~~ Materials.

- a. Buildings should use high quality materials. ~~The following building materials are prohibited in the waterfront mixed use overlay zone (WM overlay):~~

- ~~a. Cinder block.~~

- ~~b. Metal.~~

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~~e. T1-11 siding.~~

At least two different types of materials should be provided on the sides of buildings that face streets. Variation in the patterns of the same materials is an acceptable alternative.

3. Porches. Usable front porches (approximately six feet by eight feet minimum) that are covered should be provided on at least 50 percent of the buildings.
4. Roof Pitch. A minimum roof pitch of 4:12 should be provided.
5. Building and Roof Articulation. Exterior offsets, balconies, projections, window reveals, variations in roof pitch and similar elements details should be provided.
6. Variation in Color. Developments should avoid overuse of the same exterior paint colors. As a guideline, color should vary on every block face.

D. Design Guidelines for Civic, Commercial and Mixed-Use Buildings. Civic, commercial and mixed-use buildings should address the following guidelines:

1. Location of Entries. The building orientation standards in this chapter shall be met. On corner lot, corner entrances are encouraged and may substitute for having an separate entry on each street side of the building.
2. Quality ~~and Variety~~ of Materials. ~~The proposed development includes quality building materials. The following building materials are prohibited in the waterfront mixed use overlay zone (WMO overlay):~~

a. Buildings should use high quality materials.

~~a. Cinder block.~~

~~b. Metal.~~

~~c. T1-11 siding.~~

At least two different types of materials should be provided on the sides of buildings that face streets. Variation in the patterns of the same materials is an acceptable alternative.

3. Weather Protection. Buildings that abut the public sidewalk should provide awnings or canopies along appropriate lengths of the building facade.
4. Building and Roof Articulation. Exterior offsets, balconies, projections, window reveals, variations in roof pitch and similar elements details should be provided.

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5. Ground Floor Windows and Doors. Ground floor windows should occupy the majority of the street side facade. A guideline of 60 percent of the length and 25 percent of the first 12 feet of height is suggested.

6. Pedestrian Amenities. Street-side amenities are encouraged. Examples include benches, plazas, planters, seating walls, and public art.

E. Where the standards of the waterfront mixed use overlay zone (WM overlay) conflict with other standards in the zoning ordinance, the land division ordinance or the transportation system plan, the standards of the waterfront mixed use overlay zone (WM overlay) shall control. (Ord. 1020 (Exh. A), 2005; Ord. 974 § 4 (Exh. A.2 § 3.8), 1998)