



**City of Willamina  
Planning Commission  
Meeting and Public Hearing**

Tuesday August 26, 2025, 6:00 p.m.  
West Valley Fire Station  
825 NE Main Street  
Willamina, OR 97396

In-person attendance is allowed at the Planning Commission Meeting. The city also provides access via the Zoom platform. Zoom access information is available at the end of this Agenda.

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. FLAG SALUTE**
- IV. AGENDA ADDITIONS, DELETIONS, AND CORRECTIONS**
- V. PUBLIC INPUT – BUSINESS FOR THE AUDIENCE**
  - a. Public Input: Presentations not scheduled on the agenda are limited to three (3) minutes. Longer presentations should be submitted to the City Recorder prior to the meeting.
- VI. CONSENT AGENDA**
  - a. Minutes from June 24, 2025, Planning Commission Meeting and Public Hearing.
- VII. PUBLIC HEARINGS**
  - a. Legislative Amendment file # LA 2025-02, the City of Willamina proposes revisions to Development Code Section 2.115 Restricted Development Overlay Zone (R-D) regarding development in floodplains, to provide the necessary standards and procedures to comply with the 2016 NMFS Biological Opinion. The proposed amendments are consistent with the FEMA Region 10 Model Ordinance.

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## VIII. REGULAR AGENDA

- a. Discussion on potential future standards for two topics
  - i. Short Term Rentals (Vacation Rentals)
  - ii. Food Carts

## IX. ADJOURN

Comments may be given verbally via Zoom, in-person, or submitted to the Deputy City Recorder at [stevensk@ci.willamina.or.us](mailto:stevensk@ci.willamina.or.us) in advance of the meeting.

### Join The Webinar:

<https://us02web.zoom.us/j/88464296699>

Webinar ID: 884 6429 6699

Join via audio:+1 253 215 8782 US

Next Planning Commission Meeting September 23, 2025

### THIS IS AN OPEN PUBLIC MEETING

*Persons with hearing, visual or manual impairments who wish to participate in the meeting should contact the City of Willamina at least 48 hours prior to the meeting date in order that appropriate communication assistance can be arranged. The City of Willamina Council meetings are accessible to the disabled. Please let us know if you need any special accommodations to attend this meeting. Contact Deputy City Recorder Krystal Stevens at [stevensk@ci.willamina.or.us](mailto:stevensk@ci.willamina.or.us) or call 503-876-2242.*



**City of Willamina  
Planning Commission  
Meeting Minutes  
Tuesday June 24, 2025, 6:00 p.m.**

Minutes taken by Deputy City Recorder Krystal Stevens

**Location of Meeting:**

West Valley Fire Station  
825 NE Main Street  
Willamina, OR 97396

**Present at Meeting:**

Commission Chair Eric Wagner  
Commissioner Steve Strobom  
Commissioner Martin Attebery  
Commissioner Susan Richman  
City Manager Bridget Meneley  
City Planner Holly Byram, Mid-Willamette Valley Council of Governments (MWVCOG) via Zoom  
Deputy City Recorder Krystal Stevens

**Absent from Meeting:**

Commissioner Gary Brooks excused absence

**Guests Not Limited to:**

Applicant Sergio Meno arrived at 6:05 p.m.  
Engineer Jim Barringer arrived at 6:05 p.m.

Commission Chair Wagner called the meeting of the Willamina Planning Commission to order at 6:02 PM.

Deputy City Recorder Stevens took the roll and a quorum was present.

Flag Salute

**AGENDA ADDITIONS, DELETIONS, AND CORRECTIONS**

Commissioner Strobom requested to add two items to the agenda.

1. Incorporating mud drags consideration into the discussion of sewage or stormwater treatment.
2. Bicycle and pedestrian safety along the rail lines coming into town where there are deep pits.

These two items were added to the Regular Agenda as items number two and three. The public hearing was moved to before the consent agenda.

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**Public Input – None**

**Consent Agenda**

Commission Chair Wagner called for a motion to approve the Meeting Minutes from April 22, 2025, Planning Commission Meeting and Public Hearing

**MOTION:** Commissioner Strombom motioned to approve the Meeting Minutes from the April 22, 2025 Planning Commission Meeting and Public Hearing. Commissioner Attebery seconded the motion.

**Commission votes:** Strombom aye, Attebery aye, Wagner aye, Richman aye.  
Motion carried.

Commission Chair Wagner closed the Regular Meeting at 6:05 p.m.

It is noted that the applicants arrived at 6:05 p.m. An interpreter was present and utilized for the applicant.

**Public Hearings**

Chair Wagner opened the Public Hearing at 6:07 PM.

**1. Non-Conforming Use 141 NE D Street House Fire in C1 Zone**

Commission Chair Wagner read aloud from the provided land use hearing script.

There were no objections from the audience or public comment received by city staff regarding the public notice that was published.

Commission Chair Wagner declared ex-parte contact with the property, being that he had visited the property previously with interest in buying it.

City Planner Byram presented the staff report. She explained that the property at 141 NE D Street had an existing single-family home that was destroyed by fire. The reason why it is considered a non-conforming use of the property is because since it was built, the property has since been zoned C1 (commercial), where single-family dwellings are not outright permitted. The applicants are requesting to rebuild the house, add square footage, and construct a new garage. This use of that property in the C1 zone is not normally permitted, but the structure was preexisting before the creation of that zone.

The applicant, represented by Construction Engineer Jim Barringer, explained that they planned to build on the same foundation, leaving the front three sides replaced, and bringing the structure up to code. He agreed to all twelve conditions of approval recommended in the staff report. There was discussion about adding a concrete pad to park an RV on. It was discussed that this was a feasible option but would require a separate application and approval.

During public testimony, three individuals spoke in favor of the application:

- a. John Borck (132 NE D ST, Willamina, OR 97396) expressed support and inquired about getting his property back that was encroached upon by the previous structure.
- b. James Bork (1408 Irvine Street Northeast, McMinnville, OR 97128) supported the application and clarified that it wouldn't affect the three commercial lots nearby.
- c. Jana Ricketts (337 NE Yamhill ST, Willamina, OR 97396) expressed strong support for the project and welcomed the applicants to the neighborhood.

There were no opponents or neutral parties speaking about the application.

City Planner Byram shared a map of the flood plains in the area to demonstrate where the property stood in relation to the flood plain. It is not directly in the flood plain.

Commission Chair Wagner closed the Public Hearing at 6:41 p.m.

**MOTION:** Commissioner Strombom motioned to approve Non-Conforming Use file # NCU 2025-01 as submitted and adopt the recommended findings and conditions of approval contained in the staff report. Commissioner Richman seconded the motion.

**Commission votes:** Strombom aye, Attebery aye, Wagner aye, Richman aye.  
Motion carried.

Commission Chair Wagner re-opened the Regular Meeting at 6:44 p.m.

## REGULAR AGENDA

### 1. COG Overview: Senate Bill 1537 implications on land use procedures

City Planner Byram presented an overview of Senate Bill 1537 and its implications on land use procedures. She explained that the bill requires certain types of land use applications to be decided at the staff level rather than through public hearings and planning commission decisions. The goal is to expedite local decision-making and encourage development, particularly housing.

City Planner Byram provided a table showing how different application types would be processed under the new rules. She noted that some applications would no longer come to the Planning Commission. Other applications requiring discretion would still require Planning Commission hearings, such as conditional use permits, nonconforming uses, and planned unit developments.

The commissioners expressed concerns about having less discretion and reduced transparency in the process. City Planner Byram acknowledged these concerns and explained that staff would need to interpret the code strictly, as they have no authority for gray areas.

The commission discussed how to keep informed about development activities that would no

longer come before them. City Manager Meneley suggested providing a monthly report similar to what is given to the City Council and the Commission agreed that would be helpful.

## 2. Mud Drags

Commissioner Strombom expressed concern over the future of the location of the Mud Drags with the possibility of the city's stormwater and wastewater treatment facility expansion. City Manager Meneley explained that while there are long-term plans to expand the wastewater treatment facility, which could impact the current mud drags location, this is not likely to happen within the next 5-6 years. The Fourth of July committee is aware of the potential future changes and is looking into alternative locations.

## 3. Bicycle and Pedestrian Safety:

Commissioner Strombom raised concerns about safety hazards for cyclists and pedestrians along the road leading into town. Particularly around the railroad crossing where there are three deep holes which require moving into the traffic lanes to bypass and could be dangerous if a cyclist doesn't know to go around them. The Commission discussed reaching out to the Oregon Department of Transportation (ODOT) about these issues, potentially through both individual community member reports and a formal letter from the City Council. It was stated that including photos when contacting ODOT is particularly effective. It was suggested that Commissioner Strombom visit City Council to ask for their participation.

## ADJOURN

**MOTION:** Commissioner Attebery motioned to adjourn the meeting at 7:25 p.m. Commission Chair Wagner seconded the motion.

**Commission votes:** Strombom aye, Attebery aye, Wagner aye, Richman aye.  
Motion carried.

Commission Chair Wagner adjourned the meeting at 7:25 PM.

## STAFF REPORT

### Planning Commission Public Hearing

#### I. BACKGROUND

HEARING: Tuesday, August 26, 2025

FILE NUMBER: Legislative Amendment # LA 2025-02

APPLICANT: City of Willamina

LOCATION: Citywide

PROPOSAL: **Legislative Amendment file #LA 2025-02 proposes amendments to the Willamina Development Code (WDC) Section 2.115 Restricted Development Overlay Zone (R-D) for compliance with the Pre-Implementation Compliance Measures (PICM) of the 2016 Biological Opinion (BiOp) issued by the National Marine Fisheries Service (NMFS) regarding impacts to endangered species by development within the 100-year floodplain.**

CRITERIA: Willamina Development Code Section 3.207: Type IV Actions.  
Willamina Comprehensive Plan.  
Oregon Statewide Planning Goals.

EXHIBITS: A: Proposed Amendments to the Willamina Development Code (WDC)

#### II. PROCEDURE

A Type IV action is a legislative action in which the City considers and enacts or amends laws and policies. A Type IV action must be initiated by City staff, Planning Commission or City Council. Public notice and public hearings are held by both the Planning Commission and City Council. Appeals to the City Council decision are to the Oregon Land Use Board of Appeals (LUBA).

#### III. BACKGROUND

In accordance with the 1973 Endangered Species Act, a federal agency must “consult” with the National Oceanic and Atmospheric Administration (the National Marine Fisheries Service - NMFS) regarding the agency’s programs and their possible effect on endangered species.

In 2009, environmental advocacy groups sued the Federal Emergency Management Agency (FEMA), alleging FEMA's floodplain regulations, which allow development in the 100-year floodplain, violated the Endangered Species Act (ESA). The lawsuit stated FEMA failed to consult with National Marine Fisheries Service (NMFS) about how the existing floodplain regulations could jeopardize threatened species in Oregon. FEMA resolved the lawsuit by formally entering into consultations with NMFS. The lawsuit is only applicable in Oregon. Prior to the Oregon case, similar lawsuits had been filed in other States, i.e., Washington, where FEMA agreed to consult with NOAA and the affected local governments in Western Washington adopted floodplain standards and processes consistent with the results of the consultation.

In April 2016, NMFS issued its Biological Opinion (BiOp) concluding the National Flood Insurance Program (NFIP) standards in Oregon jeopardize the survival of several threatened species, including salmon, sturgeon, eulachon, and orcas. The BiOp contained a Reasonable and Prudent Alternative (RPA) with recommendations from NMFS to FEMA on how to avoid jeopardizing the threatened species. In October 2021, FEMA issued a draft Implementation Plan on how to reduce the negative impacts of the NFIP on threatened species. However, none of the Oregon NFIP communities adopted or administered the draft Implementation Plan because it was a draft and had not been published in the Federal Register thereby changing Federal law. There are similar but separate BiOp's in Washington State and in the other States where the consultation process has occurred.

In September 2023, environmental groups filed a second lawsuit alleging FEMA had been too slow to implement the BiOp. Plaintiffs included The Conservation Angler, the Center for Biological Diversity, the Northwest Environmental Defense Center and the Willamette Riverkeeper. Separate from the NEPA full implementation process (long-term measures), in response to the 2023 lawsuit, in July 2024, FEMA announced a new program of pre-implementation compliance measures (PICM) for short-term measures for the BiOp. Under PICM, FEMA directed Oregon NFIP communities to choose and implement one of three paths (outlined below), to protect habitats, and achieve a new performance standard of "no net loss" to three floodplain functions: flood storage, water quality, and riparian vegetation.

- PICM Pathway 1: Adopt the PICM model floodplain management ordinance that includes a no net loss standard and includes a mitigation table.
- PICM Pathway 2: Adopt regulations to review individual development proposals on a permit-by-permit basis using a Habitat Assessment and Mitigation guidance document from FEMA.
- PICM Pathway 3: Prohibit new development in the Special Flood Hazard Area (100-year floodplain).

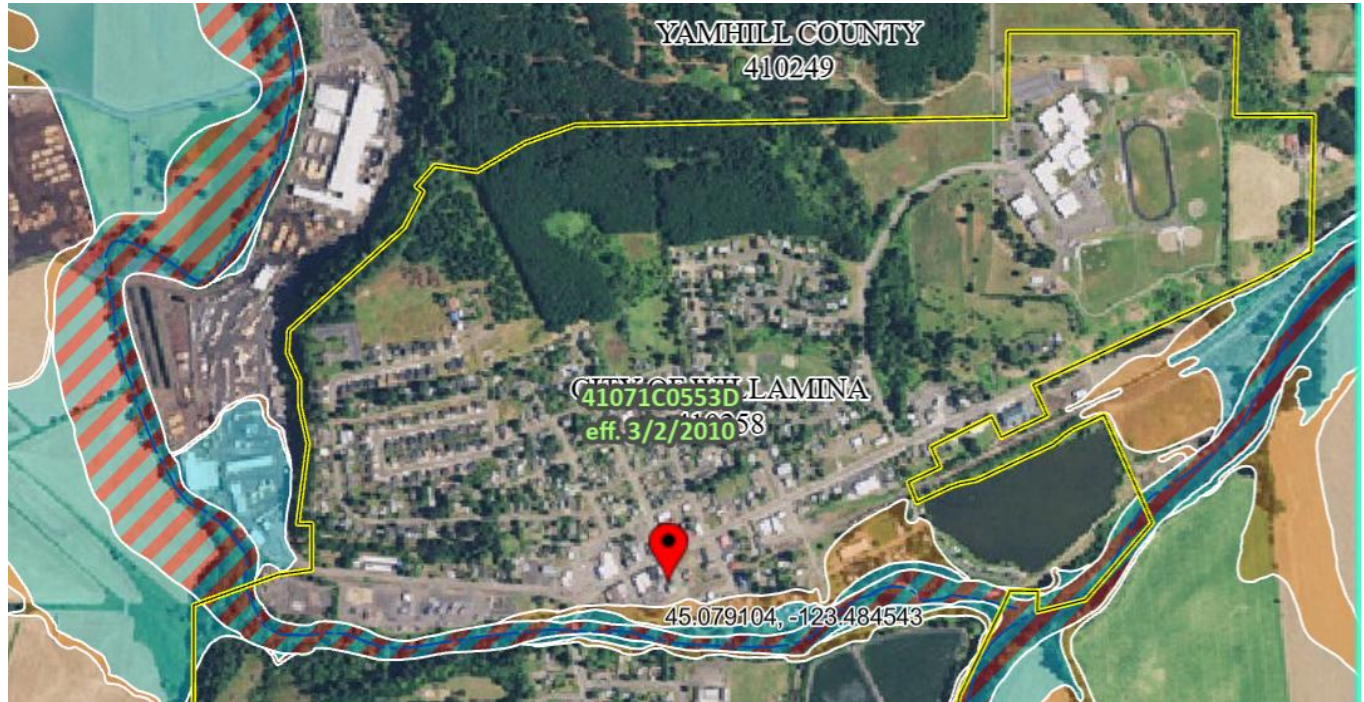
In addition, effective August 1, 2024, the approval by FEMA Region 10 of all Letters of Map Change based on fill (LOMC-F) were temporarily suspended in Oregon due to the PICM process. The suspension is expected to remain in effect until FEMA achieves full implementation, estimated in 2027.

In Oregon there are 233 cities and 31 counties within the BiOp implementation area, representing approximately 86% of the state (those areas whose streams drain to the Pacific Ocean).

IV. MAPS

A. FLOODPLAIN MAPS FOR CITY OF WILLAMINA. Source: FEMA Maps Service Center, 2025

NORTH – YAMHILL COUNTY



SOUTH – POLK COUNTY



e National Map: Orthoimagery. Data refreshed June, 2024.

Powered b

<p>Approximate location based on user input and does not represent an authoritative property location</p>	<p><b>SPECIAL FLOOD HAZARD AREAS</b></p> <ul style="list-style-type: none"> <li> Without Base Flood Elevation (BFE) Zone A, V, A99</li> <li> With BFE or Depth</li> <li> Regulatory Floodway Zone AE, AO, AH, VE, AR</li> </ul>	<ul style="list-style-type: none"> <li> 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation</li> <li> 17.5</li> <li> Coastal Transect</li> <li> Base Flood Elevation Line (BFE)</li> </ul>
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## V. CRITERIA AND FINDINGS

### A. WILLAMINA DEVELOPMENT CODE

**FINDINGS:** The Willamina Development Code (WDC) does not provide specific decision criteria for Legislative Amendments. The WDC outlines procedures and public noticing requirements for Type IV actions. Notice of the public hearings on this file were posted to the Department of Land Conservation and Development (DLCD) at least 35 days prior to the first hearing, and notice was published in the News Register, a regional publication, at least 10 days prior to the first hearing. Local notice procedures were satisfied.

The current purpose statement of the impacted section of the Willamina Development Code is provided below for quick reference. All proposed amendments are attached to this staff report in Exhibit A.

#### *2.115 RESTRICTED DEVELOPMENT OVERLAY ZONE (R-D)*

##### *2.115.1 Purpose*

*The purpose of the R-D Overlay Zone is to promote the public health, safety and general welfare, and to minimize public and private losses due to natural hazards resulting from geologic and/or flood conditions. Additionally, the R-D Overlay Zone is intended to preserve the wildlife habitat, open space, and scenic resources associated with the stream corridors of the South Yamhill River and Willamina Creek.*

### B. WILLAMINA COMPREHENSIVE PLAN

**FINDINGS:** The Willamina Comprehensive Plan, originally dated 1979, most recently revised in 2000 and reviewed in 2010, has been acknowledged to be generally consistent with the Oregon Statewide Planning Goals. The Plan includes the following in the Resources Chapter.

*Goal: Conserve Open Space And Protect Natural, Scenic, And Cultural Resources*

*Objective:*

*To conserve significant riparian resources and wetland resources.*

*Policy: Willamina will protect significant riparian areas along the South Yamhill River, Willamina Creek, and the northern and southern unnamed intermittent drainage.*

- *Action: Establish a Significant Natural Resource (Resources Figure 8) and Water Quality Resource Management (Resources Figure 12) Areas under the Restricted Development Overlay Zone and ordinance.*

*Policy: Apply for grants to fund local inventory of wetland resources.*

*Policy: Require wetland determinations for all development proposed on Wapato soils (mapping unit Wc), or on wetlands mapped on the National Wetland Inventory (Resources Figure 10), or on surface water drainages shown on Resources Figure 3.*

- *Action: Establish a Significant Natural Resource (Resources Figure 8) and Water Quality Resource Management (Resources Figure 12) Areas under the Restricted Development Overlay Zone and ordinance which requires development proposals to obtain information about on-site wetlands as a part of the application.*

*Objective:*

*To support regional efforts to improve the water, health, and habitat in the Willamina Creek Watershed.*

*Policy: Willamina will participate in and/or support the Yamhill Basin Council in watershed-based efforts to improve conditions in the Willamina Creek Watershed. Participation may include having a representative on watershed councils and/or water quality improvement planning groups, or coordinating with the small-city representative.*

*Policy: Willamina will develop a surface water management plan that addresses water quality concerns; erosion control, fish, waterfowl, and wildlife habitat; and flood mitigation/ drainage improvement from local and watershed perspectives.*

*Policy: Willamina will make an effort to stay apprised of regional water quality improvement planning and fish recovery plans, for example the Oregon Plan for Salmon and Watersheds and the Willamette Initiative, undertaken by state and federal agencies by reviewing and responding to proposed policies and plans.*

*Goal: To Maintain And Improve The Quality Of Air, Water, And Land Resources In Willamina*

*Objective:*

*To preserve the surface water resources of Willamina Creek and to protect Willamina's water quality through compliance with federal, state, and regional water quality standards.*

*Policy: The city shall notify private and public landowners, advising parties that Willamina Creek serves as the water resource for the city and that the city will want to ensure its future viability.*

*Policy: The city shall proactively work to prevent pollution of Willamina Creek.*

- *Action: Establish a Significant Natural Resource (Resources Figure 8) and Water Quality Resource Management (Resources Figure 12) Areas under the Restricted Development Overlay Zone and ordinance to reduce the hazard of surface erosion and sediment delivery to Willamina Creek.*

*Goal: To Protect Life And Property In Willamina From Natural Disasters And Hazards*

**Objective:**

*Develop and integrate hazard mitigation plan for natural hazards in Willamina*

*Policy: Development proposals in areas with severe development limitations (Resources Figure 16) shall use construction and design techniques that will eliminate the hazard potential and assure suitability for the proposed use.*

- *Action: Establish a Severe Development Limitations Water Quality Management Areas (Resources Figures 12 and 16) under the Restricted Development Overlay Zone and ordinance to reduce erosion hazards.*

*Policy: In hazard areas outside the floodplain, proposed development plans shall be reviewed for compatibility with public safety.*

*Policy: Development plans should, where the possibility of density transfer exists provide for the retention of hazard areas as open space, with the clustering of development outside of hazards areas.*

The Resource Chapter contains the following figures, including Figure 15 Special Flood Hazards Area Map, and Figure 17 Restricted Development Overlay (RDO) Zone.

Figure 15 – Special Flood Hazards Area Map.

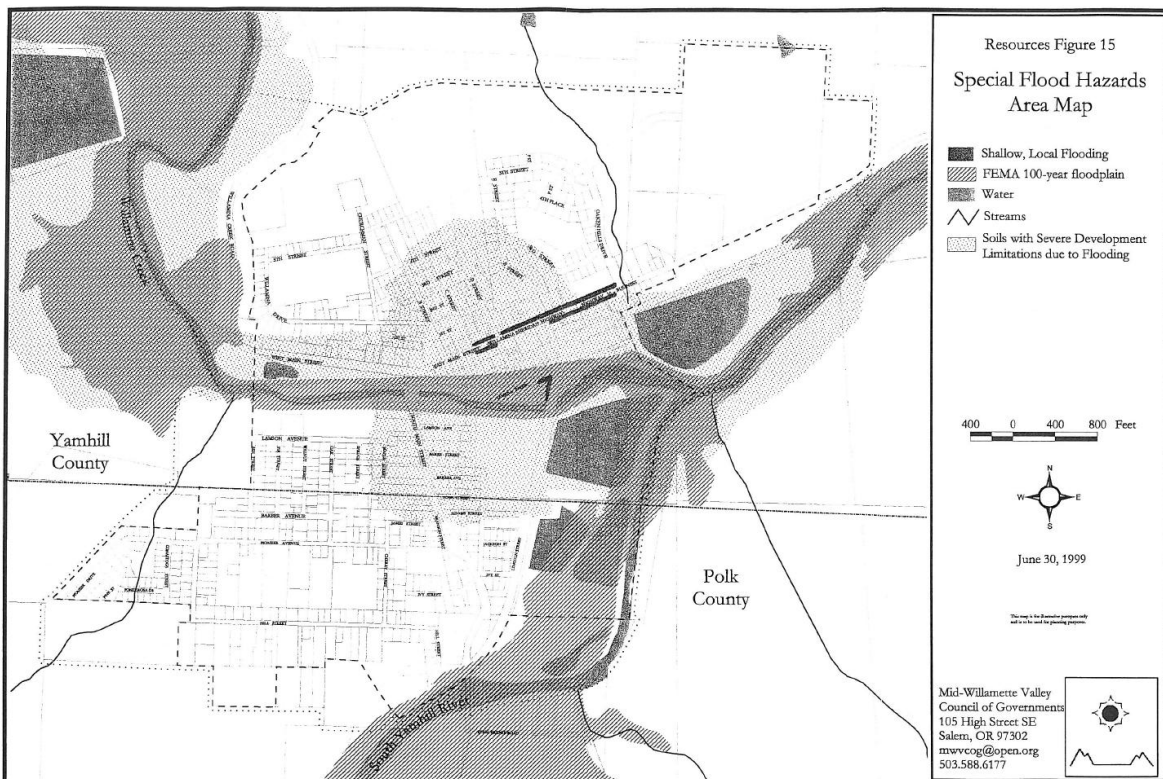
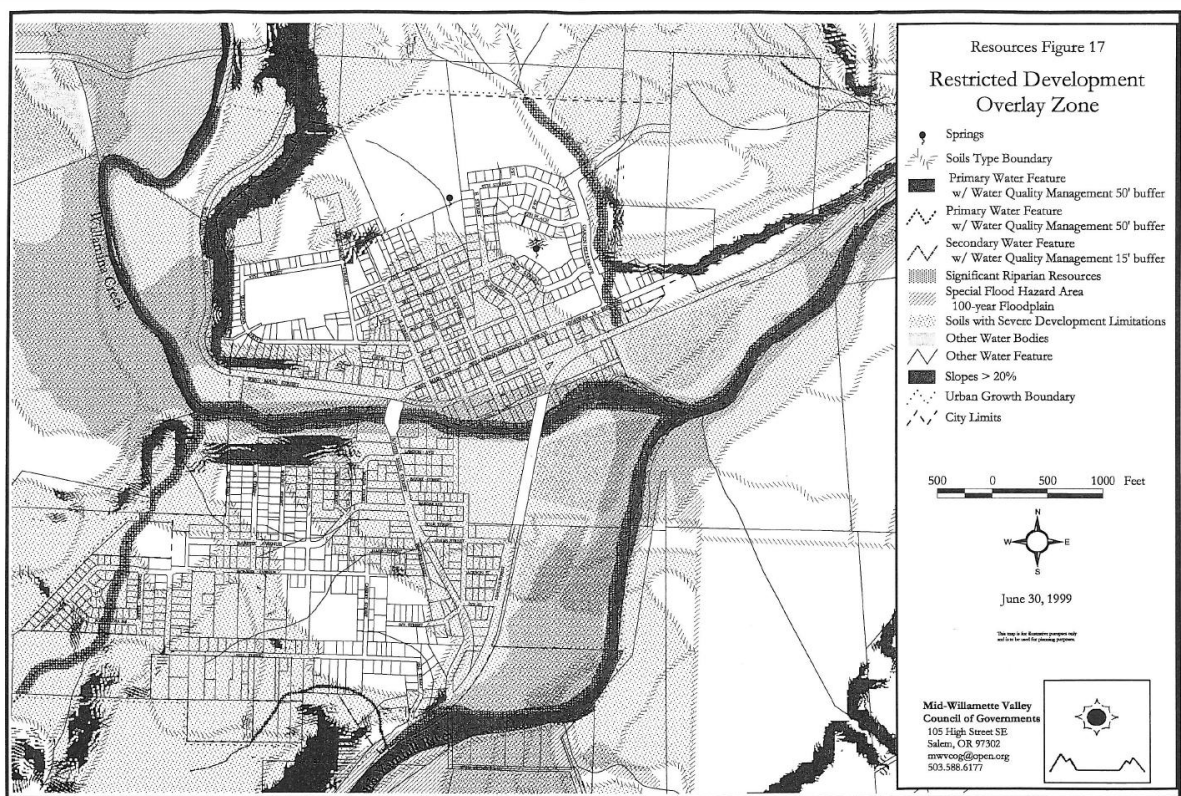


Figure 17 - Restricted Development Overlay (RDO) Zone.



The proposed amendments to the Willamina Development Code are consistent with the adopted Comprehensive Plan Goals and Policies. This criteria is satisfied.

C. OREGON STATEWIDE PLANNING GOALS

There are 19 Statewide Planning Goals adopted by Oregon Revised Statutes (ORS).

*GOAL 1: CITIZEN INVOLVEMENT OAR 660-015-0000(1) "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."*

**FINDINGS:** A Post-Acknowledgement Plan Amendment (PAPA) public notice was provided to the Department of Land Conservation and Development (DLCD), and a notice was published in the regional newspaper the 'News Register' prior to the public hearings. There have been, and continue to be, opportunities for citizen involvement in this project. Goal 1 opportunities for citizen involvement are supported.

*GOAL 2: LAND USE PLANNING OAR 660-015-0000(2) "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."*

**FINDINGS:** The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged WDC for processing of Legislative Amendments. Goal 2 generally supports clear and thorough local procedures. Public Hearings on this Legislative Amendment are scheduled for the Willamina Planning Commission and Willamina City Council prior to Legislative Amendment ordinance enactment. Goal 2 procedures are supported.

*GOAL 3: AGRICULTURAL LANDS OAR 660-015-0000(3) "To preserve and maintain agricultural lands."*

*GOAL 4: FOREST LANDS OAR 660-015-0000(4) "To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."*

**FINDINGS:** Goals 3 and 4 refer to farm and forest lands outside of incorporated cities. The proposed amendments apply to properties within the incorporated city limits. No development is proposed with this plan adoption. Goals 3 and 4 do not apply.

*GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-0150000(5) "To protect natural resources and conserve scenic and historic areas and open spaces."*

**FINDINGS:** The proposed amendments support Goal 5 natural resource quality.

*GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY OAR 660-015-0000(6) "To maintain and improve the quality of the air, water and land resources of the state."*

**FINDINGS:** The proposed amendments support Goal 6 water quality.

*GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS "To protect people and property from natural hazards."*

**FINDINGS:** Goal 7 applies to natural hazard areas. The Special Flood Hazard area is an area subject to natural hazards. Goal 7 requires local governments to adopt comprehensive plan policies and implementation measures to reduce risk to people and property from natural hazards. These hazards include floods. The Restricted Development Overlay District is the regulatory instrument that implements the Flood Plain Chapter of the City of Willamina Comprehensive Plan. Updating the Restricted Development Overlay Zone to bring it up to be compliant with the 2016 NMFS Biological

Opinion will ensure the RDO Zone continues to be consistent with Goal 7. The proposed amendments are consistent with Goal 7.

*GOAL 8: RECREATIONAL NEEDS OAR 660-015-0000(8) "To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts."*

**FINDINGS:** While there is no significant impact anticipated to Goal 8 amenities. Goal is not impacted.

*GOAL 9: ECONOMIC DEVELOPMENT OAR 660-015-0000(9) "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."*

**FINDINGS:** The proposed amendments apply to properties within the Special Flood Hazard Area. The policies of the City's Comprehensive Plan and the enacting Development Code may impact employment land if located within the floodplain. The proposed standards apply equally to all properties impacted by the documented floodplain. Once adopted, development standards can be discovered through due diligence of a prospective property owner or developer. Goal 9 is not significantly impacted.

*GOAL 10: HOUSING OAR 660-015-0000(10) "To provide for the housing needs of citizens of the state."*

**FINDINGS:** The proposed amendments apply to properties within the Special Flood Hazard Area. The policies of the City's Comprehensive Plan and the enacting Development Code may impact residential land if located within the floodplain. The proposed standards apply equally to all properties impacted by the documented floodplain. Once adopted, development standards can be discovered through due diligence of a prospective property owner or developer. Goal 10 is not significantly impacted.

*GOAL 11: PUBLIC FACILITIES AND SERVICES OAR 660-015-0000(11) "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

**FINDINGS:** Goal 11 does not apply.

*GOAL 12: TRANSPORTATION OAR 660-015-0000(12) "To provide and encourage a safe, convenient and economic transportation system."*

**FINDINGS:** Goal 12 does not apply.

*GOAL 13: ENERGY CONSERVATION OAR 660-015-0000(13) "To conserve energy. Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."*

**FINDINGS:** Goal 13 does not apply.

*GOAL 14: URBANIZATION OAR 660-015-0000(14) "To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities."*

**FINDINGS:** Goal 14 is not impacted by the proposed amendments.

*GOAL 15: WILLAMETTE RIVER GREENWAY OAR 660-015-0005;  
GOAL 16: ESTUARINE RESOURCES OAR 660-015-0010(1);  
GOAL 17: COASTAL SHORELANDS OAR 660-015-0010(2);  
GOAL 18: BEACHES AND DUNES OAR 660-015-0010(3);  
GOAL 19: OCEAN RESOURCES OAR 660-015-0010(4)*

**FINDINGS:** Goals 15 - 19 are location-based, and do not apply to Willamina.

## **VI. CONCLUSIONS AND RECOMMENDATION**

Based upon the findings presented above, Staff recommends the Planning Commission recommend the City Council **APPROVE** Legislative Amendment #LA 2025-02, adopt the findings included in the staff report, and direct staff to prepare an enacting ordinance.

## **VII. PLANNING COMMISSION OPTIONS**

The Planning Commission may take one of the following actions:

- A. Motion to recommend the City Council **APPROVE** Legislative Amendment file #LA 2025-02 adopting the proposed amendments to the Willamina Development Code contained in Exhibit A, and the findings contained in the staff report, and direct staff to prepare an enacting ordinance.**
- B. Motion to recommend the City Council **APPROVE** Legislative Amendment file #LA 2025-02 adopting the proposed amendments to the Willamina Development Code contained in Exhibit A, and the findings contained in the staff report **AS REVISED BY THE PLANNING COMMISSION**, and direct staff to prepare an enacting ordinance.
- C. Motion to **CONTINUE** the Legislative Amendment public hearing to a date and time certain, indicating the additional information needed to allow for a future decision; or
- D. Motion to **DENY** the Legislative Amendment as presented, stating the reason for denial.

## 2.115 RESTRICTED DEVELOPMENT OVERLAY ZONE (R-D)

### 2.115.1 Statutory Authorization

The State of Oregon has in 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.

### 2.115.2 Findings of Fact

- a. The flood hazard areas of Willamina preserve the natural and beneficial values served by floodplains but are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

### 2.115.3 Purpose

The purpose of the R-D Overlay Zone is to promote the public health, safety and general welfare, and to minimize public and private losses in special flood hazard areas due to natural hazards resulting from geologic and/or flood conditions. Additionally, the R-D Overlay Zone is intended to protect human life and health; minimize expenditures of public money for costly flood control projects; preserve the wildlife habitat, open space, natural and beneficial floodplain functions, and scenic resources associated with the stream corridors of the South Yamhill River and Willamina Creek; minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; minimize prolonged business interruptions; 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; 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; notify potential buyers that the property is in a special flood hazard area; notify those who occupy special flood hazard areas that they assume responsibility for their action; and participate in and maintain eligibility for flood insurance and disaster relief.

### 2.115.4 Methods of Reducing Flood Losses

In order to accomplish its purposes with respect to the special flood hazard area, this section of the code 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 water or may increase flood hazards in other areas;
- f. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

#### 2.115.5 Area of Application

The R-D Overlay zone is applied to those areas within the City limits of Willamina which are:

- a. Areas identified on the Building Limitations Map in the Comprehensive Plan as having:
  - 1. Soils identified by the Soil Conservation Service as having "Severe" limitations for sites for residences due to: steep slopes; landslide hazard; poor drainage; erosion hazard; low stability; high water table; and/or high shrink-swell potential.
  - 2. Slopes in excess of twenty percent (20%) grade.
- b. "Special Flood Hazards Areas", as defined herein.
- c. Areas within fifty (50) feet of the high water line of the South Yamhill River and/or Willamina Creek.

#### 2.115.6 Standards for Soil Hazard and Steep Slope Areas:

- a. No development shall occur within those areas identified in subsection 2.115.5.a – c., above, except in accordance with the provisions of this subsection.
- b. Site Plan Review, pursuant to the provisions of Section 3.105 of this code shall be required for all development proposals within soil hazard and/or steep slope areas. In the event of subdivision or Planned Unit Development proposals within soil hazard and/or steep slope, Site Design Review for compliance with this subsection shall be combined with the review process for the subdivision or Planned Unit Development. No separate Site Design Review application or base fee shall be required for such combined reviews.
- c. In addition to the submittal requirements of Site Design Review, the applicant shall submit a report prepared by a registered professional soils engineer or engineering geologist. This report shall describe:

1. The nature, distribution and strength of soils within the subject area;
  2. Findings regarding the adequacy of the soils to support the intended types of structures or uses; and
  3. Recommendations, if necessary, of construction measures required to adequately mitigate the potential soil or slope hazard.
- d. If the Planning Commission receives a report from the City Engineer determining that the geology report adequately addresses concerns for public safety from the applicable slope or soil hazard, and that other applicable provisions of this section of the code are satisfied, the application shall be approved. The Planning Commission may attach such conditions to the approval as are necessary to assure the public safety with respect to the hazard.

#### 2.115.7 Standards for Special Flood Hazards Areas

##### a. Definitions

For purposes of this Section, the following terms shall mean:

1. **Appeal** – A request for a review of the interpretation of any provision of this section of the code or a request for a variance.
2. **Area of shallow flooding** – A designated zone on the City’s Flood Insurance Rate Map (FIRM) with a one percent (1%) 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.
3. **Area of special flood hazard** – See “flood plain” for this definition.
4. **Base flood elevation** – The elevation to which floodwater is anticipated to rise during the base flood.
5. **Base Flood Level** - The flood level having a one percent (1%) chance of being equaled or exceeded in any given year (100 year flood plain).
6. **Below-Grade Crawl Space** – Means an enclosed area below the based flood elevation in which the interior grade is not more than two (2) feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.
7. **Conveyance** - Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this

means that 30,000 cubic feet of water pass through the cross section each second.

8. 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.
9. Development - means 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 located within the area of special flood hazard.
10. Encroachment - Any obstruction in the flood plain which affects flood flows.
11. Fill – Placement of any materials such as soil, gravel, crushed stone, or other materials that change the ground surface elevation within the flood plain. The placement of fill is considered “development”.
12. Flood or Flooding –
  - a. A general and temporary condition of partial or complete inundation of usually dry land areas from:
    - i. The overflow of inland waters;
    - ii. the unusual and rapid accumulation of runoff of surface waters from any source;
    - iii. Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph 12.a.ii of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry 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 12.a.i of this definition.
13. Flood Boundary Floodway Map (FBFM) - The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).

14. Flood Elevation Study – An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
15. Floodway Fringe - The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
16. Flood Insurance Rate Map (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Willamina.
17. Flood Insurance Study (FIS) - See flood elevation study.
18. Flood Plain - Lands within the City that are subject to a one percent (1%) or greater chance of flooding in any given year as identified on the official zoning maps of the City of Willamina. FEMA documents also reference this 100-year flood plain as the Special Flood Hazard Area (SFHA).
19. Floodplain functions – Flood storage, water quality, and riparian vegetation conditions.
20. Floodplain mitigation assessment – An assessment of the portions of a site that are within the special flood hazard area, performed by a qualified professional, that identifies existing site conditions before development occurs, describes the impact the proposed development would have on existing floodplain functions within the applicable portion of the existing site, and identifies the mitigation needed for the proposed development to result in no net loss of those floodplain functions. The city website includes the guidance prepared by the Federal Emergency Management Agency for preparation of a floodplain mitigation assessment.
21. Flood-proofing - A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
22. Floodway - The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
23. Highest adjacent grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
24. Historic structure – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places with historic preservation programs which have been approved by the Secretary of Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - i. By an approved state program as determined by the Secretary of the Interior or
    - ii. Directly by the Secretary of the Interior in states without approved programs.
25. 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 section of the code.
26. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, mobile homes, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
27. Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
28. Mean sea level - For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
29. Mobile home - A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined in this definition section.

30. New Construction - Any structure(s) for which the start of construction commenced on or after the effective date of this Section of the code and includes any subsequent improvements to such structures.
31. No Net Loss – Adverse impacts to floodplain functions are avoided or offset so that there is no net change in the applicable floodplain functions from the existing condition when a development application is submitted to the city, as further described in NMFS Consultation No. NWR-2011-3197).
32. Obstruction - A physical object which hinders the passage of water.
33. Qualified professional – A person who:
  - a. Has a minimum of a bachelor’s degree in wildlife or fisheries habitat biology, or a related degree in a biological field from an accredited college or university with a minimum of four years’ experience as a practicing fish or wildlife habitat biologist; or
  - b. Is listed on the Oregon Department of Transportation’s official list of consultants qualified to provide Endangered Species Act Documentation.
34. Recreational Vehicle: As defined in ORS 446.003(33), a vehicle with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and as further defined by rule, and is designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
35. Riparian – Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.
36. Riparian Buffer Zone (RBZ) – The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) to 170 feet horizontally on each side of the stream. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.
37. Riparian Buffer Zone Fringe – The area outside of the RBZ and floodway but still within the SFHA.
38. Silviculture – The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.
39. Special Flood Hazard Area (SFHA): See Flood Plain.
40. Start of Construction - The date the building permit was issued, provided the

actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or 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.

41. State Building Code –The combined specialty codes adopted by the State of Oregon.
  42. 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.
  43. Substantial Improvement - means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed value of the structure before the improvement or repair is started. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either:
    - a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions;
    - b. Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designations as a historic structure.
  44. Variance – A grant of relief by Willamina from the terms of a floodplain management regulation.
  45. 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 certificates, or other evidence of compliance required in this section of the code is presumed to be in violation until such time as that documentation is provided.
  46. Watercourse - A natural or artificial channel in which a flow of water occurs either continually or intermittently in an identified flood plain.
- b. General Provisions

1. **Applicability.** The following regulations apply to all areas of special flood hazards within the jurisdiction of Willamina.
2. **Basis For Establishing the Special Flood Hazard Area.** The flood plain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Polk County, Oregon and Incorporated Areas," dated December 19, 2006, and "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," dated March 2, 2010. The report and maps are incorporated in the R-D zone by this reference and are on file at the City of Willamina.
3. **Coordination with State of Oregon Specialty Codes.** Pursuant to the requirement established in ORS 455 that the city of Willamina administers and enforces the State of Oregon Specialty Codes, the city of Willamina 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 section of the code is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

c. **Administration**

1. **Designation of Flood Plain Administrator.** The City Manager is hereby appointed to administer, implement, and enforce this section of the code by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.
2. **Duties and Responsibilities.** Duties of the floodplain administrator, or their designee, shall include, but not be limited to:
  - a. **Permit Review.** Review all development permits to:
    - i. Determine that the permit requirements of this section of the code have been satisfied;
    - ii. Determine that all other required local, state, and federal permits have been obtained and approved;
    - iii. Determine if the proposed development is located in a floodway.
      - If located in the floodway assure that the floodway provisions of this section of the code in section 2.115.7.k are met; and
      - 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 section

2.115.7.f; and

- Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.
- iv. Determine if the proposed development qualifies as a substantial improvement as defined in section 2.115.7.a.43.
- v. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 2.115.7.h.1.
- vi. Determine if the proposed development activity includes the placement of fill or excavation.
- vii. Determine whether the proposed development activity complies with the requirements of Section 2.115.9.
- b. Requirement to Notify Other Entities and Submit New Technical Data.
- i. Community Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the city have been modified by annexation or the city 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 city's boundaries. Include within such notification a copy of a map of the city suitable for reproduction, clearly delineating the new corporate limits or new area for which the city has assumed or relinquished floodplain management regulatory authority.
- ii. 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 proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

- 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 2.115.7.c.2.b.iii. Ensure compliance with all applicable requirements in sections 2.115.7.c.2.b.iii and 2.115.7.h.1.

iii. Requirement to Submit New Technical Data.

- The city'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, the city 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 city 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:
  - Proposed floodway encroachments that increase the base flood elevation; and
  - 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).

c. Substantial Improvement and Substantial Damage Assessments and Determinations. Conduct Substantial Improvement (SI) (as defined in section 2.115.7.a.43) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 2.115.7.g. Conduct Substantial Damage (SD) (as

defined in section 2.115.7.a.42) 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 2.115.7.b.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.

d. Establishment of Development Permit

1. Flood Plain Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection 2.115.7.b.2 of this Section. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".
2. Application for Development Permit. Application for a Flood Plain Development Permit shall be made and reviewed in accordance with the procedures set forth in Section 3.101.02. Application for a Development Permit shall be made on forms furnished by the City recorder and shall include the following minimum information:
  - a. Scaled plans showing the nature, location, dimensions and elevations of the area in question;
  - b. Location of existing or proposed structures, fill, storage areas, and drainage facilities;
  - c. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all attendant utilities of all new and substantially improved structures;
  - d. Proposed elevation, in relation to mean sea level, to which any residential structure will be flood-proofed;
  - e. Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in subsection 2.115.7.j.5.
  - f. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
  - g. Base Flood Elevation data for subdivision proposals or other development when required per sections 2.115.7.c.2.a and 2.115.7.h.6;
  - h. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure; and

- i. The amount and location of any fill or excavation activities proposed.
3. Permit Review: Review of Flood Plain Development Permit applications shall be by the Planning Commission. Flood Plain Development Permit applications shall be reviewed against the following criteria:
  - a. Review to ensure that the permit requirements and conditions of this subsection have been satisfied;
  - b. Review to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required;
  - c. Review all development permits to determine if the proposed development is located in the floodway.
  - d. Review to determine compliance with 2.115.9.
4. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type II action.
- e. Uses. If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit may be allowed subject to approval of a Flood Plain Development Permit provided the following requirements are met:
  1. The structure is not located within a floodway.
  2. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
  3. The structures will be located on natural grade or compacted fill.
  4. The lowest floor will be elevated to at least one (1) foot above the level of the base flood elevation and the anchoring requirements in Section 2.115.7.h.2.
  5. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of this Section.
  6. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 2.115.7.h.2 prior to occupancy.
  7. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the City recorder prior to use of the structure.
  8. No alteration of topography beyond the perimeter of the structure is proposed.

f. Use of Other Base Flood Data

1. When base flood elevation data and floodway data have not been provided in accordance with Section 2.115.7.b.2 the applicant, with the assistance of the floodplain administrator, after consultation with city engineer and planner, or designee, shall obtain, review, and reasonably utilize any base flood elevation data or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the floodplain administrator, after consultation with city engineer and planner, or designee, may require that the applicant provide data derived by standard engineering methods. All new subdivision proposals and other proposed new developments (including proposals for manufactured homes) must meet the requirements of Section 2.115.7.h.6.
2. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc... where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.
3. In areas where regulatory floodway has been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community 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.

g. Information to be Obtained and Maintained

1. Where base flood elevation data is provided through the Flood Insurance Study, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawl space) and all attendant utilities of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved flood-proofed structures:
  - a. verify and record the actual 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 the requirements of Section 2.115.7.c.2.a.ii and 2.115.7.k are adhered to; and
  - b. maintain the flood-proofing certifications required by this section of the code.

3. Maintain for public inspection all records pertaining to the provisions of this section of the code, including documentation of how no net loss standards have been met.
  4. Upon placement of the lowest floor of a structure (including basement and below-grade crawl space) but prior to further vertical construction, the applicant shall provide a certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures.
  5. Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawl space) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
  6. Maintain all Elevation Certificates (EC) submitted to the city.
  7. 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 section of the code and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section 2.115.7.f.
  8. All floodproofing certificates required under this section of the code.
  9. All variance actions, including justification for their issuance.
  10. All hydrologic and hydraulic analyses performed as required under section 2.115.7.k.
  11. All Substantial Improvement and Substantial Damage calculations and determinations as required under sections 2.115.7.a.42 and .43.
- h. Flood Protection Standards – General.

In all areas of identified flood plain, the requirements of section 2.115.9 and the following requirements apply:

1. 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 2.115.7.c.2.b.ii. and 2.115.7.c.2.b.iii.

## 2. 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 homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

## 3. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. In addition, electrical, heating, ventilating, air- conditioning, plumbing, duct systems, and other equipment and service facilities shall, if replaced as part of a substantial improvement, meet all the requirements of this section.

## 4. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding and consistent with the Oregon Department of Environmental Quality requirements.

## 5. 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 or shall be anchored to prevent flotation, collapse, and lateral movement under

conditions of the base flood.

6. Subdivision Proposals and other Proposed Developments

- a. All subdivision proposals and other proposed new developments (including proposals for manufactured homes) shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals and other proposed new developments (including proposals for manufactured homes) shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals and other proposed new developments (including proposals for manufactured homes) shall have adequate drainage provided to reduce exposure to flood damage; and,
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).
- e. All subdivision proposals and other proposed new developments (including proposals for manufactured homes) shall comply with the requirements of section 2.115.9.

7. 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 city'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.

i. Specific Standards

The following standards apply to all new construction and substantial improvements in addition to the flood protection standards and the no net loss standards:

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a

minimum of one (1) foot above base flood elevation.

- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall:
  - i. be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters;
  - ii. be used solely for parking, storage, or building access; and
  - iii. be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding, where the enclosed area is measured on the exterior of the enclosed walls, shall be provided.
    - The bottom of all openings shall be no higher than one (1) foot above grade.
    - Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters and shall be accounted for in the determination of the net open area.
    - All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

## 2. Garages

- a. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
  - i. If located within a floodway the proposed garage must comply with the requirements of section 2.115.7.k;
  - ii. The floors are at or above grade on not less than one side;
  - iii. The garage is used solely for parking, building access, and/or storage;
  - iv. The garage is constructed with flood openings in compliance with

section 2.115.7.i to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;

- v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
  - vi. The garage is constructed in compliance with the standards in section 2.115.7.h; and,
  - vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- b. Detached garages must be constructed in compliance with the standards for appurtenant structures in section 2.115.7.j.6. or non-residential structures in section 2.115.7.j.5. depending on the square footage of the garage.

j. Specific Standards for Riverine Special Flood Hazard Areas with Base Flood Elevations

The following standards apply in riverine special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE:

1. 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 city's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community and will not result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the requirements of Section 2.115.7.a.31.

2. Manufactured Homes

- a. All manufactured homes to be placed (new or replacement) or substantially improved that are on solid foundation walls shall be constructed with flood openings that comply with Section 2.115.7.i.
- 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).

- d. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).
3. Recreational Vehicles. See Yard and Lot Standards (Section 2.209.11) for recreational vehicles on individual lots and Recreational Vehicles (RV) Parks (Section 2.309) for park vehicles.
  4. 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).
    - b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 2.115.7.i.
  5. Non-Residential Construction

New construction, conversion to, and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

- a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided by the Floodplain Administrator as set forth in Section 2.115.7.g.
- d. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 2.115.7.i.
- e. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).

6. Appurtenant (accessory) Structures

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

- a. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section 2.115.7.d;
- 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 2.115.7.i;
- 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 2.115.7.h.5.; and,
- 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.

7. Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) 100- year flood plain. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above based flood elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

k. Floodways

Located within special flood hazard areas established in Section 2.115.7.b.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless:
  - a. Certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; or
  - b. The City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the requirements of section 2.115.9.
2. If Section 2.115.7.k.1 is satisfied, all new construction, substantial improvements, and other development shall comply with all applicable flood hazard reduction provisions of Sections 2.115.7.h and 2.115.9.
3. Projects for stream habitat restoration may be permitted in the floodway provided:
  - a. The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
  - b. A professional (a Registered Professional Engineer; or staff of NRCS;

the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100- year flood levels as close to zero as practically possible given the goals of the project; and,

- c. No structures would be impacted by a potential rise in flood elevation; and
- d. An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

#### 1. Standards for Shallow Flooding Areas

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

##### 1. Standards for AH Zones

Development within AH Zones must comply with the standards in sections 2.115.7.h., 2.115.7.j., and 2.115.7.l.

##### 2. Standards for AO Zones

In AO zones, the following provisions apply in addition to the requirements in sections 2.115.7.h. and 2.115.7.j.

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

specified); or

ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM (or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 2.115.7.j.5.

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

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

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

iii. Meet the elevation requirements of section 2.115.7.l.2., and the anchoring and other requirements for manufactured dwellings of section 2.115.7.j.2.

d. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section 2.115.7.j.6.

e. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section 2.115.7.i.

m. Variances

1. 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.

2. A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 2.115.7.b. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

3. The city shall notify the applicant in writing that:

a. the issuance of a variance to construct a structure below the base flood

level will result in increased premium rates for flood insurance coverage;  
and

- b. such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in 2.115.7.b.

4. The City shall:

- a. maintain a record of all variance actions, including justification for their issuance; and,
- b. report such variances issued in its annual report submitted to the Administrator.

n. Variance Criteria

The following criteria shall be used to review variance applications.

1. Variances shall only be issued upon a showing that:

- a. There is a good and sufficient cause;
- b. That failure to grant the variance would result in exceptional hardship to the applicant;
- c. 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 local laws;
- d. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- e. The variance will be consistent with the intent and purpose of the provision being varied;
- f. There has not been a previous land use action approved on the basis that variances would not be allowed;
- g. Applicant demonstrates that the development complies with Section 2.115.9; and
- h. The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

2. Variances may be issued by the city 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 2.115.7.m. 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.

o. Appeals of Planning Commission Action

Planning Commission actions on Flood Plain Development Permits, and/or exceptions pursuant to Section 2.115.7.n., above, may be appealed to the City Council in accordance with the appeal procedures set forth in Section 3.205 of this Section of the code.

p. Warning and Disclaimer of Liability

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

q. Compliance and Penalties for Non-Compliance

1. All development within special flood hazard areas is subject to the terms of this section of the code and required to comply with its provisions and all other applicable regulations.
2. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section of the code and other applicable regulations. Violations of the provisions of this section of the code by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be in violation of this section of the code and shall be subject to the penalties and remedies of Subsection 1.102.03. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

r. Abrogation and Severability

1. Abrogation. This section of the code is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section of the code and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
2. Severability. This section of the code and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the section of the code 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 section of the code.

s. Interpretation.

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

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

2.115.8 Standards for Stream Corridor Areas

- a. Applicability. The provisions of this subsection shall apply to areas within fifty (50) feet of the high water line of the South Yamhill River and/or Willamina Creek.
- b. No development shall occur within stream corridor areas. Development of properties adjoining stream corridors shall preserve the stream corridor area through one of the following means:
  1. Dedication to the City for park purposes, if acceptable to the Planning Commission and City Council.
  2. Creation of a tract of land to be owned in common by the owners of lots within the development. A non-profit home owners association shall be created, in a manner acceptable to the City Attorney, for the ownership and maintenance of such tracts. The tract shall be preserved in perpetuity as open space through the use of conservation easements, deed restrictions, or by appropriate notation on the face of a subdivision plat.
  3. Creation of a conservation easement within the stream corridor area serving to prohibit development and the removal of riparian vegetation.
- c. Removal of riparian vegetation within a stream corridor area shall be prohibited.

2.115.9 Standards for Protection of SFHA Flood Plain Functions

- a. Application for permit to develop in the special flood hazard area must include:
  1. either:
    - a. A statement confirming that the applicant has obtained a floodplain mitigation assessment of the proposed development performed by a qualified professional;
    - b. A statement that, in addition to being covered by the consultation

and biological opinion issued by the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) for the Federal Emergency Management Agency's implementation of the National Flood Insurance Program in Oregon (NMFS Consultation No. NWR-2011-3197), the development proposed by the application is a project or project action that is covered by another formal consultation with NMFS or the United States Fish and Wildlife Service, pursuant to Section 4(d), 7, or 10 of the Endangered Species Act of 1973;

- c. A statement that the development proposed by the application fits within the nature and scope of the project types that are addressed in an existing full programmatic habitat assessment of all current and reasonably foreseeable future conditions; or
- d. A statement that the development proposed by the application is exempt from the requirement for a floodplain mitigation assessment because it is one or more of the following activities:
  - i. Normal maintenance of structures, such as re-roofing and replacing siding, that does not alter the footprint or expand the roof of the structure.
  - ii. Routine maintenance of streets, sidewalks, paths and roads (including but not limited to filling potholes, repaving, and installing signs and traffic signals) that does not alter contours or culverts, that is less than six inches above grade, and that does not expand paved areas;
  - iii. Routine maintenance of landscaping that does not include grading, excavation, or filling;
  - iv. Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration and that removes all spoils from the special flood hazard area or tills spoils into fields as a soil amendment;
  - v. Routine silviculture practices (harvesting of trees), including hazardous fuels reduction and hazard tree removal with root balls left in place;
  - vi. Removal of noxious weeds and hazard trees or replacement of non-native vegetation with native vegetation;
  - vii. Normal maintenance of above and below ground utilities and facilities, such as replacing downed power lines and utility poles that does not result in a net change in footprint;

- viii. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility (this does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor);
  - ix. Habitat restoration activities;
  - x. Activities with the sole purpose of creating, restoring, or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas, provided the activities meet federal and state standards and do not include structures, grading, fill, or impervious surfaces;
  - xi. Pre-emptive removal of documented susceptible trees to manage the spread of invasive species.
- b. If the applicant has confirmed compliance under 2.115.9.a.1, a statement confirming that the proposed development activities, as shown on the design plans and drawings submitted with the application, include measures to incorporate all mitigation identified in the floodplain mitigation assessment, the alternate formal consultation, or existing habitat assessment, as needed for no net loss of floodplain functions, or that the proposed development is exempted.
- c. The city will deny a permit to develop in the special flood hazard area unless the applicant submits a statement meeting the requirements of section 2.115.9.a.1.



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DATE: August 26, 2025 Work Session  
TO: Willamina Planning Commission  
FROM: Holly Byram, Contract City Planner, MWVCOG  
RE: Potential Code Amendments: Short Term Rentals (STR)

### **SHORT TERM RENTALS, BACKGROUND:**

Staff has been directed to provide background information about Short Term Rentals (STR), also referred to as “vacation rentals.” A STR is a type of lodging rented for fewer than 30 days. STR rentals are often booked through online company sites like Airbnb, Vacasa, VRBO, etc. A quick online search indicates that there may be a couple STR operating in Willamina city limits currently. The City of Willamina does not currently have adopted standards for STRs.

Many cities have adopted ordinances authorizing the collection of “Transient Room Taxes” (TRTs), also referred to as a “pillow tax.” The TRT dollars generated in these overnight accommodations are regulated by the State of Oregon in terms of how they may be spent. Generally, 70% of the TRTs collected must be used in local tourism promotion efforts, like a Tourism Committee activities, programs, and materials. And 30% may be directed to the City’s general fund.

PROs: Short term rentals can play a role in the local economy by providing small-scale accommodations for visitors who spend dollars at local businesses, pay local property owners directly, and contribute tax dollars to tourism promotion efforts and the City general fund.

CONS: In some regions, communities become concerned about an increase in short term rentals impacting the year-round housing supply available for residents, as well as potential noise/traffic impacts to existing neighborhoods. Willamina may not yet have cause to be concerned, but proximity to Oregon’s popular wine country may grow the interest for short term rentals.

To address concerns about potential impact to neighbors, many cities have adopted STR standards which emphasize “good neighbor policies” to ensure that STRs are not disruptive to the community. Several examples are attached to this memo for review and discussion.

Using Amity as an example, their procedures look like this:

Amity Resolution 2020-15 with Ordinance 663 (attached) addresses transient lodging and vacation rentals. They detail the City’s current policies and procedures. Vacation rentals are required to:

- 1) Register with the City through a standard Business License.
- 2) Submit a Home Occupation permit application if operated in a residential dwelling.
- 3) Pay transient room lodging taxes to the City on an annual basis, reported on an honor system.

**RESOLUTION NUMBER 2020-15**

**A RESOLUTION OF THE CITY OF AMITY REQUIRING COMPLIANCE BY TRANSIENT LODGING AND VACATION RENTAL OPERATORS**

*Whereas*, the City of Amity enacted City Ordinance No. 663 on June 3, 2020 to re-establish a Transient Room Fee and a Tourism Committee to conduct strategic tourism promotion in support of the local economy; and

*Whereas*, City Ordinance No. 663 Section 2 defines “hotel” to mean “any structure (or portion thereof) occupied, intended, or designed for transient occupancy for 30 consecutive calendar days or less for dwelling, lodging, or sleeping purposes. “Hotel” includes any hotel, inn, tourist home, motel, rooming house, apartment house, club, bed and breakfast, Airbnb, space in a mobile home or trailer, or similar structure or portions thereof so occupied, provided such occupancy is for 30 consecutive calendar days or less. Note: any “hotel” (as defined) that offers ‘extended stay’ options is subject to the policies contained herein”; and

*Whereas*, City Ordinance No. 663, Section 9 declares all “hotel” operators in the city shall register with the City Administrator and obtain a “certificate of transient occupancy”; and

*Whereas*, the City of Amity Development Code requires that unpermitted and non-compliant land uses be brought into compliance with the underlying zone district; and

*Whereas*, the City of Amity has not yet adopted land use standards and procedures applicable to the operation of transient lodging operations and vacation rentals in residential zone districts, or accessory to a nonconforming residential use in all other zone districts; and

*Whereas*, there are known to be some entities operating transient lodging operations or vacation rentals within the Amity city limits; and

*Whereas*, the City desires to bring all “hotel” operators into compliance with the adopted Amity Municipal Code, the Amity Development Code, and all applicable Ordinances and Resolutions, until further land use standards are enacted;

**NOW, THEREFORE, THE CITY OF AMITY RESOLVES:**

**Section 1.** That the “certificate of transient occupancy,” as required by City Ordinance No. 663, Section 9.C. and D., shall be a City of Amity Business License.

**Section 2.** That all “hotels” defined in City Ordinance No. 663, Section 2, to include transient lodging operators and vacation rentals, operated within Amity city limits, and located on properties zoned residential, or located on non-conforming residential structures/uses within any other zone of the city, shall also be required to obtain and keep current a Home Occupation Permit, approved by the City Administrator.

**Section 3.** The City of Amity requires all “hotels” which are operated and not compliant with Sections 1 and 2 above as of January 1, 2021, to be brought into compliance within six months, by June 30, 2021.

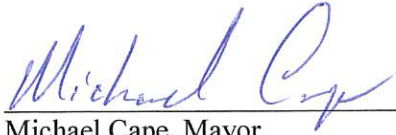
**Section 4.** All “hotels” operating within the Amity city limits must also comply with all applicable County, State, and Federal requirements in addition to these requirements.

**Section 5.** All “hotels” operating within the Amity city limits must regularly report and pay the Transient

Room Fee as mandated in City Ordinance No. 663.

**Section 6.** Any “hotel” not compliant as of July 1, 2021, will be subject to enforcement under Amity ordinances.

**APPROVED BY** the City Council of the City of Amity, Oregon, this 2<sup>nd</sup> day of December 2020.



Michael Cape, Mayor

ATTEST:



Natasha Johnson, City Recorder

**ORDINANCE NO 663**  
**AN ORDINANCE RE-ESTABLISHING A TRANSIENT ROOM**  
**TAX & TOURISM COMMITTEE**

The City of Amity ordains as follows:

**Section 1 Title.**

This chapter shall be known as the transient room tax ordinance and be referred to as such.

**Section 2 Definitions.**

As used in this chapter, the following terms and definitions apply unless the context requires otherwise:

"Administrator" means the person designated as City Administrator (or his or her designate).

"City" means the City of Amity, Oregon.

"Fee" means either the tax payable by the transient or the aggregate amount of tax due from an operator during the period for which collections must be reported. The term includes taxes imposed by Section 3 of this ordinance.

"Hotel" means any structure (or portion thereof) occupied, intended or designed for transient occupancy for 30 consecutive calendar days or less for dwelling, lodging, or sleeping purposes. "Hotel" includes any hotel, inn, tourist home, motel, rooming house, apartment house, club, bed and breakfast, Airbnb, space in mobile home or trailer or similar structure or portions thereof so occupied, provided such occupancy is for 30 consecutive calendar days or less. Note: any "hotel" (as defined) that offers 'extended stay' options is subject to the policies contained herein.

"Occupancy" means the use or possession or the right to the use or possession, for lodging or sleeping purposes, of any room or rooms or space in a hotel.

"Operator" means the person who is the proprietor of the hotel in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent shall be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction. "Rent" excludes, however, the sale of

any goods, services and commodities, other than the furnishing of rooms or room or space in a hotel.

"Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

1. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.
2. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such months, shall not be deemed a transient. [Ord. 418-2003 § 2].

### **Section 3 Imposition of fee.**

A. Transient Room Fee. For the privilege of occupancy in any hotel, on and after the effective date of the ordinance codified in this chapter, each transient shall pay a fee in the amount of seven percent of the rent charged by the operator.

B. Payment of Fee by Transient.

1. The fees imposed by this chapter constitute a debt owed by the transient to the city, which is extinguished only by payment to the operator.
2. The transient shall pay the fees to the operator of the hotel at the time rent is paid.
3. If rent is paid in installments, the transient shall pay a proportionate share of the fee to the operator with each installment.

C. Payment of Fee by Operator. The fee collected or accrued by the operator is to be held by the operator in trust for the city and shall be deemed to be a debt owed by the operator to the city.

### **Section 4 Exemptions.**

The fee imposed by this chapter does not apply to:

- A. Any occupant who pays for lodging on a monthly basis, irrespective of the number of days in such months;
- B. Any occupant whose rent or cash equivalent thereof is less than \$5.00 per day; or
- C. Any occupant whose rent is paid for hospital room, medical clinic, convalescent home or similar care facility.

## **Section 5 Disposition of revenue - Adjustment.**

Any adjustment of fees, penalties or interest necessary to correct a mistake or error in collection or distribution may be made by the administrator at a subsequent collection or disbursement or as set out in Section 19 of this ordinance.

## **Section 6 Collection of revenues - Use of revenues.**

A. The seven (7) percent fee shall be remitted to the city consistent with Section 11 of this ordinance, except that the operator may retain five (5) percent of the overall collected transient room tax revenue to help defray costs associated with the administration and collection of the fee. Records must adequately show that the retained portion is accurate.

B. Thirty (30) percent of the collected taxes shall be placed in the general fund to be used to fund city services.

C. Seventy percent of the collected taxes shall be placed in a special revenue fund to be known as the tourism fund. The tourism fund shall be used to fund tourism promotion, tourism activities, or tourism-related facilities as determined and approved by the City Council. The City Council may accept guidance, recommendations, and proposals provided by the Tourism Committee (as described in Section 7) when allocating the tourism fund. "Tourism promotion" means any of the following activities:

1. Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
2. Conducting strategic planning and research necessary to stimulate future tourism development;
3. Operating tourism promotion agencies as defined by ORS 320.300(8); and
4. Marketing special events, activities, and festivals designed to attract tourists.

"Tourism-related facilities" means a conference center, convention center, visitor information center, and other improved real property that has a useful life of ten (10) or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

Tourism activities means supporting or enabling individual or specific projects, events, or festivals specifically designed to improve the City's quality of life or sense of place that may also attract tourists to Amity, as designated and approved solely by the City Council. Activities may include, but are not limited to:

1. City beautification projects;
2. Activities, events, festivals, or functions hosted by the City and provided to the community "free of charge";
3. Activities, events, festivals, or functions hosted by other government entities that benefit the City of Amity and the local community as a whole;
4. Activities, events, festivals, or functions hosted by non-City entities that benefit the City of Amity and the local community as a whole.

## **Section 7 Creation of tourism committee - Duties.**

A. Effective July 1, of the year immediately following the first collection of revenues under Section 6, there shall be appointed by the mayor, with the advice and consent of the council, a tourism committee, which committee shall consist of six (6) positions, the appointees to which shall be as follows: two (2) shall be incumbent city councilors, one (1) designated as Chairperson and other designated as Co-Chair, one (1) shall be a member of the executive board of the Amity

approval of the assigned City Councilors, may be non-City residents, and one (1) shall be an at-large member. The at-large member shall be a City of Amity resident.

Except as described below, for the first appointment round, non-council members of the committee are typically appointed to two-year terms and serve at the pleasure of the City Council. City Council members on the Committee will be appointed by the Mayor and will serve until such a time they choose to step down, or depart the Council, or are reassigned by the Mayor to another Committee. New committee members or those appointed to fill a vacancy will serve to a term expiring December 31, of that year, and thereafter the appointments shall be for two years. Committee members reappointed to the Committee shall serve for two years with the term expiring on December 31 of the second year. The City Council shall appoint new members or reappoint current members as soon as practicable and will attempt to stagger committee members' terms if possible. Although there is no limit upon the consecutive or nonconsecutive terms served by a member, a member must re-apply each time to continue serving; reappointments are not automatic, but members may be requested to continue serving until a replacement is found. The City Council reserves the right to not reappoint a Committee member.

A. The Councilor assigned as Chairperson shall run the meetings and in the Chair's absence the Co-Chair shall run the meetings. . The presence of a majority of the filled positions of the committee shall constitute a quorum for the conduct of business. The Committee shall act by a majority vote of the members present at a meeting, excluding members present but abstaining. The committee shall meet at such times as the Chairperson may determine are appropriate and necessary. Meetings of the committee shall be conducted in conformance with Oregon's Public Meetings Law. Minutes shall be taken of each meeting and filed with the city recorder.

B. The duties of the tourism committee include:

1. Development of a long-range strategic plan aimed at promoting tourism in the city through the use of funds provided to the Committee by the City, which may include revenues gained from the established transient room tax.
2. Recommendations to the City Council on programs for use of the transient room tax and annual budget appropriations for the tourism fund.
3. With the approval of the City Council and through the Committee Chairperson, direct the City Administrator for implementation of tourism promotion programs and development of tourism-related facilities and activities.

#### **Section 8 Administration of chapter.**

The City Administrator (or his or her designee) shall administer the provisions of this chapter and may do or cause to be done all things reasonably necessary for its implementation, operation and enforcement.

#### **Section 9 Registration of operator - Form and contents - Execution - Certification of authority- Display.**

A. Every person engaging in, or about to engage in, business as a transient lodging provider, or operator of a hotel (as defined herein), in the City shall register with the City Administrator on a form provided by the city.

1. Operators engaged in business at the time the ordinance codified in this chapter is adopted must register not later than thirty (30) calendar days after the effective date of the ordinance codified in this chapter.
2. Operators commencing business after the ordinance codified in this chapter is adopted must register within fifteen (15) calendar days after commencing business.
3. The privilege of registering after the date of commencing business shall not relieve any person from the obligation of payment or collection of the transient room fee from the date of commencing business regardless of the date of registration.

B. On the registration form, the operator shall set forth the name under which he or she transacts or intends to transact business, the location of the hotel(s) and such other information to facilitate collection of the fee as the administrator requires.

C. The City Administrator shall, as soon as reasonably possible after receipt of a properly completed registration form, issue a certificate of transient occupancy registration which shall, at a minimum, contain the following information:

1. The name of the operator;
2. The address of the hotel; and
3. The date upon which the certificate was issued.

D. Each certificate shall be prominently displayed in the hotel (as defined herein) to which it is applicable so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

#### **Section 10 Collection of fee by operator.**

A. Unless otherwise exempted by this chapter, every operator shall collect the fee from the transient at the time the transient pays rent.

B. Operators may not advertise or allow that any part of the fee will be assumed or absorbed by the operator, or that the fee will not be added to the rent or, if added, that any part of it will be refunded, except in the manner provided by this chapter.

#### **Section 11 Monthly reporting and payment- Extension.**

A. On or before the last day of each month, every operator shall report the rents paid to the operator during the preceding month and pay the appropriate amount of the fee to the city along with a return setting out the amount of the fee collected or otherwise due for the period, show the total rentals upon which the fee was collected or otherwise due, the gross receipts of the operator for the period and an explanation of any discrepancy between those amounts and the exempt rents, if any. The return shall be signed by the operator or an authorized agent thereof.

B. The operator liable for filing the return required under this section shall deliver the return together with the fee due to the city of Amity. Delivery must be in person or by first class mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

C. The administrator may, upon written request received on or before the due date of the return or fee, for cause satisfactory to the administrator, extend the time for filing the return or paying the fee for a period not to exceed thirty (30) days. Any operator to whom an extension is granted and who pays the fee within the period for which the extension is granted shall pay, in addition to the fee, simple interest at the rate of nine percent per annum from the date on which the fee would otherwise have been due.

D. A report and a fee return are required for each reporting period even though there may be no rents due or payable to the hotel (as defined herein) or operator during the preceding month nor any fees due.

#### **Section 12 Failure to file reports.**

If an operator fails to make a report of the information required by Section 11 of this ordinance within the time and manner prescribed, the administrator may examine the books, records, and files of the operator to determine the fee due on the rents, as provided by this chapter.

#### **Section 13 Special determination and collection - Operator delay.**

make that amount due and payable immediately; provided, that:

1. The City Administrator reasonably believes that delay may jeopardize either the collection of any amount of any fee or the determination of that fee amount; and
2. The purpose of the collection is noted on the special determination.

B. The City Administrator shall serve notice of the special determination to the operator in person or, if by first class mail, at the operator's last known address shown in the administrator's records.

C. The operator shall pay the determined amount to the City Administrator immediately upon receiving notice of the special determination.

D. After making the required payment, but within 14 days of receiving notice of the special determination, the operator may appeal the decision by filing a petition for re-determination with the administrator, pursuant to Section 19 of this ordinance.

#### **Section 14 Operator required to keep records.**

A. Every operator shall state the fee imposed under this chapter separately on room receipts and shall account for such fees separately in the hotel's records.

B. Every operator liable for the reporting or payment of the fee imposed under this chapter shall keep such records, receipts, and other pertinent documents in such form as the City Administrator may require.

C. Every operator shall keep such records for not less than three years, unless the City Administrator issues written authorization to destroy them sooner.

#### **Section 15 Records exempt from disclosure.**

A. Pursuant to ORS 192.502(16) and except as provided by subsection (B) of this section, no city of Amity employee or agent, and no employee or agent of cities participating by ordinance or resolution under this chapter, may disclose the records, reports, and returns required by this chapter to be submitted to or inspected by the city to allow it to determine the amount of any transient fee payable or the amount of such fees paid, to the extent that such information is in a form that would permit identification of the individual concern or enterprise.

B. Nothing in this section shall limit the use that the city may make of such information for regulatory purposes, or the admissibility of such information in any enforcement proceedings.

C. In the event that the payment of fees imposed under this chapter is delinquent by more than 60 days, the City shall disclose, upon a legal request of any person, the following information:

1. The identity of the individual concern or enterprise that is delinquent;
2. The period for which the fees are delinquent; and
3. The actual or estimated amount of the delinquency.

#### **Section 16 Refunds.**

A. Whenever an operator has paid the amount of any fee, penalty, or interest more than once, or the City Administrator has erroneously or illegally collected or received it under this chapter, it may be refunded; provided, that the operator first files a petition for re-determination and refund with the administrator, pursuant to Section 19 of this ordinance. In addition to any other requirements imposed by this chapter, the petitioner shall state the

the date of overpayment. All refunds shall be charged to the transient room fee reserve account.

B. Whenever the fee required by this chapter has been collected by the operator, and deposited by the operator with the City Administrator, and it is later determined that the fee was erroneously or illegally collected or received by the administrator, it may be refunded by the City Administrator to the transient; provided, that the transient, or the City Administrator or other person acting in the transient's behalf, first files a petition for re-determination and refund with the City Administrator, pursuant to Section 19 of this ordinance. In addition to any other requirements imposed by this chapter, the petitioner shall state the specific reason upon which the claim is founded and file the petition within three years from the date of the overpayment. All refunds shall be charged to the transient room fee reserve account.

### **Section 17 Delinquency.**

Unless an operator obtains an extension pursuant to Section 11 of this ordinance, the operator becomes delinquent with respect to this chapter any time the operator fails:

- A. To submit reports completely, accurately, on time or as otherwise required by this chapter; or
- B. To remit his or her fee payment fully, on time, or as otherwise required by this chapter.

### **Section 18 Sanctions.**

A. An operator who is delinquent may be subject to one or more of the following sanctions:

1. If an operator is delinquent in submitting reports, the City Administrator may take one or both of the following measures:
  - a. Examine the operator's books, records, and files in order to compute the fee due on the rents, as provided for by this chapter.
  - b. Assess the fee at no more than twice the amount estimated to be due and add a penalty of ten (10) percent of the amount of the fee assessed. This penalty shall be in addition to all other penalties. The amount of assessment of additional fee and penalty shall depend on the operator's record of past delinquencies.
2. If an operator is delinquent in making fee payments the City Administrator may assess interest payments on the outstanding fee accounts at a rate of **ten (10)** percent per annum from the date due until the date of payment.

B. Once the City Administrator determines that an operator is delinquent and is subject to the sanction or sanctions imposed by subsection (A)(1) or (A)(2) of this section, the City Administrator shall give that operator a written notice of the delinquency.

1. The notice may be served personally or by mail, and if by mail, the notice shall be sent by certified mail and addressed to the operator at the last known address as it appears in the records of the City Administrator. In case of service by mail of any notice required by this chapter, the service is complete at the time of postmark by the United States Post Office.
2. Except in the case of fraud, or intent to evade the provisions of this chapter, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.
3. The amount stated in the determination shall become due and payable immediately upon

petition for re-determination pursuant to Section 19 of this ordinance.

C. At any time within three (3) years after any fee or any amount of fee required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the City Administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the city to collect the amount delinquent, together with penalties and interest.

### **Section 19 Petition for re-determination.**

A. Any operator who receives a notice of determination or delinquency may petition the City Administrator, or designated representative, for re-determination. The petitioner may request an oral hearing on the matter by stating this request on the petition.

1. The petition for re-determination allowed under this section must be received by the administrator no more than fourteen (14) days after the City Administrator serves the notice of delinquency or determination. It must be on a form supplied by the administrator or it must state substantially the same information.
2. No petition for re-determination shall be effective for any purpose unless the operator has first paid any and all fees and interest due and payable on the account.
3. In the event of an oral hearing, the administrator shall give petitioner a 10-day written notice of the time and place of the hearing. The administrator may continue the hearing from time to time, as necessary.
4. After reconsidering his or her determination, the administrator shall prepare a decision in writing and shall serve notice of this decision to the petitioner by first class mail. Service shall be complete at the time of postmark by the United States Postal Service.

B. As a result of the re-determination, the administrator may increase or decrease the amount of the delinquency or determination. If an increase is established, it shall be due and payable immediately after the decision is made. If a decrease is established, the administrator shall refund the amount or credit it to the operator or the hotel's assignees or executors.

C. The decision of the administrator upon a petition for re-determination becomes final, unless within fourteen (14) days following the service of such notice the petitioner files an appeal of the re-determination with the city council pursuant to Section 20 of this ordinance.

### **Section 20 Appeals to city council.**

A petitioner affected by the re-determination of the City Administrator, or designated representative, may appeal to the city council by filing a notice of appeal with the administrator within fourteen (14) days of the service of the re-determination. The City Administrator shall transmit the notice of appeal, together with the file of the appealed matter, to the city council which shall fix a time and place for hearing such appeal. The city council shall give the appellant not less than fourteen (14) days' written notice of the time and place of hearing. The city council shall consider the matter de novo and may approve, revise, or remand the administrator's re-determination. The city council's decision shall be by written order and shall be subject to writ of review proceedings pursuant to ORS 34.010.

### **Section 21 Liens.**

A. The tax paid to the operator and owed to the city, and interest, penalty, filing fees, and any advertising costs incurred when the tax becomes delinquent, shall be a lien on all tangible personal property in the operator's hotel from the date of its recording with the County Clerk until the tax is paid. The tax, penalty and interest owed to the city by the operator shall continue to accrue until such time as the lien is satisfied. The lien shall be superior to all subsequently recorded liens on all tangible personal property in the operator's hotel. The lien may be foreclosed and the necessary property may be sold to discharge the lien, as provided by law.

operator has defaulted in payment of the tax, interest and penalty. A copy of the notice shall be sent by certified mail to the operator.

C. Personal property subject to the lien may be foreclosed in the same manner as a nonpossessory chattel lien as set forth in ORS Chapter 87.

D. A lien for the tax, interest and penalty shall be immediately released by the City Administrator when the full amount has been paid to the city. The operator or person making the payment shall receive a receipt stating that the full amount of the tax, interest and penalty has been paid, that the lien is released and the record of the lien is satisfied.

E. Lien on Real Property. The tax imposed by this chapter, together with the interest, administrative costs, attorney fees and penalties herein provided and the filing fees paid to the clerk of Yamhill County, Oregon, and advertising costs which may be incurred when same becomes delinquent as determined by the administrator and as set forth in this chapter, shall become a lien on the hotel real property thirty (30) days after notification of payment due. The lien hereby created may be foreclosed in any manner provided by law.

F. Attorney Fees. In the event of litigation to foreclose a lien created by this section, the prevailing party shall be entitled to recover reasonable attorney fees and other costs and disbursements provided by law.

**Section 22 Violation - Penalty.**

Failure to register pursuant to this chapter is punishable by a fine not to exceed \$100.00 per day for each continuing day of violation, in addition to the penalties assessed for nonpayment as set forth herein.

This ordinance will take effect 30 days from the date of its passage.


FIRST READING:

SECOND READING:

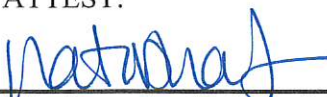
SUBMITTED AND APPROVED THIS DAY OF June 3, 2020.

Ayes: 4  
Nays: 0

SIGNED:

  
\_\_\_\_\_  
Mayor: Michael Cape

ATTEST:

  
\_\_\_\_\_  
City Recorder: Natasha Johnson



## 2.308      SHORT-TERM RENTALS

A short-term rental, also referred to as a vacation rental, is a dwelling unit rented to guests for a period of time shorter than 30 consecutive days.

### 2.308.01      Standards

Short term rentals may be permitted on any property on which there is a permitted dwelling unit, subject to the following standards and restrictions:

- A. No short-term rental shall operate within city limits without a Short Term Rental Permit and current Business License issued by the City of Amity. Property owner shall list the permit number in rental listings.
- B. Compliance with the adopted Short-Term Rental Standards shall be the ongoing obligation of the property owner.
- C. Short term rental property owners shall report occupancy data and remit Transient Room Taxes to the City of Amity on an annual basis.
- D. Short-term rental dwelling unit shall be a structure fully permitted by Yamhill County Building Department.
- E. Short term rental property shall have a “responsible party” local point of contact who can respond within one hour, 24 hours per day. Property owner is responsible for maintaining and updating the contact information with the City and posted inside the rental property.
- F. Short-term rentals are subject to the adopted City Noise Ordinances.
- G. Property owner shall encourage guests to follow good neighbor practices of general respect for neighboring residents in regard to noise and traffic, being mindful of driving speeds, watching for pedestrians and children playing.
- H. Short-term rental shall provide two off-street vehicle parking spaces, designed and surfaced to City standards.
- I. Short-term rental guests shall not park in the yard off of an improved driveway and parking spaces.
- J. Property owner shall be responsible for maintenance of property, to include the upkeep of landscaping, and removal of litter and pet waste.

K. Property owner shall be responsible for maintaining curbside trash and recycling services, to include placing the containers at the appropriate place and time for pickup, and returning containers after pickup.

L. Property owner shall be responsible for enforcing guest pet policies. Guests shall clean up after pets, prevent unattended prolonged barking, and prevent pets from roaming off the property unrestrained.

M. All signage posted on a short term rental property shall comply with Section 2.206 Sign Standards.

**2.308.02 Process**

A. Property owners desiring to operate a short-term rental shall secure from the City of Amity a one-time Short-Term Rental Permit. A copy of the permit shall be posted on premises.

B. Property owners shall also secure a Business Licenses, to be renewed on an annual basis.

C. Property owners shall collect and remit to the City of Amity Transient Room Taxes.

**2.308.03 Non-Compliance**

Complaints submitted to the City of Amity shall be processed in the following manner:

1. 1<sup>st</sup> complaint - Provided to City Council in the next regular meeting packet.
2. 2<sup>nd</sup> complaint - Property owner shall attend the next City Council meeting to address the complaints received.
3. 3<sup>rd</sup> complaint - City Council shall discuss nature of the complaints, in consideration of revocation of the Short-Term Rental permit / Business License on the subject property, or other consequences deemed appropriate by Council.
4. Further complaints may be considered a failure of the property owner to comply with the requirements of this section, subject to the penalties and remedies of subsection 1.102.03, including but not limited to fines per day.
5. Operation of a short-term rental without required Short-Term Permit, Business License, or remitting Transient Room Taxes, may be considered a violation of the Amity Development Ordinance, subject to the penalties and remedies of subsection 1.102.03.



## Short-Term Rental Operating License Good Neighbor Guidelines

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The Good Neighbor Guidelines (GNG) were created to remind Short-term Rental (STR) owners and tenants/guests of the importance of being a good neighbor.

Welcome neighbors!

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- 1. 24-Hour Contact Information.** If at any time you have concerns about your stay or in regards to your neighbors, please call the 24-hour contact number listed in the rental lease agreement or posted in the unit. In the event of an emergency, please call 911.
- 2. General Respect for Neighbors.** Be friendly, courteous, and treat your neighbors like you want to be treated. Respect your neighbors and their property.
- 3. Occupancy Limits.** Short-term Rental overnight occupancy (10pm – 7am) is limited to two-persons per bedroom plus two additional persons. Daytime occupancy (7am – 10pm) is limited to the overnight occupancy plus six additional persons
- 4. Noise.** Be considerate of the neighborhood and your neighbor's right to the quiet enjoyment of their home and property. Quiet hours are 10pm – 7am.
- 5. Maintenance of Property.** Be sure to pick up after yourself and keep the property clean, presentable and free of trash.
- 6. Garbage Disposal.** Place trash and recycling containers at the appropriate place and time for pickup. Return trash and recycling containers to the designated location within 12 hours after pickup. Cigarette butts should be properly extinguished and disposed of in the garbage.
- 7. Parking & Traffic Safety.** Refer to the parking diagram posted in the unit and park in designated spaces. Do not park on lawns, or in a manner which blocks driveways, sidewalks, alleys or mailboxes. Drive slowly through neighborhoods and watch for pedestrians and children playing.
- 8. Pets.** Promptly clean-up after your pets. Prevent excessive and prolonged barking, and keep pets from roaming the neighborhood. Unattended barking dogs left at the rental are prohibited by Hood River Municipal Code. Control aggressive pets, and be sure to abide by the local leash laws. Store pet food indoors and in a secure container to reduce the likelihood of unwanted pest problems.
- 9. No Events on Premises.** Using the short-term rental as an event site is not allowed under Hood River Municipal Code. Examples of events include, but are not limited to, company retreats, weddings, rehearsal dinners, etc.
- 10. Tenant/Guest Responsibility.** Approved guests and visitors are expected to follow the Good Neighbor Guidelines. Be sure to read your rental agreement for additional terms and restrictions which may include consequences for violating the Good Neighbor Guidelines.



## Short Term Rental (STR) Operating License Owner Information Sheet

*This information sheet is provided as an overview to assist STR owners comply with Hood River Short-term Rental rules and is not a substitute for carefully reviewing applicable municipal code requirements set forth in HRMC 17.04 and 5.10.*

### **STR Address 24-Hour Contact Representative**

HRMC 5.10.080.2

The STR owner must be available or designate a representative to be available by phone (24 hours a day, seven days a week) to ensure a response to complaints regarding the condition, operation, or conduct of the occupants. Responses to complaints must be within 30 min with issues resolved in a timely manner. The City must be notified of changes in property contact information at least 14 days in advance.

### **24-Hour Contact Information**

HRMC 5.10.080.3

The STR owner or designated representative's name, email address, and phone number must be provided to the City upon license application and renewal, and the information shall be kept current at all times.

The owner or designated representative must either: (1) provide an annual mailing or otherwise distribute by hand, a flier to neighbors within a 250 foot radius of the short term rental property address containing the owner and/or representative contact information, or post a small placard or sign near the adjacent street advising neighbors and tenants of the same information where it can be seen from the public right-of-way.

- a. Placard must be displayed on or within a sign up to two square feet in size.
- b. Placard must include Short Term Rental identifying language and the Owner Representative name and contact phone number.

### **Timely Response to complaints**

HRMC 5.10.090

The licensee or representative shall resolve neighborhood questions, concerns, or complaints in a reasonably timely manner depending on the circumstances, initial response must be within 30min. by email, telephone or other manner. It is in the best interest of a STR owner or designated representative to maintain a record of all complaints received including the date, time, nature of the complaint, and the action and time the action was taken in response to the complaint.

### **Garbage Service**

HRMC 5.10.080.3

The Vacation Home Rental owners shall have weekly solid waste collection service with assisted pick-up provided by the solid waste provider, if available, and provide proof of garbage service (Hosted Homeshares do not have this requirement).

### **License Number Included in Advertisements**

HRMC 5.10.090.A

Your Short-term Rental License Number must be included on all advertisements for the property. It is illegal to operate a Short-term Rental without a license.

**Mandatory Postings**

HRMC 5.10.080.D

*Parking* - The approved off-street parking spaces must remain available for renters, including garage areas if required. A parking diagram of these approved parking spaces must be provided to renters and be available in a prominent location within the dwelling for rent.

*Occupancy* - The maximum overnight occupancy is limited to two persons per bedroom plus two additional persons, daytime occupancy is the overnight occupancy plus six persons, which must be posted in a prominent location in the dwelling. It is recommended that the maximum occupancy be included in the rental agreement/contract.

*Trash Pickup* - Day and week of trash pickup must be posted.

**Good Neighbor Guidelines**

HRMC 5.10.050.6

The City has developed Good Neighbor Guidelines which must be conveyed to tenants in one of several ways:

- a) Incorporating the Good Neighbor Guidelines into the rental contract.
- b) Including the Good Neighbor Guidelines in the rental booklet
- c) Providing the Good Neighbor Guidelines in a conspicuous place in the dwelling unit

**Remit Transient Room Tax**

HRMC 5.10.080.E

Short-term Rental operators must collect and remit Transient Room Tax per HRMC 5.09. Monthly Tax Return forms can be located on the City's webpage.

**Activities Specifically Prohibited**

HRMC 5.10.090.C

The following activities are specifically prohibited in the context of operating a Short-term Rental and will be strictly enforced. In addition to the the prohibitions below, Short-term Rental must adhere to all Hood River Municipal Code.

- Unattended barking dogs
- Events. Examples include, but are not limited to, company retreats, weddings, rehearsal dinners, etc.
- Exceeding noise limits set by HRMC Title 8 Chapter 9

**Fines and License Revocation**

HRMC 5.10.110

The goal of the following penalty structure is to promote compliance and limit impacts of STR operation to surrounding neighborhoods. The discovery of material misstatements or providing false information in the STR application is grounds for license immediate revocation.

		<b>Occurrence* of Violation within 12-mo. Period</b>			
		<b>1st</b>	<b>2nd</b>	<b>3rd</b>	<b>4th &amp; Each Add'l</b>
<b>Revocation</b>				<b>Revocation Initiated</b>	<i>No License, previously Revoked</i>
<b>Fine Amount</b>	<b>Written warning</b> or Amt. Specified by existing HRMC, <i>whichever is more</i>	<b>\$250</b> or Amt. Specified by existing HRMC, <i>whichever is more</i>	<b>\$500</b> or Amt. Specified by existing HRMC, <i>whichever is more</i>	<b>\$500</b> or Amt. Specified by existing HRMC, <i>whichever is more</i>	<b>\$500</b> or Amt. Specified by existing HRMC, <i>whichever is more</i>

*\* An "Occurrence" is defined as one or more violations of Title 5, Title 17, or any other Hood River Municipal Code, within a 24-hour period associated with the operation of an STR*

## Chapter 17.125 - VACATION RENTAL DWELLING

## Footnotes:

-- (3) --

**Editor's note**— Ord. No. 695, § 1(Exh. A), adopted Dec. 12, 2011, amended the title of Ch. 17.125 to read as herein set out. Prior to inclusion, Ch. 17.125 was entitled "Vacation Rental Dwelling Unit."

## 17.125.010 - Standards.

A vacation rental dwelling permit shall be issued as an accessory use provided the following standards are met:

- A. There must be no offensive noise, smoke, dust, litter or odor noticeable at or beyond the property line resulting from the use of the dwelling as a vacation rental dwelling.
- B. The use shall not adversely affect the residential character of the neighborhood.
- C. There shall not be an excessive generation of traffic created by the vacation rental dwelling.
- D. One (1) off-street parking space will be provided for each bedroom in the dwelling, but in no event shall less than two (2) spaces be provided for each dwelling.
- E. The dwelling must maintain the residential nature of the front and side yards. The lot must be landscaped and maintained as a permanent residence similar to the surrounding area.
- F. The permittee must provide receptacles for the deposit of garbage and subscribe to a solid waste collection service for the vacation rental dwelling.
- G. The permittee must obtain a business registration license from the City of Carlton.
- H. Signs for vacation rental dwellings shall comply with requirements in Chapter 17.80.
- I. The property owner shall designate a local representative who permanently resides within the Carlton Urban Growth Boundary or a licensed property management company with a physically staffed office within ten (10) vehicular miles of the Carlton Urban Growth Boundary. The owner may be the designated representative where the owner resides in the Carlton Urban Growth Boundary.

The local representative must be authorized by the owner of the dwelling to respond to the tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the dwelling for vacation rental purposes. The local representative must respond to complaints in a timely manner to ensure the dwelling complies with the standards for vacation rental dwellings and other city ordinances pertaining to noise, disturbances, nuisances, as well as state laws pertaining to the consumption of alcohol, or the use of illegal drugs.

- J. The following information shall be posted within the vacation rental dwelling adjacent to the front door:
  1. The name of the local representative and a telephone number where the representative may be reached;
  2. The telephone number and web site address of the City of Carlton and the Carlton Police Department;
  3. The maximum number of occupants permitted to stay in the dwelling;
  4. The maximum number of vehicles allowed to be parked on the property;
  5. The number and location of off-street parking spaces; and
  6. The solid waste collection day.

(Ord. No. 678, § 1(Exh. A), 4-13-2009; Ord. No. 695, § 1(Exh. A), 12-12-2011)

## 17.125.020 - Process.

- A. Step One Process.
  1. Notice. Upon receipt of an application for a vacation rental dwelling permit, notice must be mailed at the applicant's expense to all owners of property within one hundred (100) feet of the exterior boundary of the property for which the application is made, giving the property owners notified twenty (20) days in which to respond to the city.
  2. Staff review.
    - a. If no objections or complaints are received regarding the proposed use of the property as a vacation rental dwelling, staff may issue a vacation rental dwelling permit to the applicant. However, if staff finds that the facts of the particular case requires interpretation of existing standards, then a public hearing before the Planning Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the standards found in Chapter 17.196.
    - b. If staff receives one (1) or more written objections from individuals affected by the proposed use regarding compliance with any of the vacation rental standards listed above, after the notice requirements of the Step One process have been met, no permit shall be issued at that time and a hearing shall be set before the Planning Commission in accordance with the Step Two process specified below.
- B. Step Two Process. If the staff refers the matter to the Planning Commission for hearing, or a hearing is required as a result of a Step One mandatory referral, the application will be deemed an application for a conditional use and the conditional use requirements of Chapter 17.152 shall apply, as well as the standards for issuance of a vacation rental dwelling permit. The Development Code public hearing notice provisions and application fee requirements for a conditional use shall also apply.

(Ord. No. 678, § 1(Exh. A), 4-13-2009; Ord. No. 693, § 1(Exh. A), 12-12-2011)

## 17.125.030 - Permit issuance.

A vacation rental permit shall be issued in the name of the property owner and is not transferable. The permit shall terminate and be deemed void when the permit holder sells or transfers the property occupied or rented as a vacation rental dwelling. A conditional use permit approved for a two-family duplex vacation rental will automatically terminate if the other half of the duplex is rented out for non-vacation use.

(Ord. No. 678, § 1(Exh. A), 4-13-2009; Ord. No. 695, § 1(Exh. A), 12-12-2011)

## 17.125.040 - Non-compliance and complaints.

- A. Non-Compliance. Any vacation rental dwelling unit that does not comply with the requirements of this Section and the provisions of the underlying district shall be a violation of this Ordinance and shall be subject to the enforcement remedies of Section 17.04.040.

- B. Complaint Procedures. In addition to penalties specified in Section 17.04.040, the city may determine that an appropriate penalty is the revocation of a vacation rental permit in accordance with the following complaint procedures:
1. The Planning Commission shall review the vacation rental dwelling permit upon receipt of one (1) written complaint from an individual who is adversely affected by the proposed use. The complaint shall clearly state the nature of the objection to the vacation rental dwelling. Staff shall investigate all such complaints and the results of the investigation shall be reported to the Planning Commission at a regular meeting. The complainant and owner of the vacation rental dwelling shall be notified of the meeting. Standards of judging objections shall include, but are not limited to, the following:
    - i. Generation of excessive traffic;
    - ii. Monopoly of on-street parking spaces;
    - iii. Other offensive activities not in harmony with the residential neighborhood as may be determined by the Planning Commission;
    - iv. Compliance with vacation rental dwelling permit standards, including conditions required by the Planning Commission as a result of issuance of a vacation rental permit through the conditional use process;
  2. The Planning Commission, upon hearing the evidence, may: approve the use as it exists; require the use to be terminated; or impose appropriate restrictions on the operation of the vacation rental dwelling.
  3. The determination of the Planning Commission shall become final ten (10) days after the date of its written decision unless appealed to the City Council.

(Ord. No. 678, § 1(Exh. A), 4-13-2009; Ord. No. 693, § 1(Exh. A), 12-12-2011)

# Short Term Rental Information & Submittal Requirements



Planning Department  
231 NE Fifth Street ◦ McMinnville, OR 97128  
(503) 434-7311 Office ◦ (503) 474-4955 Fax  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## Overview

In order to operate a vacation home rental in any of the residential zones of the City of McMinnville, a property owner must first submit an application and meet a specific set of standards as set forth in Section 17.12.010(O) (Permitted Uses) of the Zoning Ordinance, and also listed below. [Vacation home rentals located in commercial zones are exempt from these requirements; however, *all* such establishments are subject to the requirements of the *Transient Lodging Tax* program, which is administered by the City's Finance Department.]

Please note that occupancy of a vacation home rental in McMinnville is limited to a single family, as that term is defined by the McMinnville Zoning Ordinance.

## Application Submittal

The following materials must be provided at the time of submittal, or the application will not be accepted for processing.

- A completed Short Term Rental application form.
- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements
- Payment of the applicable review fee.

## Review Process

An application for a vacation home rental permit is subject to review by the Planning Director as stated in Section 17.72.110 (Director's Review with Notification) of the Zoning Ordinance, after notification of the application has been provided to property owners within 100-feet of the subject site. The decision made by the Planning Director may be appealed to the Planning Commission as outlined in Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance.

The Director may approve, approve with conditions, or deny the application, based on the following criteria:

1. Short term rentals shall not be located within 500 feet of another short term rental, or on the same property as another short term rental.
2. Short term rentals shall be allowed in single family dwellings, common-wall single family dwellings, and accessory dwelling units (ADUs). The structure shall retain the characteristics of a residence.
3. That a minimum of one off-street parking space be provided for each guest room.
4. That signage is limited to only one non-illuminated or incidentally illuminated wooden sign not exceeding three (3) square feet of face area.
5. That the duration of each guest's stay at the residence be limited to no more than 30 (thirty) consecutive days.
6. That smoke detectors be provided as per the requirements for "lodging houses" in Ordinance No. 3997.
7. That the property owner shall live within the geographic area of the 97128 zip code or shall provide contact information of a person living within the geographic area of the 97128 zip code who shall be available to respond immediately to any emergency or complaint related to the short term rental.
8. Permits shall be issued to the current property owner at the time of application. Permits do not transfer with the sale or conveyance of the property. Upon any change in ownership, the short term rental permit for the subject property will become void. The use of the subject property as a short term rental by the new owner will again be subject to the application and review procedures in Section 17.72.110. The following situations are not deemed to be a change in ownership for the purposes of this section:
  - a. Transfer of property from a natural person(s) to a Trust serving the same natural person(s) or to a family member pursuant to a Trust; or
  - b. Transfer of ownership pursuant to a will or bequest upon the death of the owner.
9. Permits must be renewed annually. Failure to renew the short term rental permit annually will result in the permit becoming void, and the use of the subject property as a short term rental will again be subject to the application and review procedures in Section 17.72.110.
10. Complaints on conditions 1 through 9 above will be reviewed by the Planning Commission at a public hearing. The Planning Commission will review complaints based on the criteria listed in Sections 17.74.030 and 17.74.040 of the zoning ordinance. If the short term rental is found to be in violation of the criteria, the Planning Commission may terminate the use.



**Planning Department**  
231 NE Fifth Street ◦ McMinnville, OR 97128  
(503) 434-7311 Office ◦ (503) 474-4955 Fax  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

<b>Office Use Only:</b>
File No. _____
Date Received _____
Fee _____
Receipt No. _____
Received by _____

## Short Term Rental Application

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### **Applicant Information**

**Applicant is:**  Property Owner  Contract Buyer  Option Holder  Agent  Other \_\_\_\_\_

Applicant Name \_\_\_\_\_ Phone \_\_\_\_\_

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Contact Email \_\_\_\_\_

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### **Property Owner Information**

Property Owner Name \_\_\_\_\_ Phone \_\_\_\_\_  
*(If different than above)*

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Contact Email \_\_\_\_\_

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### **Site Location and Description**

*(If metes and bounds description, indicate on separate sheet)*

Property Address \_\_\_\_\_

Assessor Map No. R4 - - Total Site Area \_\_\_\_\_

Subdivision \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Comprehensive Plan Designation \_\_\_\_\_ Zoning Designation \_\_\_\_\_

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1. Please describe the residence and its proposed use. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. How many guest rooms will be provided? \_\_\_\_\_  
What is the maximum number of guests that can be accommodated? \_\_\_\_\_

3. How many off-street parking spaces are available? \_\_\_\_\_  
Are the parking spaces paved? Yes  No

4. Are there smoke detectors in the residence? Yes  No   
If so, where are they located? \_\_\_\_\_  
\_\_\_\_\_

5. Does the property owner live within the city limits of McMinnville? Yes  No   
If no, please provide contact information of a person living within the city limits who shall be available to respond immediately to any emergency or complaint related to the vacation home rental:

Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Contact Email \_\_\_\_\_

6. Has the applicant registered as a Transient Lodging Provider in order to collect, and pay, the Transient Lodging Tax imposed by the City of McMinnville on the rent charged to an occupant who occupies a provider's lodging for 30 successive days or less? Yes  No

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, a north arrow, legible, and of a reproducible size), clearly showing the location of the residence; and existing and proposed features within and adjacent to the subject site, such as: lot and street lines with dimensions; driveway(s); parking; distances from property lines to structures; improvements; and significant features. **Please note that all parking must be off-street and of a hardscaped surface. Clearly identify that the off-street parking requirements are met.**
- Digital photographs of the subject residence's exterior.
- Floor plan showing the size, function, and arrangement of interior rooms.
- Compliance of Neighborhood Meeting Requirements.
- Other information deemed necessary by the Planning Director to allow review of the applicant's proposal.
- Payment of the applicable review fee, which can be found on the Planning Department web page.

***I hereby certify that the statements contained herein are in all respects true and correct to the best of my knowledge and belief.***

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date



100 HIGH STREET S.E., Suite 200 | SALEM, OREGON 97301 | [www.mwvcog.org](http://www.mwvcog.org)  
T: 503.588.6177 | F: 503-588-6094 | E: [mwvcog@mwvcog.org](mailto:mwvcog@mwvcog.org)  
*An equal opportunity lender, provider, and employer*

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DATE: August 26, 2025 Work Session  
TO: Willamina Planning Commission  
FROM: Holly Byram, Contract City Planner, MWVCOG  
RE: Potential Code Amendments: Food Carts

**FOOD CARTS, BACKGROUND:**

Staff has been directed to provide background information about Food Cart Policies. The City of Willamina does not currently have food cart standards, permit procedures, forms, or fees. Food carts can provide benefits to a community by expanding the variety of local food options for residents and visitors alike, and food carts provide local jobs. Perhaps most importantly, food carts can allow a new start-up restaurant to test recipes and menus, establishing a customer base before investing in a permanent brick and mortar business location.

Over the past few years, staff have conducted research on the approaches used by a handful of nearby Oregon cities. The big picture takeaway is that food carts are handled in a variety of ways. No two communities researched were identical in their process or standards. "Food carts" were also referred to as: temporary vendors, mobile food vendors, transient merchants, mobile food unit, and temporary merchants. There were just as many differing definitions.

Overall, staff found that many communities permit individual food carts on an existing paved site through an administrative review (similar to a business license) handled through municipal code standards, rather than as a land use application regulated by the development code. The exception to this is that a Site Development Review is typically triggered when more than 1 or 2 units were proposed with hook-ups (a pod or cluster of carts), when sufficient traffic trips were anticipated, or when site improvements (paving and covered dining structures) were proposed. Several larger cities had well-developed standards for food cart pods or clusters, where an entire property is dedicated to this use, including complementary amenities such as dining shelters, restrooms, storage units, etc.

Below is a list of the types of standards which many cities addressed, when providing for food carts in their communities. Hubbard's sample form and standards are attached for reference.

**FOR DISCUSSION**

Staff has compiled the following table for the sake of discussion only.

STANDARD	FOR CONSIDERATION	NOTES & QUESTIONS
Permit	Allow one or two food carts per developed property. Allow food cart pods through a different process.	
Type	Allow food and beverage vendors only, includes fresh produce.	
Definition	Refer to food carts as “mobile food vendors” to include both driven and towed units on inflated wheels, capable of being moved at any time.	
Process	Process 1-2 food carts per property administratively, similar to business licenses.  Process food cart pods and significant site improvements through the Site Development Review.	
Code language	Food cart standards will be located in the Development Code.	
Form & Fee	Generate new food cart application form and adopt new fees for 1) initial application and 2) renewal application. Incomplete applications forms will not be processed until all the required information is received by the City.	
Duration	Permit good for one year. Must be applied for at least 30 days prior to the opening of business.	Year round or shorter “temporary” timeframes (90 days, 6 months, etc)?
Extension	Unlimited permit extensions permitted as long as business remains in good standing with city.	
New location	A new property location should be processed as a new application (rather than an extension).	
Transferability	Permits are non-transferable between vendors or locations.	
Revocation	Permits can be revoked when the vendor fails to comply with the signed standards.	How is this enforced? Are vendors subject to penalties?
Appeal	If a permit is denied for any reason by staff, it can be appealed to the PC or CC?	
Other permits	Business license, County Health Dept, Building permits? Fire District propane inspection.	
Application requirements	Application form with point of contact information, written permission from property owner, site plan showing dimensions and setbacks, photo of the unit, copies of applicable other permits, signage information, description of proposed equipment,	
Zone	Allow in Commercial Zones only. Wherever restaurants are permitted.	
Setbacks	All setbacks of the underlying zone apply. Food carts may not be located in the public right of way.	

Site improvements	Vendor pad, pedestrian circulation, and parking must be paved asphalt or concrete.	
Water	Must be self-contained. No new utility connections.	Connection to existing exterior hose bib allowed?
Grey water/sewer	Must be self-contained. No new utility connections. Oil/grease separator required if connected.	
Electricity	No generators are allowed. Extension cords and/or new services permitted?	
Parking	No new off-street parking is required, assumed to share parking lot with existing business.	
Hours of operation	7am to 10pm?	
Amenities	Garbage service and recycling receptacles required. Restroom and handwashing allowed. Outdoor seating allowed.  Covered awnings, metal canopies, and umbrellas are often requested.	Could they have a signed agreement from existing business to use restrooms? Are porta-potties permitted?
Signage	Per sign code?	Does sign code sufficiently address this?
Storage	No accessory storage structure is permitted on site.	This is a common challenge.
Fencing	Subject to fence code.	
Skirting		
Furnishings	Additional furnishings such as bike racks, planters, and heat lamps may be allowed?	
Drive-throughs	Drive throughs should not be allowed on food carts without a Site Development Review to review vehicle circulation, paving, and stacking distance.	
Removal	The food cart must be removed from the property if not open for business for a period of time...	
Lighting		



# FOOD CART PERMIT

City of Hubbard, [www.cityofhubbard.org](http://www.cityofhubbard.org)  
3720 2<sup>nd</sup> Street / PO BOX 380 Hubbard, OR 97032  
(503) 981-9633, Fax (503) 981- 8743  
City Hall Hours: Mon-Thurs 7:00am – 5:30pm, Closed Fri

To Be Filled Out by Staff		
DATE:	_____	
FEE:	_____	
RECEIPT NO.:	_____	
NEW	or	RENEW

**APPLICANT / FOOD CART OPERATOR** NAME: \_\_\_\_\_

I AM THE (CHECK ALL THAT APPLY):     FOOD CART OWNER                       FOOD CART OPERATOR

MAIL ADDRESS: \_\_\_\_\_

EMAIL: \_\_\_\_\_ PHONE: \_\_\_\_\_

**FOOD CART OWNER** (IF DIFFERENT THAN ABOVE) NAME: \_\_\_\_\_

MAIL ADDRESS: \_\_\_\_\_

EMAIL: \_\_\_\_\_ PHONE: \_\_\_\_\_

**FOOD CART** NAME: \_\_\_\_\_

DBA BUSINESS NAME (IF DIFFERENT THAN ABOVE): \_\_\_\_\_

ADDITIONAL CONTACT PERSON FOR FOOD CART, NAME: \_\_\_\_\_

EMAIL: \_\_\_\_\_ PHONE: \_\_\_\_\_

DESCRIPTION OF PRODUCTS SOLD: \_\_\_\_\_

DESCRIPTION OF FOOD CART (TRUCK/TRAILER, MODEL): \_\_\_\_\_

SIZE: \_\_\_\_\_ PLATE #: \_\_\_\_\_

**PROPERTY** ADDRESS: \_\_\_\_\_ TAX LOT: \_\_\_\_\_ ZONE: \_\_\_\_\_

**HOST BUSINESS:** \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

BUSINESS MAIL ADDRESS: \_\_\_\_\_

EMAIL: \_\_\_\_\_ PHONE: \_\_\_\_\_

**PROPERTY OWNER** NAME: \_\_\_\_\_

MAIL ADDRESS: \_\_\_\_\_

EMAIL: \_\_\_\_\_ PHONE: \_\_\_\_\_

### **APPLICATION SUBMITTAL CHECKLIST:**

- Completed Food Cart Permit application form with all required signatures.
- Food Cart Permit annual fee of \$250.
- Site Plan (does not need to be submitted by an engineer or architect) indicating the following: property boundaries, permanent building footprint, driveway, streets, parking lot, food cart dimensions, setbacks from buildings in feet, setbacks from property boundaries in feet, size and route of water connection, size and route of power connection, total footprint of food cart, number of striped parking spaces proposed to occupy, edge of pavement.
- Photograph(s) of food cart.
- Copy of signed agreement with host business regarding shared restrooms and any utilities.
- Copies of all related permits: Marion County Environmental Health, Food Handlers, DMV, etc.
- Copy of City of Hubbard paid business registration.

DESCRIPTION OF COOKING EQUIPMENT:

DESCRIPTION OF PROPANE TANKS: HOW MANY, HOW AND WHERE EXTRA TANKS ARE STORED:

DESCRIPTION OF AMENITIES IN FOOTPRINT (SEATING, TRASH CANS, FENCING, EXTENSION CORDS, HOSES, CANOPIES, ETC.)

DESCRIPTION OF SIGNAGE:

DESCRIPTION OF WASTEWATER DISPOSAL METHOD:

## SIGNATURES REQUIRED

### APPLICANT/FOOD CART OPERATOR:

BY SIGNING THIS FOOD CART PERMIT FORM, I CERTIFY THAT I HAVE RECEIVED AND REVIEWED THE HUBBARD MUNICIPAL CODE (HMC) CHAPTER 5.15 FOOD CARTS. I UNDERSTAND THAT I AM RESPONSIBLE FOR COMPLIANCE WITH THIS SECTION OF THE HMC AT ALL TIMES.

\_\_\_\_\_  
APPLICANT / FOOD CART OPERATOR SIGNATURE

\_\_\_\_\_  
DATE

### FOOD CART OWNER: (IF DIFFERENT THAN APPLICANT/OPERATOR ABOVE)

BY SIGNING THIS FOOD CART PERMIT FORM, I CERTIFY THAT I HAVE RECEIVED AND REVIEWED THE HUBBARD MUNICIPAL CODE (HMC) CHAPTER 5.15 FOOD CARTS. I UNDERSTAND THAT I AM RESPONSIBLE FOR COMPLIANCE WITH THIS SECTION OF THE HMC AT ALL TIMES.

\_\_\_\_\_  
FOOD CART OWNER SIGNATURE

\_\_\_\_\_  
DATE

### HOST BUSINESS:

BY SIGNING THIS FOOD CART PERMIT FORM, I CERTIFY THAT I HAVE RECEIVED AND REVIEWED THE HUBBARD MUNICIPAL CODE (HMC) CHAPTER 5.15 FOOD CARTS. I AGREE TO PROVIDE THE FOOD CART LISTED ON PAGE ONE OF THIS FORM THE FOLLOWING SERVICES (CHECK ALL THAT APPLY):

- BATHROOM & HANDWASHING FACILITIES FOR EMPLOYEES AND CUSTOMERS

DAYS AND HOURS FOR THE ABOVE: \_\_\_\_\_

- WATER. DETAILS: \_\_\_\_\_

- POWER. DETAILS: \_\_\_\_\_

- PARKING. DETAILS: \_\_\_\_\_

- ACCESS TO DUMPSTER. DETAILS: \_\_\_\_\_

- OTHER. DETAILS: \_\_\_\_\_

\_\_\_\_\_  
HOST BUSINESS SIGNATURE

\_\_\_\_\_  
DATE

### PROPERTY OWNER:

BY SIGNING THIS FOOD CART PERMIT FORM, I CERTIFY THAT I HAVE RECEIVED AND REVIEWED THE HUBBARD MUNICIPAL CODE (HMC) CHAPTER 5.15 FOOD CARTS. I GIVE MY PERMISSION FOR THE FOOD CART APPLICANT TO OPERATE ON THE PROPERTY DESCRIBED ON PAGE ONE, WHICH I OWN:

\_\_\_\_\_  
PROPERTY OWNER SIGNATURE

\_\_\_\_\_  
DATE

## **Chapter 5.15 FOOD CARTS**

### **Sections:**

- 5.15.010 Definitions.**
- 5.15.020 Food Carts Prohibited.**
- 5.15.030 Food Cart Standards.**
- 5.15.040 Permits, Application Materials, Fees.**
- 5.15.050 Renewals, Transfers.**
- 5.15.060 Violations, Appeals, Penalty.**
- 5.15.070 Pilot Program.**

### **5.15.010 Definitions.**

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein unless the context requires otherwise:

- (1) "Food Cart" means a mobile vending unit, either towed by trailer hitch or self-propelled, used to sell food and beverages intended for consumption on-site or to be carried off-site by the customer or customer's designee.
- (2) "Footprint" means the entire area occupied by a food cart's operations, including but not limited to food cart, seating area, trash cans, temporary fencing, planters, etc.
- (3) "Host Business" means the existing business located in a permanent structure established through city approved development permits, which agrees to host a food cart on the same property, by allowing use of host business' restroom and hand washing facilities by food cart employees and customers. Host business may be property owner or owner's tenant. Other facilities shared by the host business may include water, power, parking, and dumpster access.

### **5.15.020 Food Carts Prohibited Without Permit.**

No food cart shall operate in the City of Hubbard unless permitted herein, or as otherwise permitted under HMC 5.10 Outdoor Merchandising and Outdoor Entertainment.

### **5.15.030 Food Cart Standards.**

Any food carts permitted to operate within the city pursuant to this chapter shall comply with the following standards:

- (1) Individual food carts shall be permitted for one calendar year only on a specific property. Food carts shall not be permitted to move properties without applying for and receiving a new permit.
- (2) Food carts shall only be permitted on a developed private property. No portion of a food cart's footprint shall be located in public right-of-way, unless authorized to do so through a city-permitted event under HMC Chapter 5.10.
- (3) Food carts shall only be permitted to operate in City zones where such activities are permitted by the Hubbard Development Code.
- (4) No more than two (2) food carts shall be permitted on the same property simultaneously without obtaining prior Site Development Review approval from the City of Hubbard. For the purposes of this section, separate but contiguous legal lots may be considered one property when previously developed under the same Site Development Review approval.
- (5) No part of the food cart footprint shall impede vehicular or pedestrian circulation, ingress, egress, or clear vision areas, as defined by the city.

- (6) Food carts shall not be required to provide additional off-street parking. The total food cart footprint shall not occupy more than fifteen-percent (15%) of a developed business' required off-street parking, as approved in the development's Site Development Review, or as determined by the parking ratios provided in the Hubbard Development Code Section 2.203, if no land use approval record is available.
- (7) Food carts shall be set back from all property lines a minimum of ½ the setback distance of the underlying zone district, but never less than five (5) feet from any property boundary.
- (8) Food carts shall be set back a minimum of six (6) feet from all structures.
- (9) Food carts shall be operated on fully-inflated wheels, and shall be mobile at all times.
- (10) Drive-throughs shall not be permitted.
- (11) Parking and pedestrian circulation for customers of the food cart shall be located on a paved surface. The food cart itself may be permitted to be located on a graveled surface adjacent to the paved surface.
- (12) Food carts shall provide sufficient trash and recycling receptacles onsite. Food cart owners and operators shall be responsible for the disposal of trash and general site cleanup, daily (HMC 8.15.020(2)).
- (13) Food carts may provide seating for up to twelve (12) people, if the footprint size limit allows for it.
- (14) Portable storage structures shall not be permitted on site in support of the food cart operation.
- (15) Extension cords to the food cart shall be appropriately sized for the power supply. Generators shall not be permitted.
- (16) Food carts shall have a written agreement with a host business, guaranteeing access to restroom and hand-washing facilities for food cart employees and customers, for the full duration of the food cart operating hours. No portable toilet facilities shall be permitted on site in support of the food cart operation (HMC 8.15.020(1)).
- (17) A property owner or host business shall only supply water to a food cart with a valid Food Cart Permit issued for the same property (HMC 13.15.080).
- (18) Food carts shall carry at all times a fire extinguisher appropriate for the specific equipment and operation of the business and comply with any applicable provisions of the Oregon Fire Code.
- (19) Food cart wastewater shall be contained on the mobile unit and shall be disposed of by a licensed disposal vendor. Food cart wastewater shall not be permitted to enter the City of Hubbard wastewater or storm drain system, nor shall it be released onto any property within the City of Hubbard.
- (20) Temporary fencing erected as a component of the food cart footprint shall not be taller than three (3) feet in height, and shall be subject to the city's clear vision standards.
- (21) Any temporary canopy or tent structure provided by the food cart operator for customer seating areas shall be the responsibility of the food cart operator. The city shall not be responsible for inspecting the anchoring of such structures. Tents and canopies shall be capable of being moved at any time. Propane and natural gas heaters shall not be allowed under a tent structure.
- (22) Food cart signage is only permitted when affixed to the cart structure, or located on the interior of a food cart window. Signage attached to a mobile food cart shall not count toward the total commercial signage size allocation of the host property. Portable signs and sandwich board signs shall not be permitted for food carts. In no case shall a private sign, sign structure, or portion thereof be located within the Pacific Highway 99E road right-of-way or within a public right-of-way under the jurisdiction of the City of Hubbard (HDC 2.206).
- (23) Permitted hours of operation for a food cart shall coincide with the business hours of the host business providing the restrooms and hand washing facilities pursuant to subsection 16 of this section, provided that in no case shall the permitted hours of operation be earlier than 6am or later than 10pm.

(24) Food carts and all related amenities shall be removed from the site if out of operation for more than two (2) weeks for any reason.

(25) Food and beverages sold by food carts shall not include any substance regulated by the Oregon Liquor Control Commission (OLCC), nor does it include fresh produce similar to a farm stand.

(26) Food carts shall not sell fresh produce similar to a farm stand, unless such produce is part of a prepared meal or dish, or is sold in individual servings for consumption on or off premises.

#### **5.15.040 Permits, Application Materials, and Fees.**

(1) Except as permitted under the provisions of HMC 5.10.030, all persons shall obtain a Food Cart Permit issued by the city recorder before operating a food cart within the city of Hubbard.

(2) A copy of a valid Food Cart Permit shall be available in the food cart at all times.

(3) A permit may be issued only to a specific food cart, on a specified property location, for each calendar year. A food cart may be approved for more than one site-specific Food Cart Permit simultaneously.

(4) The Food Cart Permit fee shall be \$250.00 for one calendar year for a specific food cart, at each approved location. The fee shall be the same for both new and renewal applications. A calendar year shall commence on January 1<sup>st</sup>. The fee shall not be pro-rated.

(5) Complete permit applications shall be submitted to the city not less than 15 days prior to planned beginning operation of a food cart. Incomplete applications shall not be processed by the city until all required information is received by the City.

(6) Complete permit applications shall be approved by the City Recorder or the Recorder's designee once it has been determined that all of the Food Cart Standards have been met.

(7) Food Cart Permits may be denied by the City Recorder or the Recorder's designee if the application indicates that the food cart will not operate in compliance with the Food Cart Standards or if the application does not contain all of the information required by subsection (11) of this section.

(8) Denied Food Cart Permits may be appealed to the City Council. The process for such appeals shall follow the procedures set forth in Section 1.20.025 of this Code for cease and desist orders.

(9) No land use review shall be required for the operation of one (1) or two (2) food carts on a property. Food Cart Permit applications shall be processed administratively by the city recorder in consultation with other city departments as appropriate.

(10) Clusters or pod developments of three (3) or more food carts shall require Site Development Review approval by the city, subject to the procedures and standards of pertinent sections of the Hubbard Development Code. Such land use review approvals shall be secured and satisfied prior to making Food Cart Permit application to the city for the subject property.

(11) A complete Food Cart Permit application shall include:

(a) Food Cart Permit application form signed by the food cart owner, the food cart operator (if different than the food cart owner), the host business owner, and the property owner (if different than the business owner).

(b) Signed agreement with authorized representative of host business regarding access and hours of shared restrooms and hand-washing facility, water hook-ups, power hook-ups, and dumpster access where applicable;

(c) Basic site plan indicating the following: property dimensions, location of food cart footprint including all site amenities (benches, tables, chairs, lighting, fencing, etc), location and size of water and power hook-

ups, setbacks from nearby property boundaries, setbacks from nearby structures, number of paved parking spaces occupied by the food cart footprint.

(d) Photo of subject food cart.

(e) Photo or description of proposed signage.

(f) Description of proposed operation: cooking equipment, number and size of propane tanks, method of storing extra propane tanks, size of extension cord(s), etc.

(g) Copies of all other related permits, including but not limited to: Marion County Environmental Health, Oregon Department of Motor Vehicles (DMV) registration, etc.

(h) Copy of paid business registration with the City as required by HMC 5.01.

(12) A Food Cart Permit shall only be valid with a final inspection signature by a representative of the Hubbard Fire District within one week of opening for operation at each permitted location, each calendar year.

(13) The approved food cart operator shall be responsible for notifying the city of any changes to the information submitted with the Food Cart Permit application, including but not limited to: primary contact information, hours of operation, site amenities, etc.

#### **5.15.050 Renewals, Transfers.**

(1) Food Cart Permits may be renewed each calendar year with the city for as long as the business remains in compliance with the provisions of this chapter.

(2) Renewal applications shall be submitted by December 1<sup>st</sup> of each year.

(3) A valid renewal application shall be signed by all parties each calendar year. Renewal applications shall be accompanied by copies of all updated permits, and the associated fee. Renewal applications shall not be required to include all other supportive application materials required of a new application in HMC 5.15.040 if no changes are proposed from the previous year.

(4) Food Cart Permits are not transferable. A change of food cart unit, food cart owner, food cart location, property location, or host business shall require a new application accompanied by all the supportive materials and fee.

#### **5.15.060 Violations, Appeals, Penalty.**

(1) A violation of this chapter shall constitute a Class 1 Civil Infraction. However, if a violation of a provision is identical to a state statute with a lesser penalty, punishment shall be limited to the lesser penalty prescribed by state law. Each day in which such violation shall continue shall be deemed a separate offense. Any person violating any of the provisions of this chapter shall become liable to the City of Hubbard for any expenses, loss, or damage occasioned by the City by reason of such violation.

(2) Violations of this chapter shall be enforced pursuant to the provisions of chapter 1.20 of this code provided that permits may be suspended or revoked by Chief of Police or the Chief's designee upon the issuance of a complaint or citation alleging multiple willful violations of city codes and ordinances occurring as a result of the food cart operation.

(3) Suspended or revoked permits may be appealed to the City Council. The process for such appeals shall follow the procedures set forth in Section 1.20.025 of this Code for cease and desist orders.

#### **5.15.070 Pilot Program.**

The intent of this chapter is to provide a temporary pilot program for the regulation of food carts within the City of Hubbard. To that end any permits issued under this Chapter during the 2019 calendar year shall expire on

December 31, 2019 and may not be renewed unless this subsection is repealed by the City Council on or before that date. If the City Council does not repeal this subsection on or before December 1, 2019, the City Recorder shall not issue or renew any Food Cart Permits under this Chapter.