

ORDINANCE NO. 6 2 9 5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO FLOODPLAIN MANAGEMENT REGULATIONS; ADOPTING REGULATIONS INCORPORATING FEDERAL HABITAT PROTECTION REQUIREMENTS INTO EXISTING REGULATIONS, ESTABLISHING REQUIREMENTS FOR A FLOODPLAIN DEVELOPMENT PERMIT, UPDATING RELATED PROVISIONS OF LAW, AND AMENDING CHAPTERS 14.03 AND 15.68, AND SECTIONS 16.10.010, 16.10.070, 17.04.300, 17.09.050, AND 17.14.110 OF THE AUBURN CITY CODE, AND CREATING NEW SECTIONS 17.04.305, 17.04.335 AND 18.70.025 OF THE AUBURN CITY CODE, AND REPEALING SECTION 17.04.045 OF THE AUBURN CITY CODE CONNECTED THEREWITH

WHEREAS, the City is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP) to adopt floodplain management regulations that meet the requirements of the federal flood plain management criteria for flood-prone areas in the Code of Federal Regulations (44CFR 60.3) ; and

WHEREAS, the City currently regulates floodplain management by using a combination of specific floodplain management regulations, critical area regulations, shoreline management regulations, and State Environmental Policy Act (SEPA) regulations; and

WHEREAS, in October, 2008, the City received notice from the Federal Emergency Management Administration (FEMA) and the National Marine Fisheries Service (NMFS) that those agencies had collaborated on a position paper that seeks to prevent continued degradation of existing floodplain, and to promote low impact development in floodplain areas of the region that could effect endangered species; and

WHEREAS, FEMA and NMFS took the position that if a permitting agency, such as the City of Auburn, grants permits in floodplain areas within its boundaries that are later determined to adversely affect the floodplains and/or endangered species, the permitting agency will be liable for the resulting “take” on endangered species; and

WHEREAS, in response to the position taken by the federal agencies, the City imposed a moratorium on development in floodplains within the City, which moratorium continues to be in effect; and

WHEREAS, FEMA, in consultation with NMFS, began working on a model ordinance that, if substantively adopted by local jurisdictions, would allow those jurisdictions to resume permitting development in the floodplain. The provisions of the model ordinance are intended to help ensure that impacts on the floodplain and on habitat were properly evaluated and, if necessary, mitigated; and

WHEREAS, the federal agencies invited several local jurisdictions, including Auburn, to participate in a focus group during the development of this model ordinance; and

WHEREAS, although federal agencies incorporated some of the suggestions from the local jurisdictions, the substantive requirements that the local jurisdictions must adopt are mandated by the federal agencies and are not subject to modification by the local jurisdictions.

WHEREAS, the federal agencies must approve the City’s incorporation of the substantive terms of the model ordinance; however, the provisions of model ordinance provide sufficient guidance to allow the City to resume processing development permits in the floodplain in compliance with the interim measure required by NMFS; and

WHEREAS, It is the Council's intention to adopt the below stated regulations as interim regulations until such time as the federal agencies approve them as permanent measures, at which time they shall become permanent regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Amendment to City Code. Chapter 14.03 of the Auburn City Code be and the same hereby is amended to read as follows:

Chapter 14.03
TYPES OF PROJECT PERMIT DECISIONS

Sections:

- 14.03.001 Generally.
- 14.03.010 Type I decisions.
- 14.03.020 Type II decisions.
- 14.03.030 Type III decisions.
- 14.03.040 Type IV decisions.
- 14.03.050 Type V decisions.
- 14.03.060 Legislative nonproject decisions.

14.03.001 Generally.

Project permit decisions are classified into five types, based on whether a director, the hearing examiner or the city council makes the decision and the process by which that decision is made. (Ord. 4835 § 1, 1996.)

14.03.010 Type I decisions.

Type I decisions are administrative decisions made by the city which are not subject to environmental review under the State Environmental Policy Act (SEPA) codified at Chapter 43.21C RCW. Type I decisions include, but are not limited to, the following project applications:

- A. Building permit;
- B. Plumbing permit;
- C. Mechanical permit;
- D. Utility permit;
- E. Special permit;
- F. Excavation permit;
- G. Land clearing permit;
- H. Grading permit;
- I. Floodplain development control zone permit;
- J. Public facility extension agreement;

- K. Right-of-way use permit;
- L. Lot line adjustment;
- M. Home occupation permit;
- N. Temporary use permit (administrative);
- O. Administrative use permit;
- P. Short subdivision (plat);
- Q. Mobile home closure plans. (Ord. 5746 § 2, 2003; Ord. 4835 § 1, 1996.)

14.03.020 Type II decisions.

Type II decisions are administrative decisions made by the city which include threshold determinations under SEPA. Type II decisions include, but are not limited to, the following project applications:

- A. Building permit;
- B. Grading permit;
- C. Land clearing permit;
- D. Public facility extension agreement;
- E. Administrative use permit;
- F. Short subdivision (plat).
- G. Floodplain development permit. (Ord. 4835 § 1, 1996.)

14.03.030 Type III decisions.

Type III decisions are quasi-judicial final decisions made by the hearing examiner following a recommendation by staff. Type III decisions include, but are not limited to, the following project applications:

- A. Temporary use permit;
- B. Substantial shoreline development permit;
- C. Variance;
- D. Special exceptions;
- E. Special home occupation permit;
- F. Preliminary plat;
- G. Conditional use permit;
- H. Surface mining permit. (Ord. 6184 § 3, 2008; Ord. 4835 § 1, 1996.)

14.03.040 Type IV decisions.

Type IV decisions are quasi-judicial decisions made by the city council following a recommendation by the hearing examiner. Type IV decisions include, but are not limited to, the following project applications:

- Rezone (site-specific). (Ord. 6184 § 4, 2008; Ord. 4835 § 1, 1996.)

14.03.050 Type V decisions.

Type V decisions are quasi-judicial decisions made by the city council following a recommendation by staff. Type V decisions include, but are not limited to, the following project applications:

- Final plat. (Ord. 6184 § 5, 2008; Ord. 4835 § 1, 1996.)

14.03.060 Legislative nonproject decisions.

Legislative nonproject decisions made by the city council under its authority to establish policies and regulations are not classified as a "type" of project permit decision. Legislative nonproject decisions include, but are not limited to, the following legislative actions:

A. Amendments to the text and map of the comprehensive plan or development regulations.

B. Amendments to the zoning map (rezones) on a city-wide or area-wide basis. (Ord. 4835 § 1, 1996.)

Section 2. Amendment to City Code. Chapter 15.68 of the Auburn City

Code be and the same hereby is amended to read as follows:

Chapter 15.68
FLOOD HAZARD AREAS¹

Sections:

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

- 15.68.010 ~~Statutory authorization.~~ Reserved.
- 15.68.020 ~~Findings of fact.~~ Reserved.
- 15.68.030 Statement of purpose.
- 15.68.040 Methods of reducing flood losses.

Article II. Definitions

- 15.68.050 Interpretation of language.
- 15.68.060 Definitions.

Article III. General Provisions

- 15.68.070 Land to which this chapter applies.
- 15.68.080 ~~Basis for establishing the areas of special flood hazard.~~ Reserved.
- 15.68.090 Penalties for noncompliance.
- 15.68.100 Abrogation and greater restrictions.
- 15.68.110 Interpretation.
- 15.68.120 Warning and disclaimer of liability.
- 15.68.125 Appeals.

Article IV. Administration

¹ Prior Legislation: Ords. 4214 and 4220.

- 15.68.130 Establishment of and requirement to obtain floodplain development permit.
- ~~15.68.135 Floodplain development permit application.~~
- ~~15.68.136 Floodplain development permit expiration.~~
- ~~15.68.140 *Repealed.* Designation of floodplain administrator.~~
- ~~15.68.141 Duties of the floodplain administrator.~~
- ~~15.68.150 Duties and responsibilities of the city engineer public works department.~~
- ~~15.68.151 Duties and responsibilities of the city of auburn building division planning and development department.~~

Article V. Provisions for Flood Hazard Protection

- ~~15.68.160 General standards Standards of the city of Auburn engineering division public works department.~~
- ~~15.68.161 General standards Standards of the city of Auburn building division planning and development department.~~
- ~~15.68.170 Specific Additional standards of the city of Auburn building division planning and development department.~~
- ~~15.68.180 Floodways and community acknowledgement of FEMA map amendments.~~
- ~~15.68.190 Development within areas of special flood hazard.~~
- ~~15.68.200 Compensatory storage equipment requirements.~~

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

15.68.010 RESERVED Statutory authorization.

~~The legislature of the state of Washington has in state law delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Auburn, Washington, does ordain as follows in this chapter. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(1.1), 1989.)~~

15.68.020 RESERVED Findings of fact.

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

~~B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(1.2), 1989.)~~

15.68.030 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life, ~~and health, and to protect property~~;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- I. To qualify the City of Auburn for participation in the National Flood Insurance Program, thereby giving citizens and businesses the opportunity to purchase flood insurance;
- J. To maintain the quality of water in rivers, streams, and lakes, and their floodplains so as to protect public water supplies, areas of the Public Trust, and wildlife habitat protected by the Endangered Species Act;
- K. To retain the natural channel, shoreline, and floodplain creation processes and other natural floodplain functions that protect, create, and maintain habitat for threatened and endangered species; and
- L. To prevent or minimize loss of hydraulic, geomorphic, and ecological functions of floodplains and stream channels. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(1.3), 1989.)

15.68.040 Methods of reducing flood losses.

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

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

F. Identifying the Regulatory Floodplain, the Special Flood Hazard Area, and the Protected Area and the supporting technical data needed to delineate those areas.

G. Establishing a permit requirement so that all human development that may affect flood hazards, water quality, and habitat is reviewed before it is constructed.

H. Setting minimum protection standards for all development to ensure that the development will not increase the potential for flood damage or adversely affect natural floodplain functions.

I. Setting minimum standards to protect new and substantially improved structures from flood damage.

J. Specifying additional habitat protection criteria. Some projects do not need a floodplain permit (see ACC 15.68.130B, C); whereas other projects require a floodplain permit, but do not require the habitat impact assessment required in this chapter (see ACC 15.68.130D). For all other development projects, the applicant must assess their impact on those factors that contribute to increased flood hazard and degradation of habitat. If the assessment concludes that there will be an adverse effect, the permit will be denied, unless the project is redesigned to mitigate the adverse effects. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(1.4), 1989.)

Article II. Definitions

15.68.050 Interpretation of language.

Unless specifically defined in this article, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(2.0), 1989.)

15.68.060 Definitions.

As used in this chapter:

~~A. "Appeal" means a request for a review of the city engineering division's interpretation of any provisions of this chapter or a request for a variance.~~

~~B. "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~

~~C. "Area of Special Flood Hazard": the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.~~

~~D. A. "Adversely affect/Adverse effect" means effects that are a direct or indirect result of the proposed action or its interrelated or interdependent actions and the effect is not discountable, insignificant or beneficial, where:~~

- ~~1. a. Discountable effects are extremely unlikely to occur; and~~
- ~~b. Insignificant effects relate to the size of the impact and should never reach the scale where a take occurs. Based on best~~

judgment, a person would not be able to meaningfully measure, detect, or evaluate insignificant effects, or expect discountable effects to occur.

2. Beneficial effects are contemporaneous positive effects without any adverse effects. In the event that the overall effect of the proposed action is beneficial, but is also likely to cause some adverse effects, then the proposed action is considered to result in an adverse effect.

B. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." The area subject to the base flood is the Special Flood Hazard Area (SFHA) designated on Flood Insurance Rate Maps as Zones "A," including AE, AO, AH, and A1-99.

C. "Base Flood Elevation" means the elevation of the base flood above the datum of the effective FIRM.

1. The base flood elevation for the SFHAs of the City shall be as delineated on the 100 year flood profiles in the Flood Insurance Study for the City.

2. The base flood elevation for each SFHA delineated as a "Zone AH" or "Zone AO" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map. Where base flood depths are not available in Zone AO, the base flood elevation shall be considered to be two feet above the highest grade adjacent to the structure.

3. Where base flood elevation data are not provided on the Flood Insurance Study for the City, base flood elevation data available from a Federal, State, or other authoritative source shall be used, if available. Where base flood elevation data are not available from other authoritative sources, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include such data with their permit applications. This data must be approved by the Floodplain Administrator.

ED. "Basement" means any area of the building structure having its floor subgrade (below ground level) on all sides.

E. "Channel Migration Area" means the area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradation, avulsions, and shifts in location of stream channels plus 50 feet.

1. The channel migration area shall be the total area occupied by the River Channel, the Severe Channel Migration Hazard Area, and the Moderate Channel Migration Hazard Area as delineated in the Green River Channel Migration Study published by King County dated December 1993 plus 50 feet.

2. Where more than one channel migration zone has been delineated, the floodplain administrator shall use the delineation that has been adopted for other local regulatory purposes.

F. "Critical Facility" means a facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use).

FG. "Development" means any manmade change to improved or unimproved real estate in the Regulatory Floodplain, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials, subdivision of land, removal of more than 5% of the native vegetation on the property, or alteration of natural site characteristics.

H. "Dry Floodproofing" means any combination of structural and non structural measures that prevent flood waters from entering a structure.

I. "Elevation Certificate" means the official form (FEMA Form 81-31) used to provide elevation information necessary to ensure compliance with provisions of this ordinance and determine the proper flood insurance premium rate.

J. "Equivalent Elevation" means having similar relationship to ordinary high water and to the best available 10-year, 50-year and 100-year water surface profiles.

K. "FEMA" means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

L. "Fish and Wildlife Habitat Conservation Area" means lands needed to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. These areas are designated by the City pursuant to the Washington State Growth Management Act (WAC 365-190-080).

GM. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

HN. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

IO. "Flood Insurance Study" means the official report(s) provided by the Federal Insurance Administration that includes flood profiles, the Flood-Boundary-Floodway Insurance Rate Map, and the water surface elevation of the base flood.

P. "Flood Protection Elevation (FPE)" means the elevation above the datum of the effective FIRM to which new and substantially improved structures must be protected from flood damage.

JQ. "Floodway" means the channel of a stream ~~river~~ or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodway shall be as delineated on the Flood Insurance Rate Map. Where floodway data are not provided on the Flood Insurance Study for the City, floodway data available from a Federal, State, or other authoritative source shall be used, if available. Where floodway data is not available from another authoritative source, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include such data with their permit applications. This data must be approved by the Floodplain Administrator. This provision does not apply to applications for permits for small projects on large lots, such as constructing a single family home.

R. "Historic Structure" means a structure that:

1. Is listed on the National Register of Historic Places, the Washington Heritage Register, or the Washington Heritage Barn Register, or has been designated a landmark or been issued a Certificate of Appropriateness under the City's Historic Preservation Ordinance.

2. Has been certified to contribute to the historical significance of a registered historic district.

S. "Hyporheic Zone" means a saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

T. "Impervious Surface" means a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

KU. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement) measured at the walking surface of the floor. 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, as long as that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found in ACC-15.68.170A(2) 15.68.170A(7).

V. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar recreational 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 recreational vehicles.

MW. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

X. "Market value" shall mean the current assessed value as established by the most recent tax roll of the County Assessor in which the property is located. An applicant may, at applicant's expense, provide an appraisal to determine market value.

Y. "Native Vegetation" means plant species that are indigenous to the community's area and that reasonably could be expected to naturally occur on the site.

Z. "Natural Floodplain Functions" means the contribution that a floodplain makes to support habitat, including, but not limited to providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations, and providing breeding and feeding grounds for aquatic or riparian species.

NAA. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

BB. "Protected Area" means the lands that lie within the boundaries of the floodway, the riparian habitat zone, and the channel migration area. In riverine areas, where a floodway has not been designated in accordance with this Chapter, the Protected Area is comprised of those lands that lie within the boundaries of the riparian habitat zone, the channel migration area, and the SFHA.

OCC. "Recreational vehicle" means a vehicle:

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

DD. "Regulatory Floodplain" means the area of the Special Flood Hazard Area and all Protected Areas within the City of Auburn. It also includes newly designated Special Flood Hazard Areas and Protected Areas that are delineated pursuant to City Law.

EE. "Riparian" means of, adjacent to, or living on, the bank of a stream, lake, pond, sound, or other water body.

FF. "Riparian Habitat Zone" means the water body and adjacent land areas that are likely to support aquatic and riparian habitat as detailed in this chapter. The size and location of the riparian habitat zone is dependent on the type of water body. The riparian habitat zone includes the water body and adjacent lands, measured perpendicularly from ordinary high water on both sides of the water body:

1. Marine and lake shorelines and Type S streams that are designated "shorelines of the State:" 250 feet.
2. Type F streams (fish bearing) streams greater than 5 feet wide and marine shorelines: 200 feet.
3. Type F streams less than 5 feet wide and lakes: 150 feet.
4. Type N (nonsalmonid-bearing) perennial and seasonal streams with unstable slopes: 225 feet.
5. All other Type N (nonsalmonid-bearing) perennial and seasonal streams: 150 feet.

In addition, the riparian habitat zone may include additional land areas that the Floodplain Administrator determines are likely to support aquatic and riparian habitat.

GG. "Special Flood Hazard Area (SFHA)" means the land subject to inundation by the base flood. Special Flood Hazard Areas are identified by the Federal Emergency Management Agency in the scientific and engineering reports entitled "Flood Insurance Study for King County, Washington and Incorporated Areas" dated April 19, 2005, and any revisions thereto, and "Flood Insurance Study for Pierce County, Washington and Unincorporated Areas" dated August 19, 1987, and any revisions thereto, and designated on associated Flood Insurance Rate Maps with the letters "A" including AE, AO, AH, A1-99.

PHH. "Start of construction" includes substantial improvement, and means the date the building permit was issued; provided the actual start of construction, repair,

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

QII. "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

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

RKK. "Substantial improvement" or "substantially improved" means any repair, reconstruction, addition, replacement or improvement of a structure, the cost of which equals or exceeds 50 percent of the ~~assessed valuation market value~~ of such structure as established by the most current King County or Pierce County assessor's tax roll either:

1. ~~Before the improvement or repair is started; or~~
2. ~~If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work done.~~

The term does not, however, include either:

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

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

SLL. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

MM. "Water Typing" means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural

Resources' Forest Practices Water Typing classification system is hereby adopted by reference. The system defines four water types:

1. Type "S" = Shoreline: Streams that are designated "shorelines of the State," including marine shorelines

2. Type "F" = Fish: Streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.

3. Type "Np" = Non-Fish Perennial streams

4. Type "Ns" = Non-Fish Seasonal streams

NN. "Zone" means one or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The Special Flood Hazard Area is comprised of the A Zone.

(a) A: SFHA where no base flood elevation is provided.

(b) A#: numbered A Zones (e.g., A7 or A14), SFHA with a base flood elevation.

(c) AE: SFHA with a base flood elevation.

(d) AO: SFHA subject to inundation by shallow flooding usually resulting from sheet flow on sloping terrain, with average depths between one and three feet. Average flood depths are shown.

(e) AH: SFHA subject to inundation by shallow flooding (usually areas of ponding) with average depths between one and three feet. Base flood elevations are shown.

(f) B: the area between the SFHA and the 500-year flood of the primary source of flooding. It may also be an area with a local, shallow flooding problem or an area protected by a levee.

(g) C: an area of minimal flood hazard, as above the 500-year flood level of the primary source of flooding. B and C Zones may have flooding that does not meet the criteria to be mapped as a Special Flood Hazard Area, especially ponding and local drainage problems.

(h) D: area of undetermined but possible flood hazard.

(i) X: the area outside the mapped SFHA.

(j) Shaded X: the same as a Zone B, above. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(2.1 – 2.17), 1989.)

Article III. General Provisions

15.68.070 Land to which this chapter applies.

This chapter shall apply to ~~the Regulatory Floodplain~~ all areas of special flood hazards within the jurisdiction of the city. (See Exhibit "A," attached to the ordinance codified in this chapter and incorporated herein by reference, the State Flood Control Zone-City of Auburn Regulatory Floodplain Map on file in the Office of the city Clerk). (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(3.1), 1989.)

15.68.080 ~~Reserved. Basis for establishing the areas of special flood hazard.~~

~~The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study~~

for the City of Auburn," dated May 16, 1995, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and FIRM are on file at 25 West Main, Auburn, Washington 98001. The best available information for flood hazard area identification as outlined in ACC 15.68.150(B) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under ACC 15.68.150(B). (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(3.2), 1989.)

15.68.090 Penalties for noncompliance.

~~No structure or land shall hereafter be constructed, located, extended, converted, or altered development shall be undertaken~~ without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be enforced pursuant to the provisions of Chapter 1.25 ACC. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4502 § 20, 1991; Ord. 4357 § 2(3.3), 1989.)

15.68.100 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(3.4), 1989.)

15.68.110 Interpretation.

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

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

D. Maps referred to in this Chapter are for reference only, unless specified. If the map does not specifically indicate that it is the primary source of regulation, the text of the applicable Code section shall control over any contrary information provide on a map. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2 (3.5), 1989.)

15.68.120 Warning and disclaimer of liability.

The degree of flood-property and habitat protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods and movement of channels outside of mapped channel migration areas can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter does not imply that land outside the regulated areas or development permitted within such areas will be free from flood or

erosion damage. This chapter shall not create liability on the part of the city, any officer or employee thereof, ~~or the Federal Insurance Administration,~~ for any flood damages to property or habitat that results from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(3.6), 1989.)

15.68.125 Appeals.

A. The Hearing Examiner shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Hearing Examiner may appeal such decision to the Superior Court.

D. Upon consideration of the factors of this Chapter and the purposes of this chapter, the Hearing Examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

Article IV. Administration

15.68.130 Establishment of and requirement to obtain floodplain development permit.

A. A Floodplain development permit shall be obtained before construction or development begins within the Regulatory Floodplain any area of special flood hazard established in ACC 15.68.080. The permit shall be for all structures including manufactured homes, as set forth in ACC 15.68.060, and for all other development including fill and other activities, also as set forth in ACC 15.68.060 as defined in this chapter. Application for a development permit shall be made on forms furnished by the city and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

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

2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in ACC 15.68.170(B); and

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

B. A development project is not subject to the requirements of this chapter if it is located on land that can be shown to be

1. Outside the Protected Area and

2. Higher than the base flood elevation.

The floodplain administrator shall inform the applicant that the project may still be subject to the flood insurance purchase requirements unless the owner receives a Letter of Map Amendment from FEMA.

C. Non-Development Activities. Activities that do not meet the definition of "development" in this chapter are allowed in the Regulatory Floodplain without the need for a floodplain development permit under this chapter, provided all other Federal, State, and local requirements are met. The following are examples of activities not considered development or "man-made changes to improved or unimproved real estate."

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

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

3. Normal maintenance of structures, such as re-roofing and replacing siding, as long as such work does not qualify as a substantial improvement;

4. Normal maintenance of above ground public utilities and facilities, such as replacing downed power lines;

5. Normal street and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, but not including expansion of paved areas.

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

7. Plowing and other normal farm practices (other than structures or filling) on farms in existence as of the effective date of this ordinance.

D. Activities Allowed With a Floodplain Permit. The following activities are allowed in the Regulatory Floodplain without the analysis required in Section 15.68.160C or the habitat impact assessment required under ACC 15.68.130K, providing all other requirements of this ordinance are met, including obtaining a floodplain development permit:

1. Repairs or remodeling of an existing structure, provided that the repairs or remodeling are not a substantial improvement or a repair of substantial damage. Provided further, that no habitat impact assessment shall be required if the repair or remodel does not expand the existing building envelope.

2. Expansion of an existing structure that is no greater than ten percent beyond its existing footprint, provided that the repairs or remodeling are not a substantial improvement or a repair of substantial damage. This measurement is counted cumulatively from the effective date of this ordinance. If the structure is in the floodway, there shall be no change in the dimensions perpendicular to flow.

3. Activities with the sole purpose of creating, restoring or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet Federal and State standards, provided the activities do not include structures, grading, fill, or impervious surfaces.

4. Development of open space and recreational facilities, such as parks, trails, and hunting grounds, that do not include structures, grading, fill, impervious surfaces or removal of more than 5% of the native vegetation on that portion of the property in the Regulatory Floodplain.

E. Other Activities

All other activities not listed in 15.68.130C or D are allowed, as long as they meet all the other requirements of this ordinance, including the analysis required in Section 15.68.160 and the habitat impact assessment and any mitigation required under Section 15.68.135K and Section 16.58.135L and a floodplain development permit is issued.

B. ~~Permitting procedures for flood control zone permits shall conform to Section 3 of Auburn City Ordinance No. 4195 passed on December 15, 1986. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(4.1), 1989.)~~

15.68.135 Floodplain Development Permit Application.

Application for a floodplain development permit shall be made on forms furnished by the floodplain administrator and shall include, but not be limited to,

A. One or more site plans, drawn to scale, showing:

1. The nature, location, dimensions, and elevations of the property in question,

2. Names and location of all lakes, water bodies, waterways and drainage facilities within 300 feet of the site,

3. The elevations of the 10-, 50-, 100-, and 500-year floods, where the data are available. Additionally, for property located within the SFHA, base flood elevations for shall be included as required in ACC 15.68.060.B.3,

4. The boundaries of the Regulatory Floodplain, SFHA, floodway, riparian habitat zone, and channel migration area, delineated in accordance with this chapter,

5. The proposed drainage system including, but not limited to storm sewers, overland flow paths, detention facilities and roads,

6. Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials,

7. All wetlands,

8. Designated fish and wildlife habitat conservation areas, and

9. Existing native vegetation and proposed revegetation (see ACC 15.68.161D).

B. If the proposed project involves regrading, excavation, or filling, the site plan shall include proposed post-development terrain at one foot contour intervals.

C. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged structure that will be elevated, the application shall include the FPE for the building site and the proposed elevations of the following:

1. The top of bottom floor (including basement, crawlspace, or enclosure floor)

2. The top of the next higher floor

3. The top of the slab of an attached garage

4. The lowest elevation of machinery or equipment servicing the structure

5. The lowest adjacent (finished) grade next to structure

6. The highest adjacent (finished) grade next to structure

7. The lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support

D. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure that will be dry

floodproofed, the application shall include the FPE for the building site and the elevation in relation to the datum of the effective FIRM to which the structure will be dry floodproofed and a certification by a registered professional engineer or licensed architect that the dry floodproofing methods meet the floodproofing criteria in this chapter.

E. The application shall include a description of the extent to which a stream, lake, or other water body, including its shoreline, will be altered or relocated as a result of the proposed development.

F. The application shall include documentation that the applicant will apply for all necessary permits required by Federal, State, or local law. The application shall include acknowledgment that the applicant understands that the final certificate of occupancy will be issued only if the applicant provides copies of the required Federal, State, and local permits or letters stating that a permit is not required.

G. The application shall include acknowledgment by the applicant that representatives of any Federal, State or local unit of government with regulatory authority over the project are authorized to enter upon the property to inspect the development.

H. The riparian habitat zone shall be delineated on the site plan by the applicant at the time of application for sub-division approval or floodplain development permit for all development proposals within 300 feet of any stream or shoreline.

I. If the project is located in the Regulatory Floodplain and includes activities not listed in ACC 15.68130C and D, the application shall include a Habitat Impact Assessment. If that Assessment determines that impacts would result from the project, the application shall also include a Habitat Mitigation Plan.

J. Habitat Impact Assessment

Unless allowed under ACC 15.68.130C or D, an application to develop in the Regulatory Floodplain shall include an assessment of the impact of the project on water quality and aquatic and riparian habitat. The assessment shall be:

1. A Biological Evaluation or Biological Assessment that has received concurrence from the US Fish and Wildlife Service or the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act; or

2. Documentation that the activity fits within a Habitat Conservation Plan approved pursuant to Section 10 of the Endangered Species Act; or

3. Documentation that the activity fits within Section 4(d) of the Endangered Species Act; or

4. An assessment prepared in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2010. The assessment shall determine if the project would adversely affect:

(a) The primary constituent elements identified when a species is listed as threatened or endangered,

(b) Essential Fish Habitat designated by the National Marine Fisheries Service,

(c) Fish and wildlife habitat conservation areas,

(d) Vegetation communities and habitat structures,

(e) Water quality.

(f) Water quantity, including flood and low flow depths, volumes and velocities.

(g) The channel's natural planform pattern and migration processes.

(h) Spawning substrate, if applicable, and/or

(i) Floodplain refugia, if applicable.

K. Habitat Mitigation Plan

1. If the assessment conducted under ACC 15.68.135J concludes the project is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the applicant shall provide a plan to mitigate those impacts, in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2010.

(a) For projects or those portions of a project located within the Regulatory Floodplain but outside of the Protected Area, the mitigation plan shall include such avoidance, minimization, restoration, or compensation measures as are appropriate to mitigate the adverse effects of the project.

(b) For projects or those portions of a project located within the Protected Area, the project shall be revised to include such appropriate measures as are needed to ensure that there is no adverse effect due to the project. Minimization measures are not allowed in the Protected Area, unless they, in combination with other measures, result in no adverse effect.

2. The plan's habitat mitigation activities shall be incorporated into the proposed project. The floodplain development permit shall be based on the redesigned project and its mitigation components.

L. Third-Party Review.

For the habitat impact assessment required in ACC 15.68.135(K) or the habitat mitigation plan required in ACC 15.68.135 (L), the City may require third-party review when the professional opinions of the applicant's representative and the City's reviewers cannot be reconciled. Third-party review requires the applicant's habitat impact assessment, habitat mitigation plan, and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant but hired by the City. Third-party review shall be conducted by a qualified consultant as defined in the Floodplain Habitat Assessment and Mitigation Regional Guidance, FEMA Region X, 2010.

15.68.136 Floodplain Development Permit Expiration.

If there has been no start of construction, a floodplain development permit shall expire 180 days after the date of issuance. Where the applicant documents a need for an extension beyond this period due to conditions beyond the applicant's control, the floodplain administrator may authorize one or more extensions.

15.68.140 Designation of the Floodplain Administrator.²

² NOTE: The City Code Section 15.68.140, entitled Designation of the city of Auburn engineering division, was repealed by Ord. 6161. (See also Ord. 4820 § 1, 1995; Ord. 4357 § 2(4.2), 1989.)

The Director of the planning and development department, or the Director's designee, is hereby appointed to administer and implement this Chapter by granting or denying floodplain development permit applications in accordance with its provisions.

15.68.141 Duties of the Floodplain Administrator.

Duties of the floodplain administrator shall include, but not be limited to:

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

B. Review all floodplain development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required, including those local, State or Federal permits that may be required to assure compliance with the Endangered Species Act and/or other appropriate State or Federal laws.

C. Review all floodplain development permits to determine if the proposed development is located in the Protected Area. If located in the Protected Area, ensure that the applicable provisions of this chapter are met.

D. Ensure that all development activities within the Regulatory Floodplain of the City meet the requirements of this ordinance.

E. Inspect all development projects before, during and after construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.

F. Maintain for public inspection all records pertaining to the provisions of this chapter.

G. Submit reports as required for the National Flood Insurance Program.

H. Notify FEMA of any proposed amendments to this ordinance.

I. Cooperate with State and Federal agencies to improve flood and other technical data and notify FEMA of any new data that would revise the FIRM.

J. Make interpretations where needed, as to the exact location of the boundaries of the Regulatory Floodplain, the SFHA and the Protected Area (e.g., where there appears to be a conflict between the mapped SFHA boundary and actual field conditions as determined by the base flood elevation and ground elevations).

15.68.150 Duties and responsibilities of the ~~city engineer~~public works department.

Duties of the ~~city engineer~~public works department regarding flood hazard areas shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of ACC 15.68160C are met.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with ACC 15.68.080060B, the city engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to administer ACC 15.68.170(A) and 15.68.180 this chapter.

C. Information to Be Obtained and Maintained.

1. Where base flood elevation data has not otherwise been is provided through the Flood Insurance Study or required as in accordance with this chapter ACC 15.68.150B, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement; This information shall be recorded on a current FEMA Elevation Certificate (FEMA Form 81-31), signed and sealed by a professional land surveyor, currently licensed in the State of Washington.

2. For all new or substantially improved floodproofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level), and

(b) Maintain the floodproofing certifications required in ACC 15.68.1340 (A)(3) this chapter.

3. Maintain for public inspection all records pertaining to the provisions of this chapter. This information shall be recorded on a current FEMA Floodproofing Certificate (FEMA Form 81-65), professional engineer, currently licensed in the State of Washington.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. If the maintenance program does not call for cutting of native vegetation, the system shall be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.

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

F. Appeals of determinations made pursuant to this chapter shall be filed with the city's public works director within 20 working days after the final city engineer decision is issued. The public works director shall have 15 working days to review the appeal, determine whether to uphold or modify the city engineer's decision, and notify the applicant of such determination. The decision of the public works director shall be final. The city engineer's and director's decision shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76). (Ord. 6182 § 4, 2008; Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(4.3), 1989.)

15.68.151 Duties and responsibilities of the city of Auburn building division planning and development department.

Duties of the city building divisions planning and development department shall include, but not be limited to:

A. Permit Review.

1. Review all building-related development permits to determine that the permit requirements of this chapter have been satisfied including building, addition and alteration permits;

2. Review all building-related development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and

3. Review all building-related projects to determine that the procedures for building projects within a special flood hazard area have been applied.

B. Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in ACC 15.68.150(B) obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved floodproofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level); and

(b) Maintain the floodproofing certifications required in ~~ACC 15.68.130(A)~~ this chapter;

3. Maintain for public inspection all building-related records pertaining to the provisions of this chapter. (Ord. 6161 § 1, 2008.)

Article V. Provisions for Flood Hazard Protection

15.68.160 ~~General standards~~ Standards of the city of auburn engineering division public works department.

A. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

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

4. All new streets shall be designed to ensure the lowest finished surface elevation is a minimum of one foot higher than the adjacent 100-year flood elevation.

5. All new development shall be designed and located to minimize the impact on flood flows, flood storage, water quality, and habitat.

(a) Stormwater and drainage features shall incorporate low impact development techniques that mimic pre-development hydrologic conditions, such as

stormwater infiltration, rain gardens, grass swales, filter strips, disconnected impervious areas, permeable pavement, and vegetative roof systems.

(b). If the proposed project will create new impervious surfaces so that more than 10 percent of the portion of the lot in the Regulatory Floodplain is covered by impervious surface, the applicant shall demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff that leaves the site or that the adverse effect is mitigated as required in ACC 15.68.135(J) and ACC 15.68.135(K).

6. The site plan required in this chapter shall account for surface drainage to ensure that:

(a). Existing and new buildings on the site will be protected from stormwater runoff and

(b). The project will not divert or increase surface water runoff onto neighboring properties.

7. Utilities

Water wells shall be located outside the floodway and shall be protected to the FPE.

B. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

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

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

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

C. Floodway Standards

1. In addition to the other requirements of this ordinance, a project to develop in the floodway as delineated pursuant to this Chapter shall meet the following criteria:

(a) The applicant shall provide a certification by a registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) Construction or reconstruction of residential structures is prohibited within designated floodways, except for the following. The following exceptions must still meet all other requirements in the ordinance.

(i) Repairs, reconstruction, or improvements to a residential structure which do not increase the ground floor area, providing the cost of which does not exceed 50 percent of the market value of the structure either, (a) before the repair, or reconstruction is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications

which have been identified by a local code enforcement official and which are the minimum necessary to assure safe living conditions, or to an historic structure, may be excluded from the 50 percent calculations.

(ii) Repairs, replacement, reconstruction, or improvements to existing farmhouses located in designated floodways and located on designated agricultural lands that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-075.

(iii) Repairs, replacement, reconstruction, or improvements to substantially damaged residential dwellings other than farmhouses that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-076; or

(iv) Repairs, reconstruction, or improvements to residential structures identified as historic structures that do not increase the building's dimensions.

2. In riverine Special Flood Hazard Areas where a floodway has not been delineated pursuant to this chapter, the applicant for a project to develop in the SFHA shall provide a certification by a registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development and all other past or future similar developments would not cumulatively result in an increase of flood levels during the occurrence of the base flood discharge by more than one foot. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(5.1), 1989.)

15.68.161 ~~General standards~~ Standards of the city of Auburn building division planning and development department.

In all areas of special flood hazard the following standards are required:

A. Anchoring.

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

2. 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. This requirement is in addition to other anchoring requirements for resisting wind forces. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

B. Construction Materials and Methods.

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

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

3. 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.

C. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source—(ACG

15.68.150(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

D. Native Vegetation

The site plan required for development in the regulatory floodplain shall show existing native vegetation.

1. In the riparian habitat zone, native vegetation shall be left undisturbed, except if in connection with an activity allowed in the Regulatory Floodplain without a permit, and except for activities with the sole purpose of creating, restoring or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet Federal and State standards, provided the activities do not include structures, grading, fill, or impervious surfaces.

2. Outside the riparian habitat zone, removal of native vegetation shall not exceed 35 percent of the surface area of the portion of the site in the Regulatory Floodplain. Native vegetation in the riparian habitat zone portion of the property can be counted toward this requirement.

3. If the proposed project does not meet the criteria of this chapter, a habitat impact assessment shall be conducted pursuant to ACC 15.68.135K and, if indicated by that assessment, a habitat mitigation plan shall be prepared and implemented pursuant to ACC 15.68.135L. (Ord. 6161 § 1, 2008.)

15.68.170 Specific Additional standards of the city of auburn building division planning and development department.

In all areas of special flood hazard where base flood elevation data is provided as set forth in ACC 15.68.080 or 15.68.150(B) this chapter, the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above base flood elevation. Enclosed crawl space areas no taller than three feet, measured from the lowest ground within the crawl space to the bottom of the structural system directly supporting the floor slab or sheathing above, shall not be considered as a basement.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be no higher than one foot above grade;

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

3. The structure shall be aligned parallel with the direction of flood flows.

4. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

5. All materials below the FPE shall be resistant to flood damage and firmly anchored to prevent flotation. Materials harmful to aquatic wildlife, such as creosote, are prohibited below the FPE.

6. Electrical, heating, ventilation, duct work, plumbing, and air-conditioning equipment and other service facilities shall be elevated above the FPE. Water, sewage, electrical, and other utility lines below the FPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.

7. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited; Provided, that those areas may be used only for parking, storage, or building access and only if they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or licensed architect or meet or exceed the following minimum criteria:

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

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

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

B. Nonresidential Construction. New construction and substantial improvement to any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the level of the base flood elevation, or, ~~As an alternative to elevation, a new or substantial improvement to a nonresidential structure and its together with~~ attendant utility and sanitary facilities, may be dry floodproofed in A Zones. The project shall meet the following requirements:

1. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or a registered professional 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 to the official as set forth in ACC 15.68.150(C)(2);

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;

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

C. Manufactured Homes. All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a

permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system.

D. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the requirements of subsection C of this section and the elevation and anchoring requirements for manufactured homes.

E. Hazardous Materials. No new development shall create a threat to public health, public safety, or water quality. Chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other materials that are hazardous, toxic, or a threat to water quality are prohibited from the Regulatory Floodplain. This prohibition does not apply to small quantities of these materials kept for normal household use or to materials kept in approved containers above the FPE or in a dry floodproofed non-residential building.

F. Small Structures. A low cost building such as a detached garage, boathouse, pole barn, or storage shed, that is no larger than 500 square feet and is not used for human habitation may be exempt from the elevation requirement of this chapter, provided:

1. It is used only for parking or storage;
2. It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
3. It is anchored to prevent flotation which may result in damage to other structures;
4. All portions of the structure below the FPE must be constructed of flood-resistant materials;
5. Service utilities such as electrical and heating equipment meet the standards of this chapter;
6. It has openings to allow free flowage of water that meet the criteria of this chapter;
7. The project meets all the other requirements of this chapter.

G. Location of structures. Structures and other development shall be located to avoid flood damage.

1. If a lot has a buildable site out of the Regulatory Floodplain, all new structures shall be located in that area.
2. If a lot does not have a buildable site out of the Regulatory Floodplain, all new structures, pavement, and other development must be sited in the location that has the least impact on habitat by locating the structures as far from the water body as possible or placing the structures on the highest land on the lot.

H. Critical Facilities.

1. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Regulatory Floodplain.

2. Construction of new critical facilities shall be permissible if no feasible alternative site is available, provided

(a) Critical facilities shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.

(b) Access to and from the critical facility shall be protected to the elevation of the 500-year flood. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(5.2), 1989.)

15.68.180 Floodways and Community Acknowledgement of FEMA Map Amendments.

~~Located within areas of special flood hazard established in ACG 15.68.080 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:~~

~~A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practices with certification provided by a registered professional engineer that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;~~

~~B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (1) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (2) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the assessed valuation of the structure as established by the most current King County or Pierce County assessor's tax roll, either (a) before the repair, reconstruction, or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent;~~

~~C. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter;~~

~~D. Notwithstanding any other provision of this chapter, the city may permit encroachments within the adopted regulatory floodway upon receipt of approval of the Federal Insurance Administrator and completion of the conditions of this section.~~

~~1. Prior to a developer being authorized to encroach upon the adopted regulatory floodway to an extent which will cause base flood elevation increases in excess of those permitted in subsection A of this section, the developer shall provide, for city review and submission to the Federal Insurance Administrator, the following:~~

~~a. A request for conditional approval of map change and the appropriate initial fee as specified by Section 72.3 of 44 CFR Ch. I Federal Emergency Management Agency or a request for exemption from fees as specified by Section 72.5~~

of 44 CFR Ch. I Federal Emergency Management Agency. Sections 72.3 and 72.5 of 44 CFR Ch. I Federal Emergency Management Agency are herein adopted by reference in their entirety including any future amendments thereto;

b. An evaluation of alternatives which would not result in a base flood elevation increase above that permitted under subsection A of this section demonstrating why these alternatives are not feasible;

c. Documentation of individual legal notice to all impacted property owners within and outside of the community, explaining the impact of the proposed action on their property;

d. Written concurrence of the chief executive officer of any other communities impacted by the proposed actions;

e. Written certification that no structures are located in areas which would be impacted by the increased base flood elevation;

f. A request for revision of base flood elevation determination according to the provisions of Section 65.6 of 44 CFR Ch. I Federal Emergency Management Agency. Section 65.6 of 44 CFR Ch. I Federal Emergency Management Agency is herein adopted by reference in its entirety;

g. A request for floodway revision in accordance with the provisions of Section 65.7 of 44 CFR Ch. I Federal Emergency Management Agency. Section 65.7 of 44 CFR Ch. I Federal Emergency Management Agency is herein adopted by reference in its entirety.

B. City review of changes to flood hazard data.

1. All requests to revise or change the flood hazard data, including requests for a Letter of Map Revision and a Conditional Letter of Map Revision shall be reviewed by the floodplain administrator.

(a). The floodplain administrator shall not sign the Community Acknowledgement Form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this ordinance.

(b). The floodplain administrator shall not approve a request to revise or change a floodway delineation until FEMA has issued a Conditional Letter of Map Revision that approves the change.

(c) Upon receipt of the Federal Insurance Administrator's conditional approval of map change and prior to the approval of the proposed encroachments, the developer shall compensate the city for all costs incurred by the city which are associated with:

(1) The city's adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition;

(2) The city's submittal of evidence to the Federal Insurance Administrator of the city's adoption of said revised floodplain management ordinances.

3. Within three months of completion of the proposed encroachments, the developer shall be responsible for providing certified record drawings and/or technical or scientific data to the city for submittal to the Federal Insurance Administrator.

2. If an applicant disagrees with the regulatory data prescribed by this ordinance, he/she may submit a detailed technical study needed to replace existing

data with better data in accordance with FEMA mapping guidelines or Regional Guidance for Hydrologic and Hydraulic Studies FEMA Region X, 2010. If the data in question are shown on the published FIRM, the submittal must also include a request to FEMA for a Conditional Letter of Map Revision.

3. All new hydrologic and hydraulic flood studies conducted pursuant to this chapter shall consider future conditions and the cumulative effects from anticipated future land use changes in accordance with Regional Guidance for Hydrologic and Hydraulic Studies, FEMA Region X, 2010. If there is an study in existence on the date this provision becomes effective that meets the rest of this chapter's criteria, it may be used, even if it does not account for future conditions. (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(5.3), 1989.)

15.68.190 Developments within areas of special flood hazard

Notwithstanding any other provision of this chapter, the city may permit developments within ~~areas of special flood hazard areas~~. Prior to approval for a development which will increase the water surface elevation of the base flood by more than one foot, a developer must comply with the requirements set forth in ACC 15.68.180(DA). (Ord. 6161 § 1, 2008; Ord. 4820 § 1, 1995; Ord. 4357 § 2(5.4), 1989.)

15.68.200 Compensatory storage equipment requirements.

A. Development proposals shall not reduce the effective ~~base flood storage volume at base flood elevation~~. Where fill, grading or other activities that may displace the effective base flood storage volume are proposed, compensatory storage shall be required. Compensatory storage shall:

1. Provide equivalent volume at equivalent elevations to that being displaced;
2. Hydraulically connect to the source of the flooding;
3. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs. Allowances may be granted on a case-by-case basis to allow sequential construction if the timing of the work cannot meet wintertime/flood construction schedules; and
4. Occur on site or, if approved by the city engineer, at a hydraulically connected off-site location.
5. Provide documentation of a restrictive easement acceptable to the engineering division to ensure continued existence of the compensatory flood storage.

6 The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.

B. Certification by a registered professional engineer may be required as documentation that the compensatory storage requirement shall be met by the development proposal. (Ord. 6161 § 1, 2008.)

Section 3. Amendment to City Code.

Section 16.10.010 of the Auburn

City Code be and the same hereby is amended to read as follows:

16.10.010 Purpose and intent.

A. The city of Auburn contains numerous areas that can be identified and characterized as critical or environmentally sensitive. Such areas within the city include wetlands, streams, wildlife habitat, significant trees, geologic hazards, ground water protection areas, and flood hazards.

B. The city finds that these critical areas perform a variety of valuable and beneficial biological and physical functions that benefit the city and its residents. Alteration of certain critical areas may also pose a threat to public safety or to public and private property or the environment. The city therefore finds that identification, regulation and protection of critical areas are necessary to protect the public health, safety and general welfare. The city further finds that the functions of critical areas and the purpose of these regulations include the following:

1. Wetlands. Wetlands perform a variety of functions that include maintaining water quality; storing and conveying storm water and flood water; recharging ground water; providing important fish and wildlife habitat; and serve as areas for recreation, education and scientific study, and aesthetic appreciation.

Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.

The primary goals of wetland regulation are to avoid adverse effects to wetlands ~~impacts~~; to achieve no net loss of wetland function and value – acreage may also be considered in achieving the overall goal; to provide levels of protection that reflect the sensitivity of individual wetlands and the intensity of proposed land uses; and to restore and/or enhance existing wetlands, where possible.

2. Streams. Streams and their associated riparian corridors provide important fish and wildlife habitat; help to maintain water quality; store and convey storm water and flood water; recharge ground water; and serve as areas for recreation, education and scientific study and aesthetic appreciation. Stream buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect stream resources from harmful intrusion.

The primary goals of stream regulation are to avoid adverse effects ~~impacts~~ to streams and associated riparian corridors; to achieve no net loss of functions and values of the larger ecosystem in which the stream is located; to protect fish and wildlife resources; to protect water quality through appropriate management techniques; and, where possible, to provide for stream enhancement and rehabilitation.

3. Wildlife Habitat. Wildlife habitat provides opportunities for food, cover, nesting, breeding and movement for fish and wildlife; maintains and promotes diversity of species and habitat; coordinates habitat protection with elements of the open space system; helps to maintain air and water quality; helps control erosion; serves as areas for recreation, education, scientific study, and aesthetic appreciation; and provides neighborhood separation and visual diversity within urban areas.

The primary goals of wildlife habitat regulation are to avoid adverse effects ~~impacts~~ to critical habitats for fish and wildlife; to achieve no net loss of functions and

values of the larger ecosystem in which the wildlife habitat is located; to implement the goals of the Endangered Species Act; to promote connectivity between habitat areas to allow for wildlife movement; to provide multi-purpose open space corridors; and where possible to provide for fish and wildlife habitat enhancement and rehabilitation that reflect the sensitivity of the species.

4. Ground Water Protection Areas. Ground water protection areas provide a source of potable water and contribute to stream discharge/flow. Such areas contribute to the recharge of aquifers, springs and/or wells and are susceptible to contamination of water supplies through infiltration of pollutants through the soil.

The primary goals of ground water protection regulations are to protect ground water quality by maintaining the quantity of recharge; avoiding or limiting land use activities that pose potential risk of aquifer contamination; and to minimize or avoid adverse ~~effects~~ ~~impacts~~ to ground water protection areas through the application of performance standards, and to comply with the requirements of the Federal Safe Drinking Water Act and Washington Administrative Code that require Group A public water systems to develop and implement a wellhead protection program.

5. Geologic Hazard Areas. Geologic hazard areas include lands or areas characterized by geologic, hydrologic and topographic conditions that render them susceptible to varying degrees of risk of landslides, erosion, seismic or volcanic activity.

The primary goals of regulating geologic hazards are to avoid and minimize potential impacts to life and property by regulating and/or limiting land uses where necessary, and to conduct appropriate levels of analysis and ensure sound engineering and construction practices to address identified hazards.

6. Flood Hazard Areas. Floodplains help to store and convey storm water and flood water; recharge ground water; provide important areas for riparian habitat; and serve as areas for recreation, education, and scientific study. Development within floodplain areas can be hazardous to those inhabiting such development, and to those living upstream and downstream. Floods also cause substantial damage to public and private property that results in significant costs to the public and individuals.

The primary goals of flood hazard regulations are to limit or condition development within the ~~100-year floodplain~~ Regulatory Floodplain to avoid substantial risk of damage to public and private property and that results in significant costs to the public and individuals; to avoid significant increases in peak storm water flows or loss of flood storage capacity; and ~~to implement the objectives of the Draft Mill Creek Flood Control Plan, if and when adopted to protect critical habitat for fish and wildlife, and to meet the purposes set forth in Chapter 15.68 of the Auburn City Code. Requirements for the identification, assessment, alteration, and mitigation of flood hazard areas are contained in Chapter 15.68 ACC.~~

C. This chapter of the Auburn City Code and other sections as incorporated by reference contain standards, procedures, criteria and requirements intended to identify, analyze, and mitigate potential impacts to the city's critical areas, and to enhance and restore degraded resources where possible. The general intent of these regulations is to avoid impacts to critical areas. In appropriate circumstances, impacts to specified critical areas resulting from regulated activities may be minimized, rectified, reduced and/or compensated for, consistent with the requirements of this chapter.

D. It is the further intent of this chapter to:

1. Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and implement rules to identify and protect critical areas and to perform the review of development regulations required by RCW 36.70A.215;
2. Develop and implement a comprehensive, balanced and fair regulatory program that avoids impacts to critical resources where possible, that requires that mitigation be performed by those affecting critical areas, and that thereby protects the public from injury, loss of life, property or financial losses due to flooding, erosion, landslide, seismic events, soil subsidence, or steep slope failure;
3. Implement the goals and policies of the Auburn comprehensive plan, including those pertaining to natural features and environmental protection, as well as goals relating to land use, housing, economic development, transportation, and adequate public facilities;
4. Serve as a basis for exercise of the city's substantive authority under the State Environmental Policy Act (SEPA) and the city's environmental review procedures, where necessary to supplement these regulations, while also reducing the city's reliance on project-level SEPA review;
5. Provide consistent standards, criteria and procedures that will enable the city to effectively manage and protect critical areas while accommodating the rights of property owners to use their property in a reasonable manner;
6. Provide greater certainty to property owners regarding uses and activities that are permitted, prohibited, and/or regulated due to the presence of critical areas;
7. Coordinate environmental review and permitting of proposals involving critical areas with existing development review and approval processes to avoid duplication and delay pursuant to the Regulatory Reform Act, Chapter 36.70B RCW;
8. Establish conservation and protection measures for threatened and endangered fish species in compliance with the requirements of the Endangered Species Act and the Growth Management Act requirements to preserve or enhance anadromous fisheries, WAC 365-195-925;
9. Alert members of the public, including appraisers, assessors, owners, potential buyers or lessees, to the development limitations of critical areas and their required buffers.

E. Best Available Science. The city has considered and included the best available science in developing these regulations, consistent with RCW 36.70A.172 and WAC 365-195-900, et seq. This has been achieved through research and identification of relevant technical sources of information, consultation with experts in the disciplines covered by this chapter, and consultation and requests for technical information regarding best available science from state and federal resource agencies.

Preparation of this chapter has included the use of relevant nonscientific information, including consideration of legal, social, policy, economic, and land use issues. This reflects the city's responsibilities under numerous laws and programs, including other provisions of the Growth Management Act, and the need to weigh and balance various factors as part of decision making to accomplish municipal objectives. This may result in some risk to the functions and values of some critical areas. The city will also use its authority under the State Environmental Policy Act (SEPA) to identify,

consider and mitigate, where appropriate, significant adverse effects on critical resources not otherwise addressed by the regulations of this chapter.

The city intends to review and monitor implementation of its critical areas regulations and to use an adaptive management approach. It will make adjustments to the regulations, as appropriate, in response to changing conditions, new information about best available science, or empirical data indicating the effectiveness of its regulatory program. This will occur in the context of the city's ongoing review and revision of its comprehensive plan and development regulations pursuant to the Growth Management Act.

Additional information, both scientific and nonscientific, regarding compliance with WAC 365-195-915(c), including identification of risks to resources, is contained in the findings and conclusions and the overall record supporting adoption of Auburn's critical areas regulations. (Ord. 5894 § 1, 2005.)

Section 4. Amendment to City Code. Section 16.10.070 of the Auburn

City Code be and the same hereby is amended to read as follows:

16.10.070 Critical area review process and application requirements.

A. Pre-Application Conference. A pre-application conference is available and encouraged prior to submitting an application for a project permit.

B. Application Requirements.

1. Timing of Submittals. Concurrent with submittal of a State Environmental Policy Act (SEPA) checklist, or concurrent with submittal of an application for projects exempt from SEPA, a critical area report must be submitted to the city for review when the city believes that a critical area may be present. The purpose of the report is to determine the extent, characteristics and functions of any critical areas located on or potentially affected by activities on a site where regulated activities are proposed. The report will also be used by the city to determine the appropriate critical area classification and, if applicable, to establish appropriate buffer requirements.

2. Report Contents. Reports and studies required to be submitted by this chapter shall contain, at a minimum, the information indicated in the provisions of this chapter applicable to each critical area. The director may tailor the information required to reflect the complexity of the proposal and the sensitivity of critical areas that may potentially be present.

C. Consultant Qualifications and City Review. All reports and studies required of the applicant by this section shall be prepared by a qualified consultant as that term is defined in these regulations. The city may retain a qualified consultant paid for by the applicant to review and confirm the applicant's reports, studies and plans if the following circumstances exist:

1. The city has technical information that is unavailable to the applicant; or

2. The applicant has provided inaccurate or incomplete information on previous proposals or proposals currently under consideration.

D. Review Process. This section is not intended to create a separate critical area review permit for development proposals. To the extent possible, the city shall

consolidate and integrate the review and processing of critical area-related aspects of proposals with other land use and environmental considerations and approvals. Any permits required by separate codes or regulations, such as flood plain development zone control permits or shoreline substantial development permits, shall continue to be required. (Ord. 5894 § 1, 2005.)

Section 5. Amendment to City Code. Section 17.04.300 of the Auburn

City Code be and the same hereby is amended to read as follows:

17.04.300 Regulatory floodway.

"Regulatory floodway" means the channel of a river or other water course and the adjacent land areas which must be reserved in order to discharge a flood without cumulatively increasing the water surface elevation by more than one foot, as indicated on the applicable Flood Insurance Rate Map (FIRM) map, the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Section 6. Amendment to City Code. Section 17.09.050 of the Auburn

City Code be and the same hereby is amended to read as follows:

17.09.050 Development requirements.

A. Lot Area and Dimensions. Each lot created by short subdivision shall contain sufficient square footage and lot dimensions to meet the requirements of ACC Title 18. Each lot to be served by an on-site sewage disposal system shall be a minimum of 15,000 square feet in area and shall also meet the minimum lot area requirements of the county department of health rules and regulations. Land contained in access easements, tracts or panhandles shall not be included in lot area or lot dimension calculations for the purposes of this section.

B. Every lot within a short subdivision shall be capable of being reasonably served by public or private sewage disposal, water, storm drainage facilities and streets. The city will not approve a short subdivision for which a building permit cannot be issued because of insufficient infrastructure.

C. Conformance with Adopted Plans. Street, water, sewer and storm drainage facilities adjacent to or within the short subdivision shall be in conformance with adopted city ordinances, standards and policies. Easements for utilities recommended by such plans shall be provided to the city, with the exact location of such easements to be determined by the city engineer.

D. Floods, Flood Control and Storm Drainage.

1. Where any portion of the proposed short subdivision lies within an area of special flood hazard or regulatory floodway, conformance with adopted city flood hazard area ordinances, standards and policies shall be required.

2. A conceptual storm drainage/site grading plan shall be required to be submitted, as part of the short subdivision application, unless waived by the city engineer.

3. The proposed subdivision should have one or more new lots in the Regulatory Floodplain set aside for open space use through deed restriction, easement, subdivision covenant, or donation to a public agency. The density of the development in the portion of the development outside the Regulatory Floodplain may be increased in accordance with applicable land use and subdivision regulations.

4. If a parcel has a buildable site outside the Regulatory Floodplain, it shall not be subdivided to create a new lot, tract, or parcel within a binding site plan that does not have a buildable site outside the Regulatory Floodplain. This provision does not apply to lots set aside from development and preserved as open space.

E. Adjacent Streets. When any public street lying adjacent to the property being short subdivided has insufficient width or for any other reason does not conform to minimum street standards, in accordance with the city design and construction standards, sufficient additional right-of-way shall be dedicated to the city and appropriate improvements shall be made by the subdivider to conform the abutting half of the street to such standards consistent with Chapter 12.64A ACC. Deferral of such improvement requirements shall be in conformance with the city of Auburn design and construction standards.

F. Access.

1. All short subdivisions shall border on an opened, constructed and maintained public street. All lots within a short subdivision shall either border on an opened, constructed and maintained public street or shall be served by a private street, access easement, tract or panhandle having direct access to such a public street. Where private streets and access easements are provided, they shall be improved or guaranteed to the city of Auburn and be in conformance with the city of Auburn design and construction standards.

2. All private streets, access easements and panhandles shall be capable of meeting the fire access requirements of Chapter 15.36A ACC and the development standards of Chapters 17.14 and 18.31 ACC, in addition to any other requirements of this title, including, but not limited to, an adequate surface for access and minimum turnaround requirements on dead-end streets or access easements as specified by the fire department.

3. All proposals shall ensure that all buildable lots shall have at least one access road connected to land outside the Regulatory Floodplain with the surface of the road at or above the FPE.

G. Dedication of Streets. Dedication of a public street or streets may be required, whenever the city engineer finds that one or more of the following conditions applies:

1. The general alignment of a proposed private street, access easement or panhandle follows the general alignment of a future arterial as shown in the comprehensive plan; or

2. The general alignment of a proposed private street, access easement or panhandle can be reasonably modified to provide a desirable through-connection between two or more existing or planned public streets or arterials; or

3. A public street would be necessary to provide adequate access to adjacent property not subject to the proposed short subdivision.

H. Fire Hydrants. All lots within a short subdivision shall be capable of being served by a fire hydrant as required by Chapter 13.16 ACC. Property zoned RC, residential conservancy, may be exempt, provided the requirements of ACC 13.16.030 are met.

I. The final recorded subdivision plat shall include a notice that part of the property is in the SFHA, riparian habitat zone and/or channel migration area, as appropriate.

(Ord. 6239 § 1, 2009; Ord. 6186 § 12, 2008; Ord. 6006 § 3, 2006. Formerly 17.14.055)

Section 7. Amendment to City Code. Section 17.14.110 of the Auburn

City Code be and the same hereby is amended to read as follows:

17.14.110 Floods and flood control.

The city may disapprove a proposed subdivision because of flood, inundation or swamp condition if the city finds that such condition poses a threat to the public health, safety or general welfare or causes a public nuisance.

Where any portion of the proposed subdivision lies within the ~~area of special flood hazard or the floodway~~ Regulatory Floodplain, the hearing examiner shall impose a condition on the preliminary plat requiring the subdivider to conform to the city's ~~flood hazard area~~ Floodplain Development requirements as set forth in Chapter 15.68 of the Auburn City Code. In such cases, no development permit associated with the proposed subdivision shall be issued by the city until said flood hazard area regulations have been met.

The city may require dedication of land to any public body and/or the construction of improvements and may impose other conditions necessary to protect against flooding or inundation.

Section 8. New Section to City Code. Section 17.04.305 of the Auburn

City Code be and the same hereby is created to read as follows:

17.04.305 Regulatory Floodplain.

"Regulatory Floodplain" means the area of the Special Flood Hazard Area and all Protected Areas within the City of Auburn. It also includes newly designated Special Flood Hazard Areas and Protected Areas that are delineated pursuant to City Ordinance.

Section 9. New Section to City Code.

Section 17.04.335 of the Auburn

City Code be and the same hereby is created to read as follows:

17.04.335 Special Flood Hazard Area.

“Special Flood Hazard Area (SFHA)” means the land subject to inundation by the base flood. Special Flood Hazard Areas are identified by the Federal Emergency Management Agency in the scientific and engineering reports entitled “Flood Insurance Study for King County, Washington and Incorporated Areas” dated April 19, 2005, and any revisions thereto, and “Flood Insurance Study for Pierce County, Washington and Unincorporated Areas” dated August 19, 1987, and any revisions thereto, and designated on associated Flood Insurance Rate Maps with the letters “A” including AE, AO, AH, A1-99.

Section 10. New Section to City Code.

A New Section 18.70.025 of the

Auburn City Code be and the same hereby is created to read as follows:

18.70.025 Variances in Regulatory Floodplains

A. Subject to conditions, safeguards and procedures provided by this section, the hearing examiner may be empowered to hear and decide applications for variances from the terms of Chapter 15.68; provided the hearing examiner may approve a variance only if the request conforms to all of the criteria in ACC 18.70.025.B. In reviewing applications for a variance, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

1. The danger to life and property due to flooding or erosion damage;
2. The danger that materials may be swept onto other lands to the injury of others;
3. The safety of access to the property in times of flood for ordinary and emergency vehicles;
4. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
5. The susceptibility of the proposed facility and its contents to flood or erosion damage and the effect of such damage on the individual owner;
6. The availability of alternative locations for the proposed use which are not subject to flooding or channel migration and are not in designated fish and wildlife habitat conservation areas;
7. The relationship of the proposed use to the comprehensive plan, growth management regulations, and floodplain management program for that area;

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

9. The potential of the proposed development project to destroy or adversely ~~affect~~modify a fish and wildlife habitat conservation area; and

10. The potential of the proposed development project to affect, or be affected by, channel migration; and

11. Shall not result in a violation of this ordinance.

12. Must be compliant with the Endangered Species Act.

B. The examiner must enter findings of fact and conclusions of law which support the following criteria and any conditions. No variance shall be granted to the requirements of Chapter 15.68 ACC unless the applicant demonstrates that:

1. The development project cannot be located outside the Regulatory Floodplain;

2. An exceptional hardship would result if the variance were not granted;

3. The relief requested is the minimum necessary;

4. The applicant's circumstances are unique and do not represent a problem faced by other area properties;

5. If the project is within a designated floodway, no increase in flood levels during the base flood discharge would result;

6. The project will not adversely affect fish or other wildlife habitat;

If the issue is not specific to the property, but is a problem faced by other properties, the remedy should be a revision to the ordinance rather than a variance.

7. There will be no additional threat to public health, safety, beneficial stream or water uses and functions, or creation of a nuisance;

8. There will be no additional public expense for flood protection, lost environmental functions, rescue or relief operations, policing, or repairs to streambeds, shorelines, banks, roads, utilities, or other public facilities; and

9. All requirements of other permitting agencies will still be met.

C. Variances requested in connection with restoration of a historic site, building or structure may be granted using criteria more permissive than the above requirements, provided:

1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the site, building or structure; and

2. The repair or rehabilitation will not result in the site, building or structure losing its historic designation.

D. Variances to the provisions of ACC 15.68.161 and 15.68.170 may be issued for a structure on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the FPE, providing the other variance criteria are met. The applicant for such a variance shall be notified, in writing, that the structure (i) will be subject to increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the FPE increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

E. Variances pertain to a physical piece of property. They are not personal in nature and are not based on the inhabitants or their health, economic, or financial circumstances.

Section 11. Repeal of Section of City Code. Section 17.04.045 of the Auburn City Code (Definitions - Area of special flood hazard.) is repealed in its entirety.

TEXT OF REPEALED SECTION

17.04.045 Area of special flood hazard.

"Area of special flood hazard" means the land within the floodplain in a community subject to a one percent or greater chance of flooding in any given year, as indicated in the Flood Insurance Rate Map (FIRM) program entitled Flood Boundary and Floodway Map. (Ord. 6239 § 1, 2009.)

Section 12. Incorporation of Guidelines. The "Floodplain Habitat Assessment and Mitigation Regional Guidance", developed by the Federal Emergency Management Agency drafted and dated January 2010, and any subsequent amendments or versions promulgated by the Federal Emergency Management Agency, and the "Regional Guidance for Hydrologic and Hydraulic Studies, developed by the Federal Emergency Management Agency drafted and dated January 2010, and any subsequent amendments or versions promulgated by the Federal Emergency Management Agency shall be on file with the City Clerk, and incorporated herein by this reference, for use in connection herewith.

Section 13. Ministerial Corrections. The Code Reviser is authorized and directed to change all references to "Flood Control Zone Permits" in the Auburn City Code to "Floodplain Development Permit."

Section 14. Repeal of Moratorium. The moratorium on the filing, receipt, and approval of applications for development in the floodplain created by Resolution

4416 and extended by Resolutions 4442, 4476, and 4535 is hereby terminated as of the effective date of this Ordinance.

Section 15. Fee schedule. The City of Auburn Fee Schedule shall be amended to include the following fees:

Planning Department Fees

Floodplain development permit (when other City of Auburn development permits required)	\$0
Floodplain development permit (stand alone permit; no other City of Auburn development permits required)	\$50.00
Habitat Impact Assessment Report Review Fee (stand alone submittal)...	\$250.00
Habitat Mitigation Plan Review Fee (stand alone submittal)	\$250.00
Combined Habitat Impact Assessment /Mitigation Plan Review Fee.....	\$500.00

and shall be further amended to delete the following fee:

Public Works Department Fees

6. Flood Control Zone Permit: *(Per Ordinance No. 5819)*

Base permit fee.....	\$50.00
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The City Clerk is authorized to insert amend the City of Auburn Fee Schedule consistent with this section without any further action by the City Council.

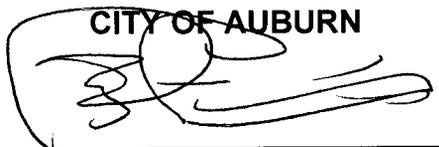
Section 16. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation. This authority specifically includes making non-substantive changes to the municipal code sections amended in this ordinance in order to comply with the direction of the federal agencies reviewing this ordinance. Department staff shall notify applicants

in writing that their permit application is being reviewed and, if appropriate, approved under interim regulations that are subject to final approval by the Federal Agencies. Therefore, any approved permit conditions may be modified by the City based on direction to do so by the Federal agencies.

Section 17. **Severability.** The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 18. **Effective date.** This Ordinance shall take effect and be in force as interim regulations five days from and after its passage, approval and publication as provided by law. If the City receives approval of the ordinance from the federal agencies, provisions herein shall automatically be effective as permanent regulations, with the effective date the same as the effective date of the interim regulations.

INTRODUCED: APR 5 2010
PASSED: APR 5 2010
APPROVED: APR 5 2010

CITY OF AUBURN


PETER B. LEWIS
MAYOR

ATTEST:



Deputy City Clerk for

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: APR 8 2010