

CITY COUNCIL AGENDA

15728 Main Street, Mill Creek, WA 98012 (425) 745-1891



Pam Pruitt, Mayor • Brian Holtzclaw, Mayor Pro Tem • Mark Bond
Mike Todd • Vince Cavaleri • John Steckler • Stephanie Vignal

Regular meetings of the Mill Creek City Council shall be held on the first, second and fourth Tuesdays of each month commencing at 6:00 p.m. in the Mill Creek Council Chambers located at 15728 Main Street, Mill Creek, Washington. Your participation and interest in these meetings are encouraged and very much appreciated. We are trying to make our public meetings accessible to all members of the public. If you require special accommodations, please call the office of the City Clerk at (425) 921-5725 three days prior to the meeting.

The City Council may consider and act on any matter called to its attention at such meetings, whether or not specified on the agenda for said meeting. Participation by members of the audience will be allowed as set forth on the meeting agenda or as determined by the Mayor or the City Council.

To comment on subjects listed on or not on the agenda, ask to be recognized during the Audience Communication portion of the agenda. Please stand at the podium and state your name and residency for the official record. Please limit your comments to the specific item under discussion. Time limitations shall be at the discretion of the Mayor or City Council.

Study sessions of the Mill Creek City Council may be held as part of any regular or special meeting. Study sessions are informal, and are typically used by the City Council to receive reports and presentations, review and evaluate complex matters, and/or engage in preliminary analysis of City issues or City Council business.

Next Ordinance No. 2020 - 860

Next Resolution No. 2020 - 587

**June 2, 2020
City Council Meeting
6:00 PM**

CALL TO ORDER

Virtual City Council Regular Meeting

Due to the COVID-19 pandemic, the City of Mill Creek has established a virtual and audio meeting for the Council meetings.

Call-In Number:

You may call one of these phone numbers and enter the access code:

United States (Toll-Free): 1 866 899 4679

- One-touch: tel:+18668994679,,644789413#
- Access Code: 644-789-413

United States: +1 (224) 501-3318

- One-touch: tel:+12245013318,,644789413#

PLEDGE OF ALLEGIANCE

ROLL CALL

AUDIENCE COMMUNICATION

- A. Public comment on items on or not on the agenda

PRESENTATIONS

- B. Proclamation for Graduating Class of 2020
- C. COVID 19 Update
(Grace Lockett, Chief of Staff)

OLD BUSINESS

NEW BUSINESS

- D. Demolition of St. Francis Episcopal Church and Cook Property Structure – Award Construction Contract
(Gina Hortillosa, Director of Public Works and Development Services)
- E. Ordinance Amending the Mill Creek Municipal Code related to Flood Damage Prevention
(Gina Hortillosa, Director of Public Works and Development Services)

STUDY SESSION

CONSENT AGENDA

- F. City Council Meeting Minutes of May 26, 2020

REPORTS

- G. Mayor/Council
- H. City Manager
 - Temporary Sign Ordinance Extension
- I. Staff
 - Report, etc.

AUDIENCE COMMUNICATION

- J. Public comment on items on or not on the agenda

ADJOURNMENT



Proclamation

WHEREAS, the Mill Creek schools and their students have had to transition from physical classrooms to virtual classrooms; and

WHEREAS, the 2020 graduates have faced the challenges of social distancing head-on and adapted to a new normal as they prepare themselves for their future paths; and

WHEREAS, the 2020 graduating seniors have encountered unprecedented cancellations of the traditional events that celebrate and honor their years of education; and

WHEREAS, the City of Mill Creek wishes to acknowledge and show support for the graduating seniors of the class of 2020; and

NOW, THEREFORE, I, Pam Pruitt, Mayor of the City of Mill Creek, on behalf of the City Council, do hereby recognize the Graduating Class of 2020 for their diligent efforts, countless hours of study, triumphant wins, and tearful disappointments that have been experienced during their high school career.

Signed this 2nd, day of June, 2020

Pam Pruitt, Mayor

Brian Holtzclaw, Mayor Pro Tem

Mark Bond, Councilmember

Mike Todd, Councilmember

Vince Cavaleri, Councilmember

John Steckler, Councilmember

Stephanie Vignal, Councilmember

Michael G, Ciaravino, City Manager

Attest: Naomi Fay, Interim City Clerk



Agenda Item # _____

Meeting Date: June 2, 2020

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: DEMOLITION OF ST. FRANCIS EPISCOPAL CHURCH AND COOK PROPERTY STRUCTURE – AWARD CONSTRUCTION CONTRACT

PROPOSED MOTION:

Authorize the City Manager to execute a contract with Maltby Container Recycling and Demolition for the demolition of the structures on the St. Francis Episcopal Church Property and the single family home on the Cook Property in an amount not to exceed \$54,587.00.

KEY FACTS AND INFORMATION SUMMARY:

Action on this project is both "necessary and routine". The contract needs to be executed at this time in order to ensure the work can be scheduled and completed during the current construction season.

The City of Mill Creek recently purchased the St. Francis Episcopal Church. The property includes a 2,800 square foot church structure, a 480 square foot detached classroom building, two small storage sheds and a small wooden play structure. The property is served by an on-site septic system. The church structure has some asbestos in the entrance flooring. Demolition of the structures is being proposed to minimize the risk of vandalism on the property.

The bid package was divided into a base bid and one additive bid as described below:

- Base Bid (basis of award) – St. Francis Episcopal Church Structures.
Location: 13716 Bothell-Everett Highway
The scope of work includes the removal of asbestos, demolition and disposal of the structures on the site and decommissioning of the septic tank.
- Additive A – Cook Property Structure
Location: 13628 North Creek Drive
The scope of work includes the demolition and disposal of the City-owned single family home and decommissioning of the septic tank. The additive was included in the bid package as a result of concern for security of the property and its deteriorating condition.

The project was advertised in early May and bids were opened on May 21, 2020. The City received fourteen bids (Attachment A). The lowest responsible bid was from Maltby Container Recycling and Demolition for a total amount of \$54,587.00.

In the 2019-2020 Capital Improvement Plan, Project 20-Parks-01 (Park Property Acquisition), includes a budget of \$2,200,000 (Attachment B). The source of the funding was entirely park

mitigation fees. The City closed on the purchase of the St. Francis Episcopal Church on April 27, 2020. The actual cost of the property purchase including escrow fees was \$2,053,636.42. The available budget for the demolition is \$146,363.58. Thus, the proposed contract with Maltby Container Recycling and Demolition for the demolition of the structures on the St. Francis Episcopal Church Property and the single family home on the Cook Property in an amount not to exceed \$54,587.00 is within the available budget (Attachment C).

The total demolition contract time is 25 working days. Demolition is planned to begin as soon as possible following the award of the contract. Staff has checked references and information included in the supplemental bidder responsibility forms and has confirmed that Maltby Container Recycling and Demolition is the lowest responsible bidder. Demolition inspection will be conducted by City staff.

CITY MANAGER RECOMMENDATION:

Authorize the City Manager, to execute a contract with Maltby Container Recycling and Demolition for the demolition of the structures on the St. Francis Episcopal Church Property and the single family home on the Cook Property (Base Bid and Additive A) in an amount not to exceed \$54,587.00.

ATTACHMENTS:

- Attachment A: Bid Tabulation Summary (Base Bid and Additive)
- Attachment B: 2019-2024 Capital Improvement Plan – Park Property Acquisition
- Attachment C: Contract 2020-____ Small Public Works Contract

Respectfully Submitted:

Michael G. Ciaravino

Michael G. Ciaravino
City Manager

Please note that because this is a construction project the contract itself consists of the contract document that incorporates the call for bids, the contractor's proposal, including bid schedules, information required of bidder, and all required certificates and affidavits, the performance bond, the contract provisions included within the bid package, the plans and specifications, addendums and future change orders. The entire package has been reviewed by staff and City Attorney's Office prior to bid. Due to the size and technical nature of these documents, they are not included as part of this agenda item; however, the contract template included in the bid package that incorporates the aforementioned documents is included as a reference. When the contract is formally authorized by Council, the staff and contractor will effectuate the various provisions of the documents.

Attachment A



**2020 Demolition Project
City of Mill Creek
Bid Tabulation Summary**

Bid Opening: Tuesday, May 19, 2020 at 11:00 a.m.

Name of Bidder (In Order of Opening)	Base Bid Demo Haul & Disposal (Church)	Base Bid Asbestos Abatement (Church)	Base Bid Total Amount (Church)	Total Additive Bid (Cook)	Total (Both Items)
City Estimate	\$53,806.49	\$4,400.00	\$58,206.49	\$32,483.56	\$90,690.05
Wyser Construction Company, Inc.	\$43,592.25	\$6,409.00	\$50,001.25	\$23,757.50	\$73,758.75
3 King s Environmental, Inc.	\$54,512.97	\$8,840.00	\$63,352.97	\$33,039.50	\$96,392.47
Northwest New Construction and Excavating, Inc.	\$51,140.07	\$9,394.22	\$60,534.29	N/A	N/A
Rocky Lang	\$22,100.00	\$14,365.00	\$36,465.00	\$33,150.00	\$69,615.00
Moss Brucker Excavation, Inc.	\$35,628.52	\$4,972.50	\$40,601.02	\$29,309.02	\$69,910.04
**IO Environmental and Infrastructure, Inc.	\$49,000.90	\$13,464.33	\$62,465.23	\$34,574.61	\$97,039.84
Swofford Excavation, LLC	\$35,028.50	\$5,525.00	\$40,553.50	\$27,625.00	\$68,178.50
Dickson Company	\$45,577.93	\$6,790.23	\$52,368.16	\$31,399.68	\$83,767.84
Skycorp, Ltd.	\$24,199.50	\$6,519.50	\$30,719.00	\$13,149.50	\$43,868.50
**Ascendent Demolition, LLC	\$42,967.93	\$4,351.49	\$47,319.42	\$40,599.91	\$87,919.33
*Maltby Container Recycling and Demolition	\$24,752.00	\$4,199.00	\$28,951.00	\$25,636.00	\$54,587.00
Judha of Lion Landscaping and Services, LLC	\$53,040.00	\$10,497.50	\$63,537.50	\$38,675.00	\$102,212.50
American Abatement & Demo, LLC	\$28,840.50	\$6,740.50	\$35,581.00	\$20,332.00	\$55,913.00
Construction Group International, LLC	\$30,420.65	\$2,762.50	\$33,183.15	\$16,190.46	\$49,373.61

* Apparent Low Bidder

Total Number of Bidders: 14

** Math Error in Bid

Parks and Trail Projects

Attachment B

Parks and Trails Project

PROJECT NAME:	Park Property Acquisition
PROJECT #:	20 - Parks - 01

DEPARTMENT	Public Works and Development Services
CATEGORY	Parks
TYPE	Property Purchase

STRATEGIC PRIORITY	Fiscal Responsibility, Community Preservation, Civic Pride, Recreational Opportunities, Leadership, Long-Term Planning
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DESCRIPTION / JUSTIFICATION	The adopted 2015 Comprehensive Plan identifies Parks and Open Space facility needs to serve the population of the City of Mill Creek Municipal Urban Growth Area (MUGA). Among these needs are the expansion of/or additional community park facilities. The Property Park Acquisition Project is consistent with the Parks and Open Space Chapter 18 of the Comprehensive Plan. In particular, Goal E., Acquisition and Development of Future Parks - Pursue, and, where appropriate, participate in the acquisition of public lands to meet the recreational needs of the community in order to provide high quality and convenient recreation facilities and to provide for the City's anticipated growth.				
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Expenditures	Prior	2019	2020	2021	2022	2023	2024	Total
Property Purchase			\$2,200,000					\$2,200,000
Total Project Expenditures			\$ 2,200,000					\$ 2,200,000

Funding Sources	Prior	2019	2020	2021	2022	2023	2024	Total
Park Mitigation Fees			\$ 2,200,000					\$ 2,200,000
Total Project Revenues			\$ 2,200,000					\$ 2,200,000



Attachment C

**CITY OF MILL CREEK CONTRACT NO. _____
SMALL PUBLIC WORKS CONTRACT
FOR
2020 ST. FRANCIS EPISCOPAL DEMOLITION PROJECT**

THIS SMALL PUBLIC WORKS CONTRACT ("Contract") dated _____, 2020 is effective on the date the Contract is fully executed by the Parties. The Parties to this Contract are the CITY OF MILL CREEK, a Washington municipal corporation ("City") and, **Maltby Container Recycling and Demolition, PO Box 1565 Snohomish, WA 98291** ("Contractor").

A. The City desires to retain Contractor to furnish all labor and materials necessary to perform the 2020 St. Francis Episcopal Demolition("Project"), and

B. The Contractor desires to furnish all labor and materials necessary to perform the Project pursuant to the terms contained in this Contract, and Contractor has the requisite skill and experience to perform such work.

NOW, THEREFORE, the parties ("Parties") agree to the following terms and conditions:

1. SERVICES BY CONTRACTOR

1.1 Description of Work. Contractor shall perform all work and furnish all tools, materials, supplies, equipment, labor and other items incidental thereto necessary for completion of the Project as described in the project documents and scope of work, which are attached hereto and incorporated by this reference as Exhibit A ("Work"). The Work shall be completed to the City's satisfaction no later than the Completion Date stated in Section 2. No Work shall be performed before the effective date of this Contract.

1.2 Performance Standard. Contractor shall perform the Work in a manner consistent with accepted practices for other properly licensed contractors.

1.3 Compliance with Laws. Contractor shall perform the Work in accordance with all applicable federal, state and City laws, including but not limited to all City ordinances, resolutions, standards or policies, as now existing or hereafter adopted or amended, and obtain all necessary permits and pay all permit, inspection or other fees, at its sole cost and expense.

1.4 Change Orders. The City may, at any time, without notice to sureties, order changes within the scope of the Work. Contractor agrees to fully perform any such alterations or additions to the Work. All such change orders shall be in the form of the Contract Change Order Agreement, which shall be signed by both the Contractor and the City, shall specifically state the change in the Work, the completion date for such changed Work, and any increase or decrease in the compensation to be paid to Contractor as a result of such change in the Work. Adjustments to the completion date and compensation for any change agreed to by the City and Contractor on a particular change order shall constitute full and total compensation for such change and for the cumulative effect of that and previous changes, and no other claim or cost shall be made on as a result of such change. If Contractor disagrees with the adjustments to the completion date and compensation, it must provide the City with a notice of claim as stated in Section 1.5. Oral change orders shall not be binding upon the City unless confirmed in writing by the City.

1.5 Notice of Claims. If the Contractor intends to assert a claim against the City, including claims for additional payment or time extension, Contractor shall, within five (5) days after the event giving rise to the claim, submit to the City a written statement setting forth the general nature and monetary extent of such claim; provided the City, in its sole discretion, may extend such five (5) day submittal period upon request by the Contractor. The Contractor shall supply such supporting documents and analysis for the claims as the City may require to determine if the claims and costs have merit. Contractor waives the right to make a claim for any costs incurred more than five (5) days before the Contractor gives written notice as required. Contractor also waives the right to recover on any claims that are not asserted with the required notice until after final payment under this Contract.

1.6 Work and Materials Omitted. The Contractor shall, when directed in writing by the City, omit work, services, and materials to be furnished under the Contract and the value of the omitted work and materials will be deducted from the Contract Price and the Contract Time will be reviewed if appropriate. The value of the omitted work, services and materials will be a lump sum or unit price, as mutually agreed upon in writing by the Contractor

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and the City. If the parties cannot agree on an appropriate deduction, the City reserves the right to issue a unilateral change order adjusting the price and the delivery schedule.

1.7 Utility Location. Contractor is responsible for locating any underground utilities affected by the Work and is deemed to be an excavator for purposes of Chapter 19.122 RCW, as amended. Contractor shall be responsible for compliance with Chapter 19.122 RCW, including utilization of the "one call" locator system before commencing any excavation activities.

1.8 Air Environment. Contractor shall fully cover any and all loads of loose construction materials including without limitation, sand, dirt, gravel, asphalt, excavated materials, construction debris, etc., to protect said materials from air exposure and to minimize emission of airborne particles to the ambient air environment within the City of Mill Creek.

2. CONTRACT TIME

2.1 Completion Date. This Contract shall commence on the effective date of this Contract and continue until the Work is completed, but no later than 15 days after the City issues a Notice to Proceed ("Completion Date"), or as otherwise agreed to in writing by the parties. The time between the effective date and the Completion Date shall be the "Contract Time."

2.2 Liquidated Damages. Contractor acknowledges the City will foreseeably suffer damages in the event Contractor fails to timely achieve the Completion Date. Thus, if Contractor fails to complete the Work within the time specified, including any authorized extension thereof, then Contractor and its surety hereby agree, as a part consideration for the awarding of this Contract, to pay the City for each consecutive calendar day the Work remains uncompleted after the Completion Date, not as a penalty, but as liquidated damages in accordance with the formula in Section 1-08.9 of the WSDOT Standard Specifications in the contract documents. The parties agree that such sum represents a genuine and reasonable pre-estimate of the damages the City will suffer from Contractor's failure to timely deliver the conforming Work. Damages under this Section 2.2 may be deducted by the City from any payment owing to Contractor, or are otherwise payable by Contractor to the City within thirty (30) days after demand.

3. WARRANTY

3.1 Requisite Skill. The Contractor warrants that it has the requisite skill to complete the Work, and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Mill Creek by obtaining a City of Mill Creek business license. Contractor represents that it has visited the site and is familiar with all of the plans and specifications in connection with the completion of the Work.

3.2 Defective Work. The Contractor shall, at its sole cost and expense, correct all Work which the City deems to have defects in workmanship and material discovered within one (1) year after the City's final acceptance of the Work.

4. COMPENSATION

4.1 Total Compensation. The City agrees to pay the Contractor as set forth in the Bid Form submitted by the Contractor and attached and incorporated by reference as Exhibit B, including local and Washington State sales tax that the Contractor is required by law to collect from the City for the Work. In any event, the total compensation paid to Contractor shall not exceed **Fifty-Four Thousand Five Hundred Eighty-Seven Dollarsars (\$54,587.00)**, which includes applicable local and Washington State sales tax ("Contract Price").

4.2 Method of Payment. Subject to the total compensation described in Section 4.1, the City will make payment based on the actual quantities properly performed by the Contractor as such quantities are determined by the City's inspector, multiplied by the unit prices stated in the Bid Form attached as Exhibit B. Payment for Work performed by the Contractor during any month shall be made by the City within thirty (30) days after the end of that month, and be subject to retainage and the City's right to withhold payment pursuant to this Contract or applicable law.

4.3 Contractor Responsible for Taxes. Except as otherwise provided in Section 4.1, the Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Contract.

4.4 Nonpayment. The City shall have the right to withhold payment to the Contractor for any of the Work not completed in a workmanlike manner, in the City's sole discretion, which shall be withheld until such time as Contractor modifies or repairs the Work so that the Work is acceptable to the City.

4.5 Retainage. Pursuant to Chapter 60.28 RCW, five percent (5%) of all payments to the Contractor shall be retained by the City to assure payment of Contractor's state taxes as well as payment of subcontractors, suppliers and laborers. Pursuant to Section 10, this amount may be increased to ten percent (10%) for projects with a Contract Price of \$150,000 or less. Upon execution of this Contract, Contractor shall complete, execute and deliver to the City the Contractor's Retainage Agreement attached hereto as Exhibit C. If the form is not returned before the first payment is due, Contractor agrees to retainage being held in a non-interest bearing fund by the public body until released in accordance with applicable state statutes. If Contractor has met all requirements of applicable laws and regulations regarding release of retainage, and all claims filed against retainage have been resolved, the City will release retainage 60 days following the Completion Date.

5. EQUAL OPPORTUNITY EMPLOYER

In all Contractor services, programs or activities, and all Contractor hiring and employment made possible by or resulting from this Contract, there shall be no discrimination by Contractor or by Contractor's employees, agents, subcontractors or representatives against any person because of sex, sexual orientation, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Contract by the City and, in the case of the Contractor's breach, may result in ineligibility for further City agreements.

The City of Mill Creek in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR, Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

6. INDEPENDENT CONTRACTOR/CONFLICT OF INTEREST

It is the intention and understanding of the Parties that the Contractor shall be an independent contractor and that the City shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or any other insurance which is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may perform work during the Term of this Contract for other third parties; provided, however, that such performance of other work shall not conflict with or interfere with the Contractor's ability to perform the Work. Contractor agrees to resolve any such conflicts of interest in favor of the City.

7. TERMINATION

Prior to the expiration of the Term, this Contract may be terminated immediately, with or without cause by the City. In the event of termination by the City where the Contractor has not breached its obligations, the City will pay the Contractor for the value of the Work properly performed prior to termination, and in no event shall such amount exceed the Contract Price, including executed Change Orders. In the event of termination by the City for cause, the City may, without prejudice to any other remedy the City may have, take possession of the Site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by Contractor and may finish the Work by whatever method the City may deem expedient. If the costs of finishing the Work exceed the unpaid balance of the Contract Price owed to Contractor for work properly performed, Contractor shall pay the difference to the City within thirty (30) days of receipt of the City's invoice.

8. INDEMNIFICATION

8.1 Contractor Indemnification. The Contractor agrees to indemnify and hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees associated therewith or associated with successfully establishing the right to indemnification) to or by any and all persons or entities arising out of, related to or resulting from Contractor, its Work under this Contract, or its default of this Contract.

To the extent of the foregoing indemnity, and solely as respects bodily injury claims by employees of Contractor or its Subcontractors that fall within the scope of the foregoing indemnity, Contractor expressly waives its immunity under industrial insurance laws, including but not limited to Title 51 of the Revised Code of Washington, with respect to injuries or death suffered by employees of Contractor or any Subcontractor thereof.

CONTRACTOR AND CITY EXPRESSLY AGREE THAT EACH HAS READ AND REVIEWED THIS SECTION ENTITLED INDEMNIFICATION, THAT THIS SECTION HAS BEEN THE SUBJECT OF NEGOTIATION BETWEEN THE PARTIES, AND THAT CONTRACTOR AGREES TO BE BOUND BY THE TERMS THEREOF.

Nothing contained in this Section 8.1 shall require Contractor to hold harmless, pay the defense costs, or indemnify the City for the sole negligence of the City, its agents, or employees. Further, in the case of concurrent negligence of (a) the Contractor, its agents, or employees; and (b) the City, its agents, or employees, this Section 8.1 shall only require Contractor to hold harmless, pay the defense costs, and indemnify the City to the extent of the negligence of the Contractor, its agents, or employees.

8.2 Survival. The provisions of this Section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

9. INSURANCE

The Contractor agrees to carry as a minimum, the following insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Work by Contractor, its agents, representatives, employees or subcontractors with a carriers having a current A.M. Best rating of not less than A:VII:

9.1 Workers' Compensation and Employer's Liability Insurance in amounts sufficient pursuant to the laws of the State of Washington.

9.2 Commercial general liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Commercial General Liability insurance policy with respect to the Work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage with limits of no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

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9.3 Automobile liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on ISO form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage with combined single limits for bodily injury and property damage of not less than \$1,000,000 per accident.

9.4 Asbestos Abatement or Hazardous Materials. Because the Work includes asbestos abatement, removal and proper disposal, Contractor shall have insurance coverage for those elements of the Work. Prior to commencing work, Contractor shall provide to the City Attorney all information necessary regarding the scope, deductible and limits of coverage to allow the City Attorney to determine if the coverage proposed by the Contractor is appropriate for the scope of Work and is satisfactory to the City. Contractor shall not commence any Work until its coverage has been approved by the City Attorney.

9.5 The City shall be named as additional insured on all such insurance policies, with the exception of workers' compensation coverages. All insurance provided by the Contractor under this Section 9 shall be primary and non-contributory with any of City's insurance. Contractor shall provide certificates of insurance, concurrent with the execution of this Contract, evidencing the required coverage and, at City's request, furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. All insurance policies shall contain a clause of endorsement providing that they may not be terminated or materially amended during the Term of this Contract, except after thirty (30) days prior written notice to the City. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor. Contractor's failure to maintain such insurance policies constitutes a breach of contract and shall be grounds for the City's immediate termination of this Contract.

The provisions of this Section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

10. PERFORMANCE/PAYMENT BOND OR ADDITIONAL RETAINAGE

Pursuant to RCW 39.08.010 and prior to commencing work on each awarded project, Contractor shall provide the City with a Performance/Payment Bond in an amount sufficient to fully cover the Contractor's performance of all provisions of this Contract and the payment of all laborers and suppliers for each project to which the Contract bond applies. The Contract bond(s) shall be in a form attached hereto as Exhibit D. The Contract bond(s) shall assure that the Contractor will faithfully perform all of the provisions of the Contract as well as pay all laborers, mechanic subcontractors, materialmen and suppliers. Contractor's obligations under this Contract shall not be limited to the bond amount(s). If Contract Price is \$150,000 or less, Contractor authorizes the City, in lieu of the bond, to retain 10% of the Contract Price in accordance with RCW 39.08.010(3).

11. SAFETY

Contractor shall take all necessary precautions for the safety of its employees, subcontractors and agents on the work site and shall comply with all applicable provisions of federal, state and municipal safety and health laws and codes, including without limitation, all OSHA/WISHA requirements, Safety and Health Standards for Construction Work (Chapter 296-155 WAC), General Safety and Health Standards (Chapter 296-24 WAC), General Occupational Health Standards (Chapter 296-62 WAC), and all directives, regulations and/or proclamations regulating construction activity site safety, worker protection and protection of the public in response to the COVID-19 pandemic. Contractor shall erect and properly maintain, at all times, all necessary guards, barricades, signals and other safeguards at all unsafe places at or near the Work for the protection of its employees and the public, safe passageways at all road crossings, crosswalks, street intersections, post danger signs warning against known or unusual hazards and do all other things necessary to prevent accident or loss of any kind. Contractor shall protect from damage all water, sewer, gas, steam or other pipes or conduits, and all hydrants and all other property that is likely to become displaced or damaged by the execution of the Work. The Contractor shall, at its own expense, secure and maintain a safe storage place for its materials and equipment and is solely responsible for the same.

12. PREVAILING WAGES

12.1 Wages of Employees. This Contract is subject to the minimum wage requirements of Chapter 39.12 of the Revised Code of Washington, as now existing or hereafter amended or supplemented. In the payment of hourly wages and fringe benefits to be paid to any of Contractor's laborers, work persons and/or mechanics, Contractor shall not pay less than the "prevailing rate of wage" for an hour's work in the same trade or occupation in the locality within the State of Washington where such labor is performed, as determined by the Industrial Statistician of the Department of Labor and Industries of the State of Washington, which "prevailing rates of wage" are available on the Department of Labor and Industries website at: <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> and available in paper form upon request to the City. Prevailing wages paid pursuant to this Contract shall be the prevailing wage rates which are in effect on the date when the Contractor's bid, proposal, or quote was requested to be submitted to the City.

12.2 Reporting Requirements. Contractor shall comply with all reporting requirements of the Department of Labor and Industries of the State of Washington. Upon the execution of this Contract, Contractor shall complete and file a Statement of Intent to Pay Prevailing Wages with the Department of Labor and Industries. Upon completion of the Work, Contractor shall complete and file an Affidavit of Wages Paid with the Department of Labor and Industries. Contractor shall deliver copies of both the Statement of Intent to Pay Prevailing Wages and the Affidavit of Wages Paid, certified by the Department of Labor and Industries, to the City.

12.3 Disputes. In the event any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be resolved by the City and the Contractor, the matter shall be referred for arbitration to the Director of the Department of Labor and Industries of the State of Washington and the decision therein shall be final and conclusive and binding on all parties involved in the dispute.

13. FAILURE TO PAY SUBCONTRACTORS

In the event the Contractor shall fail to pay any subcontractors or laborers, or fail to pay for any materials, the City may terminate this Contract and/or the City may withhold from the money which may be due the Contractor an amount necessary for the payment of such subcontractors, laborers, or materials.

14. SUBCONTRACTOR RESPONSIBILITY

Contractor shall verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria required by RCW 39.04.350 and any supplemental responsibility that Contractor was required to meet as part of the bid for this Contract. This verification requirement must be included in every public works subcontract or every tier.

15. OWNERSHIP OF DOCUMENTS

All reports, plans, specifications, data, maps and documents produced by the Contractor to the City in the performance of this Contract, whether in draft or final form and whether written, computer or other form, shall be the property of the City. To the extent it is determined any other records held by the Contractor relating to the Work are subject to the Washington Public Records Act (RCW 42.56), the Contractor shall promptly deliver such records to the City for purpose of responding to a public records request. This section shall survive termination of this Contract.

16. CONFIDENTIALITY

If it is necessary to provide proprietary information, the Contractor shall clearly mark the information on each page of the document(s) as "Proprietary and Confidential". The City is subject to laws regarding the disclosure of public records and document. Proposals and other materials, submitted by the Contractor become public record and may be subject to public disclosure, in whole or in part, and may be released by the City in the event of a request for disclosure. In the event the City receives a public record request for information and the Contractor has marked the requested document as "Proprietary and Confidential", the City shall notify the Contractor of such request and withhold disclosure of such information for not less than five (5) business days, to permit the Contractor to seek judicial protection of such information; provided that the Contractor shall be solely responsible for all attorney fees and costs in such action and shall save and hold harmless the City from any costs, attorney's fees or penalty assessments under Chapter 42.56 RCW for withholding or delaying public disclosure of such information.

17. BOOKS AND RECORDS

The Contractor agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of this Contract and such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Contract. These records shall be subject at all reasonable times to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Contract.

18. CLEAN UP

At any time ordered by the City and immediately after completion of the Work, the Contractor, shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. In the event the Contractor fails to perform the necessary clean up, the City may, but in no event is it obligated to, perform the necessary clean up and the costs thereof shall be immediately paid by the Contractor to the City and/or the City may deduct its costs from any remaining payments due to the Contractor.

19. GENERAL PROVISIONS

19.1 Entire Contract. The Contract documents contain all of the agreements of the Parties with respect to any matter covered or mentioned in this Contract and no prior agreements or understandings pertaining to any such matters shall be effective for any purpose.

19.2 Modification. No provision of this Contract may be amended or added to except by written agreement and signed by the Parties or their respective agents or successors in interest.

19.3 Full Force and Effect. Any provision of this Contract which is declared invalid, void or illegal shall in no way affect, impair, or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

19.4 Assignment. The Contractor shall not transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the City. In the event the City consents to any such assignment or transfer, such consent shall in no way release the Contractor from any of its obligations or liabilities under this Contract.

19.5 Successors In Interest. Subject to the preceding Subsection, this Contract shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns.

19.6 Attorney's Fees. In the event the City or the Contractor defaults on the performance of any terms in this Contract, and the Contractor or City places the enforcement of the Contract or any part thereof, or the collection of any monies due, or to become due hereunder, or recovery of possession of any belongings, in the hands of an attorney, or files suit upon the same, each Party shall pay all its own attorneys' fees, costs and expenses. The venue for any dispute related to this Contract shall be Snohomish County, Washington.

19.7 No Waiver. Failure of the City to declare any breach or default immediately upon occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

19.8 Governing Law. This Contract shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington.

19.9 Authority. Each individual executing this Contract on behalf of the City and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Contract on behalf of the Contractor or City.

19.10 Notices. Any notices required to be given by the City to Contractor or by the Contractor to the City shall be delivered to the Parties at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth herein. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

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19.11 Captions. The respective captions of the Sections of this Contract are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect in any respect any of the provisions of this Contract.

19.12 Performance. Time is of the essence of this Contract and each and all of its provisions in which performance is a factor. Adherence to completion dates is essential to the Contractor's performance of this Contract.

19.13 Conflicting Provisions. In the event of a conflict between the terms and provisions of any of the Contract documents, the City Manager or his or her designee shall issue an interpretation of the controlling document, which interpretation shall be final and binding.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Contract the _____ day of _____, 2020.

CITY OF MILL CREEK

CONTRACTOR

License No. _____

By _____
Gina Hortillosa
Director of Public Works & Dev. Svcs

By _____
Signature

Date _____

Printed Name and Title

Per resolution/motion

Name and Address for giving notices (print)

Address

Phone

Federal Tax ID #

ATTEST:

Naomi Fay, Interim City Clerk

Jeff Balentine, Finance Director

Approved as to substance:

Gina Hortillosa, Director of Public Works

Approved as to form by:

Grant Degginger, City Attorney

**EXHIBIT A
PLANS AND SPECIFICATIONS**

(Attached)

**EXHIBIT B
CONTRACTOR'S BID FORM**

(Attached)

Bid/Contract Number

EXHIBIT C

CONTRACTOR'S RETAINAGE AGREEMENT

Contract Title St. Francis Episcopal Demotion Project

Contract Date _____

Contractor Name _____

Contractor Address _____

Contractor Phone _____

Contractor Federal ID # _____

State Law on How Contract Retainage Monies can be Reserved:

RCW 60.28.010 Retained percentage, labor and material Contracts for public improvements or work other than for professional services, provides that there shall be reserved by the city from the monies earned by the contractor on estimates during the progress of the improvement or work, a sum of five percent of such estimates, said sum to be retained by the city as a trust fund for the protection and payment of any persons performing work or supplying provisions or supplies during the work. The monies reserved for contract retainage may be reserved by the contractor choosing one of the following four options:

[All investments selected below are subject to City approval.]

Contractor Options (Contractor shall place an "x" in one of the boxes below.)

- (a) Retained in a non-interest bearing fund by the public body until released in accordance with applicable state statutes;
- (b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until released in accordance with applicable state statutes, provided that interest on such account shall be paid to the contractor;
- (c) Placed in escrow with a bank or trust company by the public body until released in accordance with applicable state statutes. The cost of the investment program and the risk thereof is to be borne entirely by the contractor.
- (d) Contractor may submit a Retainage Bond equal to 5% of the total awarded bid amount for all schedules to be held by the public body until released in accordance with applicable state statutes.

Contractor's Bank

If Contractor selects options (b) or (c) above, Contractor shall designate below the bank in which the retainage is to be deposited:

ACCOUNT NO. _____

BANK NAME _____

BANK ADDRESS _____

BANK PHONE # _____

Agreement

Contractor and City agree that all or part of the monies in the account can only be approved for disbursement by Bank to Contractor upon written authorization of the City Finance Director, or his/her authorized designee.

By _____
City of Mill Creek

By _____
Contractor

Date _____

Date _____

EXHIBIT D

PERFORMANCE/PAYMENT BOND TO CITY OF MILL CREEK

KNOW ALL PERSONS BY THESE PRESENTS that we, the undersigned, _____, as principal ("Principal"), and _____, a Corporation organized and existing under the laws of the State of _____, as a surety Corporation, and qualified under the laws of the State of Washington to become surety upon bonds of Contractors with Municipal Corporations, as surety ("Surety"), are jointly and severally held and firmly bound to the City of Mill Creek ("City") in the penal sum of: (\$ _____) for the payment of which sum we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuant to the statutes of the State of Washington and the ordinances, regulations, standards and policies of the City, as now existing or hereafter amended or adopted.

Pursuant to proper authorization, the City Manager is authorized to enter into a certain public works contract with the Principal, providing for _____, which contract is incorporated herein by this reference ("Contract").

The Principal has accepted, or is about to accept, the Contract, and undertake to perform the work therein provided for in the manner and within the time set forth.

NOW, THEREFORE, if the Principal shall perform all the provisions of the Contract in the manner and within the time period prescribed by the City, or within such extensions of time as may be granted under the Contract, and shall pay all laborers, mechanics, subcontractors and material men or women, and all persons who shall supply the Principal or subcontractors with provisions and supplies for the carrying on of said work, and shall hold the City, their officials, agents, employees and volunteers harmless from any loss or damage occasioned to any person or property by reason of any carelessness or negligence on the part of the Principal, or any subcontractor in the performance of said work, and shall indemnify and hold the City harmless from any damage or expense by reason of failure of performance as specified in the Contract, or from defects appearing or developing in the material or workmanship provided or performed under the Contract within a period of one year after its final acceptance thereof by the City, then and in that event this obligation shall be void; but otherwise, it shall be and remain in full force and effect.

And the Surety, for value received, hereby further stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alterations or additions to the terms of the Contract or to the Work.

The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the Contract without notice to Surety, and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this Performance Bond in a like amount, such increase, however, not to exceed twenty-five percent (25%) of the original amount of this bond without the consent of the Surety.

Within forty-five (45) days of receiving notice that the Principal has defaulted on all or part of the terms of the Contract, the Surety shall make a written commitment to the City that it will either: (a) cure the default itself within a reasonable time period, or (b) tender to the City, the amount necessary for the City to remedy the default, including legal fees incurred by the City, or (c) in the event that Surety's evaluation of the dispute is not complete or in the event the Surety disputes the City's claim of default, the Surety shall notify the City

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of its finding and its intent, if any, to interplead. The Surety shall then fulfill its obligations under this bond, according to the option it has elected. Should Surety elect option (a) to cure the default, the penal sum of the Bond shall be reduced in an amount equal to the costs actually incurred by the Surety in curing the default. If the Surety elects option (b), then upon completion of the necessary work, the City shall notify the Surety of its actual costs. The City shall return, without interest, any overpayment made by the Surety and the Surety shall pay to the City any actual costs which exceed the City estimate, limited to the bond amount. Should the Surety elect option (c), the Parties shall first complete participation in mediation, described in the below paragraph, prior to any interplead action.

In the event a dispute should arise between the Parties to this Bond with respect to the City's declaration of default by the Principal, the Parties agree to participate in at least four hours of mediation in accordance with the mediation procedures of the American Arbitration Association ("AAA"). The Parties shall proportionately share in the cost of the mediation. The mediation shall be administered by the Seattle AAA office, 1020 One Union Square, 600 Union Street, Seattle, Washington 98122. The Surety shall not interplead prior to completion of the mediation.

The parties have executed this instrument under their separate seals this ____ day of _____, 20____, the name and corporate seal of each corporate party hereto affixed, and these presents duly signed by its undersigned representatives pursuant to authority of its governing body.

CORPORATE SEAL OF PRINCIPAL: _____
(Name of Principal)
By: _____

(Name of Person Executing Bond)
Its: _____
(Title)

(Address)

(Phone)

CERTIFICATE AS TO CORPORATE SEAL

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Principal in the within bond; that _____, who signed the said bond on behalf of the Principal, was _____ of the said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Secretary or Assistant Secretary

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CORPORATE SEAL OF SURETY:

(Name of Surety)

By: _____
(Attorney-in-Fact / Attach Power of Attorney)

(Name of Person Executing Bond)

(Address)

(Phone)

APPROVED AS TO FORM:

Grant Degginger, City Attorney

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Agenda Item # _____

Meeting Date: June 2, 2020

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: ORDINANCE AMENDING THE MILL CREEK MUNICIPAL CODE RELATED TO FLOOD DAMAGE PREVENTION

PROPOSED MOTION:

Motion to adopt Ordinance **2020-860** revoking Mill Creek Municipal Code (MCMC) Chapter 15.20 related to Flood Damage Prevention in its entirety and replacing it with a new MCMC Chapter 15.20.

KEY FACTS AND INFORMATION SUMMARY:

With the assistance of the Department of Ecology, the City has prepared draft amendments to the Mill Creek Municipal Code (MCMC 15.20) regulating flood damage prevention. The City is required to update the Flood Damage Prevention Chapter (MCMC 15.20) by June 19, 2020 so that city residents with property in the floodplain can continue to participate in the National Flood Insurance Program (NFIP). The NFIP is a federal program, managed by the Federal Emergency Management Administration (FEMA),

The NFIP aims to reduce the impact of flooding on private and public structures by providing affordable insurance to property owners, renters and businesses and by encouraging communities to adopt and enforce floodplain management regulations. Homes and businesses in high-risk flood areas with mortgages from federally regulated or insured lenders are required to have flood insurance. While flood insurance is not federally required in a moderate- to low-risk flood area, lenders may still require flood insurance.

The purpose of this update is to be compliant with the NFIP regulations including the adoption of the most recent FEMA Flood Insurance Rate Maps. Proposed amendments are primarily housekeeping in nature and include new/updated definitions, application process, development standards, variance review criteria and timeframes for review, as well as revisions to the appeals process. Proposed Amendments will provide protection for the City residents and property and ensure that property owners will remain eligible to participate in the NFIP.

The proposed amendments were presented to the Planning Commission in a Public Hearing conducted on May 21, 2020. Following the public hearing, the Planning Commission adopted Planning Commission Resolution 2020-167, recommending approval of the proposed amendments to the City Council. This resolution is an exhibit in the proposed Council Ordinance (Attachment).

CITY MANAGER RECOMMENDATION:

Adopt the attached ordinance revoking MCMC Chapter 15.20 related to Flood Damage Prevention in its entirety, and replace it with a new MCMC Chapter 15.20 as recommended in Planning Commission Resolution 2020-167.

ATTACHMENTS:

Proposed Council Ordinance Adopting Proposed Amendments including Exhibit A-Planning
Commission Resolution

Respectfully Submitted:

Michael G. Ciaravino

Michael G. Ciaravino
City Manager

ORDINANCE NO. 2020- 860

AN ORDINANCE OF THE CITY OF MILL CREEK, WASHINGTON, AMENDING MILL CREEK MUNICIPAL CODE (MCMC) BY REPEALING MCMC CHAPTER 15.20 AND REPLACING IT WITH NEW MCMC CHAPTER 15.20 AUTHORIZING AND ESTABLISHING STANDARDS FOR FLOOD DAMAGE PREVENTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 36.70A.040 and 36.70A.120 require the City of Mill Creek (“City”) to adopt development regulations, including zoning regulations, to implement the City’s Comprehensive Plan; and

WHEREAS, the proposed amendments set forth below and described and included in the Planning Commission Resolution attached at **Exhibit A** (“Proposed Amendments”) are intended to be compliant with the National Flood Insurance Program (NFIP) regulations, including the adoption of the most recent Flood Insurance Rate Maps, which become effective on June 19, 2020; and

WHEREAS, on April 9, 2020, the Proposed Amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106; and

WHEREAS, on April 10, 2020, the City issued a SEPA threshold Determination of Non-Significance for the Proposed Amendments to the Development Code; and

WHEREAS, on April 24, 2020, the comment period for the Determination of Non-Significance expired and no comments or appeals were received; and

WHEREAS, Notice of a public hearing before the Planning Commission on the proposed amendments was duly posted at on the City’s website and published in the Everett Herald on May 11, 2020 pursuant to MCMC Section 14.07.030(A); and

WHEREAS, On May 21, 2020, the Planning Commission held a public hearing on the proposed amendments to the development code; and

WHEREAS, all persons desiring to comment on the Proposed Amendments were given a full and complete opportunity to be heard; and

WHEREAS, following the public hearing, the Planning Commission adopted Resolution 2020-167 recommending approval of the Proposed Amendments to the City Council; and

WHEREAS, the City Council has determined that adoption of the Proposed Amendments to the Mill Creek Municipal Code are in the best interests of the public health, safety and general welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Findings. Upon consideration of and based on the foregoing recitals of this Ordinance, the City Council finds that the Proposed Amendments set forth in **Exhibit A** are: (a) consistent with state law and the Mill Creek Comprehensive Plan; (b) substantially related to the public health, safety, and welfare; and (c) consistent with the best interest of the citizens, residents and property owners of the City.

Section 2. Based on the foregoing, the City Council herewith adopts the amendments to Titles 15 of the Mill Creek Municipal Code as set forth in Section 3 of this Ordinance.

Section 3. MCMC Chapter 15.20 is hereby repealed in its entirety and replaced with MCMC Chapter 15.20, which is enacted as follows:

**Chapter 15.20
FLOOD DAMAGE PREVENTION**

Sections:

- 15.20.010 Statutory authorization, findings of fact, purpose, and objectives.**
- 15.20.020 Definitions.**
- 15.20.030 General provisions.**
- 15.20.040 Administration.**
- 15.20.050 Provisions for flood hazard reduction.**
- 15.20.060 Severability.**

Legislative history: Ord. 97-416.

15.20.010 Statutory authorization, findings of fact, purpose, and objectives.

A. Statutory Authorization. The Washington State Legislature has delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Mill Creek ordains as follows.

B. Findings of Fact.

1. The flood hazard areas of the city of Mill Creek are subject to periodic inundation, which may result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement of Purpose. It is the duty of the city of Mill Creek to help protect its citizens from personal injury and property damage caused by flooding. It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. 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;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize blight areas caused by flooding;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard;
8. Notify those who occupy the areas of special flood hazard that they assume responsibility for their actions; and

9. Participate in and maintain eligibility for flood insurance and disaster relief.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

1. Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development that may increase flood damage; and
5. Preventing or regulating the construction of flood barriers that unnaturally divert flood waters or may increase flood hazards in other areas.

15.20.020 Definitions.

Unless specifically defined below, 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.

“Alteration of watercourse” means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community’s flood insurance rate map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow and is also referred to as the sheet flow area.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, and VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

“ASCE 24” means the most recently published version of ASCE 24, Flood Resistant Design and

Construction, published by the American Society of Civil Engineers.

“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 map designation always includes the letters A or V.

“Base flood elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

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

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

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

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

“Elevated building” means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Existing manufactured home park or subdivision” means a manufactured home park subdivision, and/or a mobile home park and subdivision, for which the construction of facilities for servicing the lots on which the manufactured and/or mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured

homes and/or mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood” or “flooding” means:

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

“Flood elevation study” means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“Flood insurance rate map (FIRM)” means the official map of a community on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

“Flood insurance study” see “flood elevation study.”

“Floodplain administrator” means the community official designated by title to administer and enforce the floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide

standards for the purpose of flood damage prevention and reduction.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source. See “Flood or flooding.”

“Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Floodway is also referred to as “regulatory floodway.”

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

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

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

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at MCMC 15.20.040(A)(2).

“Manufactured home” means a new single-family dwelling built according to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act that has the attributes and characteristics described in RCW 59.20.030. In addition, a manufactured home shall meet the following requirements as specified in RCW 35A.21.312:

- A. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer. The space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product which can be either load-bearing or decorative;
- B. The manufactured home shall comply with the design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;
- C. The manufactured home shall be thermally equivalent to the State Energy Code; and
- D. The manufactured home shall otherwise meet all other requirements for a designated manufactured home as specified in RCW 35.63.160.

“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.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the vertical datum to which base flood elevations show on the community’s Flood Insurance Rate Map are referenced.

“Mobile home” means a structure built prior to June 15, 1976, transportable in one or more sections, that is built on a permanent chassis and is designed for residential uses with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle or a manufactured home. A mobile home is not considered a single-family detached dwelling.

“National Flood Insurance Program (NFIP)” means a program managed by the Federal Emergency Management Agency (FEMA), enables homeowners, business owners and renters in participating communities to purchase federally backed flood insurance. This insurance offers an insurance alternative to disaster assistance to meet the escalating costs of repairing flood damage to buildings and their contents.

“New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” is commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision, and/or a mobile home park or subdivision, for which the construction of facilities for servicing the lots on which the manufactured and/or mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“Reasonably safe from flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks, and other data known to the City. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, “reasonably safe from flooding” means that the lowest floor is at least two feet above the highest adjacent grade.

“Recreational vehicle” means a vehicle which is:

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

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on 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 foundations or the erection of temporary forms, nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“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.

“Substantial improvement” means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.

The term does not include either:

- A. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions; or
- B. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

“Variance” means a grant of relief by a community from the terms of a floodplain management regulation.

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 2006-633 § 2)

15.20.030 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of only special flood hazards within the jurisdiction of the city of Mill Creek.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Snohomish County, Washington, and Incorporated Areas” dated June 19, 2020, and any revisions thereto, with accompanying flood insurance rate maps (FIRMs) dated June 19, 2020, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIS and the FIRM are on file at the city of Mill Creek, which shall be the basis for regulation until a new FIRM is issued that incorporates the data utilized under MCMC 15.20.040(C). The best available information for flood hazard area identification is outlined in MCMC 15.20.040(C).

C. Compliance: All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

D. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations 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 constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$5,000 or imprisoned for not more than one year, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Mill Creek from taking such other lawful action as is necessary to prevent or remedy any violation.

E. 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.

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

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

G. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Mill Creek, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

15.20.040 Administration.

A. Establishment of Development Permit.

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in MCMC 15.20.030(B). The permit shall be for all structures including manufactured homes, as set forth in the definitions (MCMC 15.20.020), and for all development including fill and other activities, also as set forth in the definitions.
2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Mill Creek and may include but not be limited to plans drawn to scale, showing the nature, location, dimensions, and elevations of the area

in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood-proofed;
- c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in MCMC 15.20.050(B)(2); and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- e. Where development is proposed in a floodway, an engineering analysis indicating no rise of the base flood elevation.
- f. Any other such information that is required by the Floodplain Administrator in order to review the application.

B. Designation of the Local Administrator. The director of public works and development services is hereby appointed to administer, implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

C. Duties and Responsibilities of the Director of Public Works and Development Services. Duties of the director of public works and development services shall include, but not be limited to:

1. Permit Review.

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- b. 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.
- c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, ensure that the encroachment provisions of MCMC 15.20.050(D) are met.
- d. Review all development permits to determine that the site is reasonably safe

from flooding.

e. Notify FEMA when annexations occur in the special flood hazard area.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with MCMC 15.20.030(B), Basis for Establishing the Areas of Special Flood Hazard, the director of public works and development services shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer MCMC 15.20.050(B), Specific Standards, and MCMC 15.20.050(C), Floodways.

3. Information to Be Obtained and Maintained.

a. Where base flood elevation data is provided through the flood insurance study, FIRM, or as required above, obtain and maintain a record of the actual (as-built) 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.

b. For all new or substantially improved flood-proofed non-residential structures, where base flood elevation data is provided through the FIS, FIRM, or as required in MCMC 15.20.040(C)(2):

- i. Obtain and maintain a record of the actual elevation (in relation to mean sea level) to which the structure was flood-proofed; and
- ii. Maintain the flood-proofing certifications required in this section.

c. Maintain, for public inspection, all records for the purpose of administering and/or enforcing the provisions of this chapter.

d. Records of all variance actions, including justification for their issuance.

e. Improvement and damage calculations.

f. Certification required by MCMC 15.20.050(C)(1).

4. Alteration of Watercourses.

a. 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 Administrator through appropriate notification means.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. 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 as provided in this section. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

6. Changes to Special Flood Hazard Area: If a project will alter the base flood elevation or boundaries of the SFHA, then the project proponent shall provide the city with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

If a CLOMR application is made then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

D. Variances. A variance may be granted for a parcel of property with physical characteristics so unusual that compliance with all code provisions would result in an extraordinary hardship to the applicant or the surrounding property owners. The physical characteristics must exist only on the applicant's property, must be a characteristic of the property itself, not relate to any structure on the property or be shared by adjacent parcels.

1. Conditions for Variances

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

b. Variances shall only be issued upon a determination that all of the following criteria are met:

i. A showing of good and sufficient cause;

ii. Failure to grant the variance would result in exceptional hardship to the applicant;

iii. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this chapter, or conflict with existing local laws or ordinances; and

iv. The terms of the variance are the minimum necessary, considering the

flood hazard, to afford relief.

c. Additional Criteria for Specific Structures:

i. New Construction. The only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsection (D)(1)(a) of this section has been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

ii. Historic Structures. Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

iii. Non-Residential Structures Variances may be issued for nonresidential structures in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, except subsection (D)(2) of this section, and otherwise complies with MCMC 15.20.050(A)(1) and (2), General Standards.

d. Any applicant for whom a variance is granted shall receive written notice signed by the Floodplain Administrator that shall include the following:

i. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

ii. Such construction below the BFE increases risks to life and property. (Ord. 2018-830 § 13)

e. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

f. The Floodplain Administrator shall condition the variance to ensure that the requirements and criteria of this section are met.

2. Appeals.

a. The hearing examiner shall hear and decide appeals of requests for variances from the requirements of this chapter pursuant to Chapter 4.34 MCMC. Appeals of such decisions of the hearing examiner shall be made in accordance with Chapter 14.11 MCMC.

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 director of public works and development services in the enforcement or administration of this chapter.

c. The hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The necessity to the facility of a waterfront location, where applicable;

vi. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with existing and anticipated development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

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

bridges.

d. Upon consideration of the record submitted, the factors in subsection (c) of this section and the purposes of this chapter, the hearing examiner may affirm the Director's decision, reverse the Director's decision or amend the Director's decision by including such additional conditions to the granting of variances as deemed necessary to further the purposes of this chapter.

e. The records of the hearing examiner constitute records of the city for all purposes. The hearing examiner shall maintain and manage such records in conjunction with the city and in conformance with all city requirements. The hearing examiner shall report decisions on all variances to the Federal Insurance Administration as required.

15.20.050 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

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

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.

2. Construction Materials and Methods.

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

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

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during

conditions of flooding.

3. Storage of Materials and Equipment.

a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas

b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

4. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

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

d. Water wells shall be located on high ground that is not in the floodway.

5. Subdivision Proposals.

All subdivisions, as well as new development, shall:

a. Be consistent with the need to minimize flood damage;

b. Have public utilities, facilities and systems such as sewer, gas, electrical, and water located and constructed to minimize or eliminate flood damage;

c. Have adequate drainage provided to reduce exposure to flood damage; and

d. Where subdivision proposals and other proposed developments contain at least 50 lots or five acres (whichever is less), base flood elevation data shall be included as part of the application.

6. Review of Building Permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (MCMC 15.20.040(C)), applications for floodplain development shall be reviewed to ensure 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.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in MCMC 15.20.030(B), Basis for Establishing the Areas of Special Flood Hazard, or MCMC 15.20.040(C)(2), Use of Other Base Flood Data, the following provisions are required:

1. Residential Construction.

a. In AE and A1-30 zones or other A zoned areas where the base flood elevation has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. 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:

i. 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.

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

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

iv. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters.

c. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in MCMC 15.20.060.

d. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

a. In AE and A1-30 zones or other A zoned areas where the base flood elevation has been determined or can be reasonably obtained:

i. Have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the base flood elevation, or as required by ASCE 24, whichever is greater.

ii. If located in an AO zone, the structure shall meet the requirements in MCMC 15.20.060.

iii. If located in an unnumbered A zone for which a base flood elevation is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.

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

- (1) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- (4) A garage attached to a structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters.

b. If the requirements of subsection (a) are not met, then new construction and substantial improvement of any commercial, industrial, or other nonresidential

structure shall meet all of the following requirements:

- i. Be dry flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood-proofed to the elevation required by ASCE 24, whichever is greater;
- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the 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 MCMC 15.20.040(C);
- iv. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1) of this section; and
- v. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building flood-proofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums.

3. Manufactured Homes.

- a. All manufactured homes to be placed or substantially improved on sites:
 - i. Outside of a manufactured home park or subdivision;
 - ii. In a new manufactured home park or subdivision;
 - iii. In an expansion to an existing manufactured home park or subdivision;
or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites are require to either:

a. Be on the site for fewer than 180 consecutive days; or

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

c. Meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.

5. Enclosed Area below the Lowest Floor.

If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

6. Appurtenant Structures (Detached Garages and Small Storage Structure:

For Zones (A, AE, A1-30, AH, AO):

a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:

i. Use of the appurtenant structure shall be limited to parking of vehicles or limited storage;

ii. The portions of the appurtenant structure located below the base flood elevation, must be built using flood resistant materials;

iii. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;

- iv. Any machinery or equipment servicing the appurtenant structure must be elevated or flood-proofed to or above the base flood elevation;
- v. The appurtenant structure shall comply with floodway encroachment provisions in MCMC 15.20.050(C)(1);
- vi. The appurtenant structure shall be designed to allow for the automatic entry and exit of flood waters in accordance with MCMC 15.20.050(B)(1)(b);
- vii. The structure shall have low damage potential;
- viii. If the structure is converted to another use, it shall be brought into full compliance with the standards governing such use; and
- ix. The structure shall not be used for human habitation.

- b. Detached garages, storage structures, and other appurtenant structures not meeting the standards set forth in 6(a) shall be constructed in accordance with all applicable standards in MCMC 15.20.050(B)(1).
- c. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

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

C. Floodways. Located within areas of special flood hazard established in MCMC 15.20.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- 2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the

structure either (i) before the repair, or reconstruction is started, or (ii) 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 that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions, or to structures identified as historic places may be excluded in the 50 percent calculation.

3. General Requirements for Other Development: All development, including manmade changes to improved or unimproved real estate which are not specifically addressed herein or in the state building codes as adopted by reference or as amended by the City of Mill Creek, shall:

- a. Be located and constructed to minimize flood damage;
- b. Meet the encroachment limitations of this ordinance if located in a regulatory floodway;
- c. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- d. Be constructed of flood damage-resistant materials;
- e. Meet the flood opening requirements of MCMC 15.20.050(B)(1)(b), and
- f. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

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

D. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

E. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all

critical facilities to the extent possible.

15.20.060 Severability

Should any provision of this chapter be declared invalid or unenforceable it shall not affect the validity of the other provisions of this Chapter that can be given effect without the invalid provision, and to this end the provisions of this Chapter are severable.

Section 4. The City Clerk is directed to take steps as required to implement and effectuate the terms of this Ordinance and incorporate the foregoing changes into the Mill Creek Municipal Code. The Clerk is authorized to correct scrivener's errors, internal references, and the like.

Section 5. This Ordinance shall be in full force and effect five days after publication of a summary hereof consisting of the title of this Ordinance, in accordance with RCW 35A.13.200.

Adopted this _____ day of June, 2020, by a vote of _____ for, _____ against, and _____ abstaining.

APPROVED:

MAYOR PAM PRUITT

ATTEST/AUTHENTICATED:

NAOMI FAY, INTERIM CITY CLERK

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
GRANT S. DEGGINGER, CITY ATTORNEY

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO.: _____

Attachments: EXHIBIT A – Planning Commission Resolution 2020-167

PLANNING COMMISSION RESOLUTION NO. 2020-167

A RESOLUTION OF THE CITY OF MILL CREEK)
PLANNING COMMISSION, RECOMMENDING) FINDINGS,
APPROVAL TO THE MILL CREEK CITY COUNCIL) REASONS AND
OF AMENDMENTS TO THE MILL CREEK) RECOMMENDATIONS
MUNICIPAL CODE REVOKING IN ITS ENTIRETY)
CHAPTER 15.20 FLOOD DAMAGE PREVENTION)
AND REPLACING IT WITH A NEW CHAPTER
15.20 FLOOD DAMAGE PREVENTION)

WHEREAS, The Planning Commission is charged with the responsibility for conducting public hearings on proposed regulations concerning the use of land in the City of Mill Creek or amendments to existing regulations and for making recommendations to the City Council for appropriate action on such proposed land use regulations, as set forth in RCW chapter 35A.63 and Mill Creek Municipal Code Chapters 4.10 and 14.03; and

WHEREAS, In accordance with the Growth Management Act (GMA), specifically RCW 36.70A.170 and RCW 36.70A.172 the City is required to designate and protect frequently flooded areas as part of the requirements for critical areas; and

WHEREAS, RCW 36.70A.040 and 36.70A.120, portions of the Growth Management Act, require the City to adopt development regulations, including zoning regulations, to implement the City's Comprehensive Plan; and

WHEREAS, In the federal regulations promulgated to implement the National Flood Insurance Program, (44 CFR Part 59.1), floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, local flood control ordinances and floodplain management regulations. Participation in the National Flood Insurance Program requires the adoption of floodplain management regulations that comply with federal requirements; and

WHEREAS, The National Flood Insurance Program (NFIP) recently adopted an update of its minimum standards. As a result, the City of Mill Creek's Flood Damage Prevention Chapter (MCMC 15.20) must be amended to be compliant with the National Flood Insurance Program (NFIP) regulations, including the adoption of the most recent Flood Insurance Rate Maps, which become effective on June 19, 2020; and

WHEREAS, In order for residents of Mill Creek to qualify for flood insurance under the NFIP, local communities must adopt floodplain management regulations at least as stringent as the federal minimum standards established by FEMA (see RCW 86.16.041). RCW 86.16.031 offers a list of the Department of Ecology's (DOE's) duties regarding local government floodplain management; and

WHEREAS, In December of 2019, the DOE provided the City of Mill Creek with a draft ordinance that was consistent with the NFIP and the State Model Ordinance; and

WHEREAS, On April 9, 2020, the proposed amendments to MMC 15.20 were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106; and

WHEREAS, On April 9, 2020, the City sent the DOE the proposed amendments for review and comment. On April 23, 2020 the DOE provided acknowledgement that the amendments were acceptable and meet the requirements of the National Flood Insurance Program (NFIP); and

WHEREAS, On April 10, 2020, the City issued a SEPA threshold Determination of Non-Significance for the proposed amendments to the Development Code; and

WHEREAS, On April 24, 2020, the comment period for the Determination of Non-Significance expired. No comments or appeals were received; and

WHEREAS, Notice of a public hearing before the Planning Commission on the proposed amendments was duly posted at on the City's website and published in the Everett Herald on May 11, 2020 pursuant to MCMC Section 14.07.030(A); and

WHEREAS, A staff report to the Planning Commission was prepared to present, analyze, and recommend to the Planning Commission adoption of the proposed amendments to the Development Code; and

WHEREAS, On May 21, 2020, the Planning Commission held a public hearing on the proposed amendments to the development code; and

WHEREAS, The Planning Commission considered the staff report, attached hereto as **Exhibit A** and incorporated it in full by this reference, and the proposed amendments to MCMC Chapter 15.20 and found that the proposed amendments are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, including the Comprehensive Plan, and will benefit the public health, safety, and welfare by protecting people and property from flood waters.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MILL CREEK AS FOLLOWS:

Section 1: The Planning Commission finds the proposed amendments as described within the Planning Commission staff report, attached and incorporated in full by reference as **Exhibit A**, are consistent with and implement the policies of the Comprehensive Plan, the Growth Management Act, and other applicable state and federal law, and further finds that the proposed Amendments make appropriate provisions for and further the public health, safety and general welfare.

Section 2: The Planning Commission adopts the findings, conclusions, and recommendations contained in the staff report, attached as **Exhibit A**, except as may be expressly modified herein by **Exhibit B**, attached and incorporated in full by reference.

Section 3: The Planning Commission therefore recommends to the City Council adoption of the proposed Amendments as set forth in **Exhibit A** and as may be further modified by specific action of the Planning Commission as set forth in **Exhibit B**.

Passed in open meeting this 21st day of May 2020, by a vote of 7 for, 0
against and 0 abstaining.

CITY OF MILL CREEK PLANNING COMMISSION



STAN EISNER, PLANNING COMMISSION CHAIR



TOM ROGERS, PLANNING COMMISSION SECRETARY

ATTACHMENT: Exhibit A – Staff Report
 Exhibit B – Planning Commission Motion

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**EXHIBIT A
DEPARTMENT OF PUBLIC WORKS AND DEVELOPMENT SERVICES
STAFF REPORT
TO THE MILL CREEK PLANNING COMMISSION**

PART I - SUMMARY INFORMATION

- PUBLIC HEARING:** May 21, 2020
- REQUESTED ACTION:** Review of Mill Creek Municipal Code (MCMC) amendments that have been proposed to update the Flood Damage Prevention Chapter (MCMC 15.20) to be compliant with the National Flood Insurance Program (NFIP) regulations, including the adoption of the most recent Flood Insurance Rate Maps, which will become effective on June 19, 2020. Proposed amendments include new/updated definitions, application process, development standards, variance review criteria and timeframes for review, as well as revisions to the appeals process. Proposed Amendments will provide protection for the City residents and property and ensure that property owners will remain eligible to participate in the NFIP. The proposed regulations will apply citywide.
- SITE LOCATION:** City of Mill Creek
- PROPONENT:** City of Mill Creek
15728 Main Street
Mill Creek, Washington 98012
- COMPREHENSIVE
PLAN DESIGNATION:** Not applicable.
- ZONING DISTRICT:** Not applicable.

PART II - STATUTORY REQUIREMENTS

SEPA COMPLIANCE:

The proposed amendments to the MCMC are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Thus, an Environmental Impact Statement (EIS) was not required.

On April 10, 2020, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended on April 24, 2020. No comments were received.

PUBLIC NOTICE:

Pursuant to Section 14.07.030 Mill Creek Municipal Code (MCMC), a notice of the public hearing was posted on May 11, 2020 on the City's webpage as the Mill Creek City Hall is closed to the public due to the COVID-19 virus and published in the Everett Herald on May 11, 2020. All legal requirements for public notice have been satisfied.

**PART III - DESCRIPTION OF PROPOSED AMENDMENTS
TO THE MILL CREEK MUNICIPAL CODE**

ZONING ORDINANCE AMENDMENT:

The provisions governing amendments to the text of the Development Code are found in Section 17.38.020, MCMC. This section states that text amendments may be initiated by the City Council, the Planning Commission, or City staff. The proposed code amendments have been initiated by staff and are provided in strikeout format in **Attachment 1** and a no strikeout version is provided in **Attachment 2**.

The proposed amendments have been initiated by City staff in order to be compliant with the Department of Ecology and the NFIP regulations, including the adoption of the most recent Flood Insurance Rate Maps dated July 22, 2016, which become effective on June 19, 2020, see **Attachment 3**. The existing NFIP maps are dated September 16, 2005, and are in need of updating because of changing conditions.

For residents in a community that have property located in the flood plain to qualify for flood insurance under the NFIP, the community must adopt floodplain management regulations at least as stringent as the federal minimum standards established by FEMA. If the City does not adopt the required amendments, those residents who participate in the NFIP (approximately seven) will not be eligible to renew their flood insurance and no new flood insurance policies will be issued.

RCW 86.16.031 offers a list of the Department of Ecology's (DOE) duties regarding local government floodplain management. Pursuant to RCW 86.16.041, the DOE drafted a state model ordinance and provided each jurisdiction in the state a draft ordinance tapered to each jurisdiction's existing regulations. The proposed amendments are consistent with the draft regulations prepared by the DOE. While making the required changes to the code, staff took the opportunity to make other housekeeping changes to make the code more clear.

Because of the high number of changes, the proposal revokes the existing Chapter MCMC 15.20 in its entirety, and replaces it with a new Chapter MCMC 15.20. The proposed code amendments were prepared with the assistance of the City Attorney. In addition, the Department of Ecology has reviewed the draft regulations and has determined that they will meet the FEMA Standards, see **Attachment 4**. Once the amendments have been reviewed by the Planning Commission at a public hearing, the Planning Commission will forward to the City Council a

resolution making a recommendation to the City Council. City Council action via an ordinance is necessary for the regulations to take effect.

It should be noted that, according to FEMA, only seven properties in the City have flood insurance. This is because the floodplain in a majority of the City is very narrow, and in areas where the floodplain is wider, wetlands, streams and their buffers are also present. Thus, the City's Critical Area Regulations (with their associated buffers) have prevented development in the flood plain. For confidentially reasons, FEMA will not identify the subject parcels that have flood insurance.

EFFECT OF PROPOSED TEXT AND MAP AMENDMENTS:

Since most of the proposed amendments to MCMC 15.20 are housekeeping in nature and/or do not result in substantive change to how properties can be developed in Mill Creek the staff report does not provided an analysis of each change to the chapter. The strikeout version of the new Chapter 15.20 speaks for itself.

While not resulting in a change of policy, the Variance and Appeals sections of the code in MCMC 15.20.040.D have been completely reorganized to provide clarity and to place topics in a logical order. The existing code addressed appeals to a denied variance before addressing the variance procedure. The proposed code amendment moves the Appeals section to after the Variances section.

The new FIRM map (**Attachment 3**) makes changes in the map legend, which now includes many new flood zones. These new flood zones are not present in the City of Mill Creek; and the boundaries of the flood plain have not been changed. Thus, no additional properties are in the flood plain as a result of the new map.

PART IV – FINDINGS, CONCLUSIONS, AND RECOMMENDATION

The proposed amendments to the City's Municipal Code have been prepared to be consistent with the Growth Management Act, applicable state and federal regulations, the City's Comprehensive Plan, and the City's development code amendment process contained in Chapter 17.38. As reflected below, the proposed amendments have been reviewed for consistency with these requirements and are found to be consistent with applicable local, state and federal regulations.

FINDINGS AND CONCLUSIONS:

1. In the federal regulations (CFR 44 Part 59.1), floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
2. Participation in the National Flood Insurance Program requires the adoption of floodplain management regulations that comply with federal requirements.

3. In Washington, the state coordinating agency for floodplain management is the Department of Ecology (DOE), which works with the Federal Emergency Management Agency and local governments to address flood hazard challenges statewide.
4. In accordance with the Growth Management Act (GMA), specifically RCW 36.70A.170 and RCW 36.70A.172 the City is required to designate and protect frequently flooded areas as part of the requirements for critical areas. The City last updated the City's Flood Damage Prevention regulations (MCMC 15.20) in 1997.
5. To qualify for flood insurance under the NFIP, local communities must adopt floodplain management regulations at least as stringent as the federal minimum standards established by FEMA (see RCW 86.16.041).
6. In December of 2019, the DOE provided the City of Mill Creek with a draft ordinance that was consistent with the NFIP and the State Model Ordinance.
7. With the assistance of the City Attorney, amendments to Chapter MCMC 15.20 have been prepared to meet the minimum NFIP requirements established by FEMA. The amendments also make housekeeping changes to clarify the code.
8. On April 9, 2020, the City sent the Department of Ecology the proposed amendments for review and comment.
9. On May 23, 2020, the City received an email from DOE, David Radabaugh, State NFIP Coordinator, stating that the proposed amendments prepared by the City of Mill Creek meet the NFIP standards.
10. In accordance with the Mill Creek Municipal Code (MCMC) Chapter 17.38, the City staff has the authority to initiate amendments to the code.
11. On April 9, 2020, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106. On April 23, 2020, the Department of Commerce sent notice that the City was in compliance with this requirement.
12. In accordance to MCMC Chapter 18.04, the proposed code amendments are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Therefore, an Environmental Impact Statement (EIS) was not required.
13. On April 10, 2020, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended April 24, 2020. No comments were received and the DNS is deemed final.

14. Pursuant to Section 14.07.030 Mill Creek Municipal Code (MCMC), notice of public hearing was posted on the City's web site on May 11, 2020, and published in the Everett Herald on May 11, 2020. All legal requirements for public notice have been satisfied.
15. In accordance with Chapter 35A.63 RCW and MCMC Chapters 2.04 and 14.03, the City Council is charged with the responsibility of making decisions on amendments to the existing Mill Creek Municipal Code (MCMC) regulations.
16. The proposed amendments are consistent with the National Flood Insurance Program regulations, Department of Ecology Model Ordinance, the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, will implement the Comprehensive Plan, and will benefit and protect the public health, safety, and welfare of the residents within the City.

STAFF RECOMMENDATION:

Notwithstanding citizen testimony and any revisions made by the Planning Commission, staff recommends that the Mill Creek Planning Commission adopt the preceding findings and conclusions and recommend to the Mill Creek City Council adoption of the proposed code amendments set forth herein.

ATTACHMENTS:

- Attachment 1 – Proposed Amendments to MCMC 15.20, Flood Damage Prevention (Strikeout format)
- Attachment 2 – Proposed Amendment to MCMC 15.20, Flood Damage Prevention (No strikeout format)
- Attachment 3 - National Flood Insurance Map City of Mill Creek Panels (4)
- Attachment 4 – Department of Ecology Compliance Email Dated 4-23-20

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ATTACHMENT 1

**Chapter 15.20
FLOOD DAMAGE PREVENTION**

Sections:

- 15.20.010 Statutory authorization, findings of fact, purpose, and objectives.**
- 15.20.020 Definitions.**
- 15.20.030 General provisions.**
- 15.20.040 Administration.**
- 15.20.050 Provisions for flood hazard reduction.**
- 15.20.060 Severability.**

Legislative history: Ord. 97-416.

15.20.010 Statutory authorization, findings of fact, purpose, and objectives.

A. Statutory Authorization. The Washington State Legislature has delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Mill Creek ordains as follows.

B. Findings of Fact.

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

2. These flood losses ~~are~~ may be caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement of Purpose. It is the duty of the city of Mill Creek to help protect its citizens from personal injury and property damage caused by flooding. It is the purpose of this chapter to promote the public health, safety, and general welfare, ~~and to;~~ reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1. Protect human life and health;
- 2. Minimize expenditure of public money ~~and~~ for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. 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;
6. 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 caused by flooding;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; ~~and~~
8. ~~Ensure that~~ Notify those who occupy the areas of special flood hazard that they assume responsibility for their actions; ~~and~~
9. Participate in and maintain eligibility for flood insurance and disaster relief.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

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

15.20.020 Definitions.

Unless specifically defined below, 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.

“Alteration of watercourse” means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated zone AO, AH, AR/AO or AR/AH (or VO) zone on a the community’s flood insurance rate map (FIRM) with one percent or greater annual chance of flooding to an average depth of. The base flood depths range from one to three feet; where a clearly defined channel does not exist; where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident. AOSuch flooding is characterized as by ponding or sheet flowsheet flow and AH indicates ponding., and is also referred to as the sheet flow area.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The map designation always includes the letters A or V. It is shown on the FIRM as Zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

“ASCE 24” means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

“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 map designation always includes the letters A or V.

“Base flood elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

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

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

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

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

“Elevated building” means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Existing manufactured home park or subdivision” means a manufactured home park subdivision, and/or a mobile home park and subdivision, for which the construction of facilities for servicing the lots on which the manufactured and/or mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes and/or mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood” or “flooding” means:

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

~~A. i.~~ i. The overflow of inland or tidal waters; ~~and/or.~~

~~B. ii.~~ ii. The unusual and rapid accumulation of runoff of surface waters from any source.

iii. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(i) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as defined in paragraph (1)(i) of this definition.

“Flood elevation study” means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“Flood insurance rate map (FIRM)” means the official map of a community on which the Federal Insurance Administration Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary floodway map, and the water surface elevation of the base flood.; see “flood elevation study.”

“Floodplain administrator” means the community official designated by title to administer and enforce the floodplain management regulations.

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

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source. See “Flood or flooding.”

“Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot a designated height. Floodway is also referred to as “regulatory floodway.”

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

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the -proposed walls of a structure.

“Historic structure” means any structure that is:

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

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs, which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior,
or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at MCMC 15.20.040(A)(2).

“Manufactured home” means a new single-family dwelling built according to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act that has the attributes and characteristics described in RCW 59.20.030. In addition, a manufactured home shall meet the following requirements as specified in RCW 35A.21.312:

- A. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer. The space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product which can be either load-bearing or decorative;
- B. The manufactured home shall comply with the design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;
- C. The manufactured home shall be thermally equivalent to the State Energy Code; and
- D. The manufactured home shall otherwise meet all other requirements for a designated manufactured home as specified in RCW 35.63.160.

“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.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the vertical datum to which base flood elevations show on the community’s Flood Insurance Rate Map are referenced.

“Mobile home” means a structure built prior to June 15, 1976, transportable in one or more sections, that is built on a permanent chassis and is designed for residential uses with or without a permanent foundation when connected to the required utilities. The term does not include a

recreational vehicle or a manufactured home. A mobile home is not considered a single-family detached dwelling.

“National Flood Insurance Program (NFIP)” means a program managed by the Federal Emergency Management Agency (FEMA), enables homeowners, business owners and renters in participating communities to purchase federally backed flood insurance. This insurance offers an insurance alternative to disaster assistance to meet the escalating costs of repairing flood damage to buildings and their contents.

“New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” is commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures ~~this chapter~~. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision, and/or a mobile home park or subdivision, for which the construction of facilities for servicing the lots on which the manufactured and/or mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“Reasonably safe from flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks, and other data known to the City. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, “reasonably safe from flooding” means that the lowest floor is a least two feet above the highest adjacent grade.

“Recreational vehicle” means a vehicle which is:

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

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on 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 foundations or the erection of temporary forms, nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“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.

“Substantial improvement” means any ~~repair~~, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure ~~either before the “start of construction” of the improvement~~. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.

~~A. Before the improvement or repair is started; or~~

~~B. If the structure has been damaged and is being restored, before the damage occurred.~~

~~For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

The term does not, ~~however~~, include either:

~~A. Any project for improvement of a structure to comply with correct previously identified 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 ensure safe living conditions; or~~

~~B. Any alteration of a structure listed on the National Register of Historic Places or “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure. a State Inventory of Historic Places.~~

“Variance” means a grant of relief by a community from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter terms of a floodplain management regulation.

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 2006-633 § 2)

15.20.030 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of only special flood hazards within the jurisdiction of the city of Mill Creek.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance ~~Administration~~ Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Snohomish County, Washington, and Incorporated Areas” dated ~~March 15, 1984~~ June 19, 2020, as amended, and any revisions thereto, with ~~an~~ accompanying flood insurance rate maps (FIRMs) dated June 19, 2020, as amended, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The ~~flood insurance study~~ FIS and the FIRM ~~are~~ is on file at the city of Mill Creek, which shall be the basis for regulation until a new FIRM is issued that incorporates the data utilized under MCMC 15.20.040(C). The best available information for flood hazard area identification is outlined in MCMC 15.20.040(C).

C. Compliance: All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

~~D.~~ Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations 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 constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$5,000 or imprisoned for not more than one year, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Mill Creek from taking such other lawful action as is necessary to prevent or remedy any violation.

~~E.~~ 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.

~~F.~~ Interpretation. In the interpretation and application of this chapter, all provisions shall be:

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

~~FG.~~ Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Mill Creek, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

15.20.040 Administration.

A. Establishment of Development Permit.

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in MCMC 15.20.030(B). The permit shall be for all structures including manufactured homes, as set forth in the definitions (MCMC 15.20.020), and for all development including fill and other activities, also as set forth in the definitions.

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

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood-proofed;
- c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in MCMC 15.20.050(B)(2); and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- e. Where development is proposed in a floodway, an engineering analysis indicating no rise of the base flood elevation.
- f. Any other such information that is required by the Floodplain Administrator in order to review the application.

B. Designation of the Local Administrator. The director of public works and development services is hereby appointed to administer, ~~and~~ implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

C. Duties and Responsibilities of the Director of Public Works and Development Services. Duties of the director of public works and development services shall include, but not be limited to:

1. Permit Review.

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- b. 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.
- c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, ensure that the encroachment provisions of MCMC 15.20.050(D) are met.
- d. Review all development permits to determine that the site is reasonably safe from flooding.
- e. Notify FEMA when annexations occur in the special flood hazard area.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with MCMC 15.20.030(B), Basis for Establishing the Areas of Special Flood Hazard, the director of public works and development services shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer MCMC 15.20.050(B), Specific Standards, and MCMC 15.20.050(C), Floodways.

3. Information to Be Obtained and Maintained.

- a. Where base flood elevation data is provided through the flood insurance study, FIRM, or as required above, obtain and maintain a record of the actual (as-built) 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.
- b. For all new or substantially improved flood-protected non-residential structures, where base flood elevation data is provided through the FIS, FIRM, or as required in MCMC 15.20.040(C)(2):

- i. ~~Obtain~~ verify and maintain a record of the actual elevation (in relation to mean sea level) to which the structure was flood-proofed; and
- ii. ~~m~~Maintain the flood-proofing certifications required in this section.

c. Maintain, for public inspection, all records for the purpose of pertaining to administering and/or enforcing the provisions of this chapter.

d. Records of all variance actions, including justification for their issuance.

e. Improvement and damage calculations.

f. Certification required by MCMC 15.20.050(C)(1).

4. Alteration of Watercourses.

a. 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~~ Administrator through appropriate notification means.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. 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 as provided in this section. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

6. Changes to Special Flood Hazard Area: If a project will alter the base flood elevation or boundaries of the SFHA, then the project proponent shall provide the ~~community~~ city with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

If a CLOMR application is made then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

D. Variances. Procedure. The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that compliance with all code provisions would result in an extraordinary ~~complying~~

with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The physical characteristics must be unique to the exist only on the applicant's property, must be a characteristic of the property itself, not relate to any structure on the property or -and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

1. Conditions for Variances

a.e. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

b. Variances shall only be issued upon a determination that all of the following criteria are met:

i. A showing of good and sufficient cause;

ii. failure to grant the variance would result in exceptional hardship to the applicant;

iii. the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this chapter, or conflict with existing local laws or ordinances; and

iv. the terms of the variance are the minimum necessary, considering the flood hazard, to afford relief.

c. Additional Criteria for Specific Structures:

(i) New Construction. The only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsection (D)(1)(ea) of this section has been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(ii) Historic Structures. Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

~~g.~~(iii) Non-Residential Structures. Variances may be issued for nonresidential buildings structures in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, except subsection (D)(2) of this section, and otherwise complies with MCMC 15.20.050(A)(1) and (2), General Standards.

d. Any applicant for whom a variance is granted shall receive written notice signed by ~~a community official~~the Floodplain Administrator that shall include the following:

i. ~~The issuance of a variance to construct a structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will result in be commensurate with the increased risk resulting from the reduced lowest floor elevation premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and~~

ii. Such construction below the BFE increases risks to life and property. (Ord. 2018-830 § 13)

e. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

f. The Floodplain Administrator shall condition the variance to ensure that the requirements and criteria of this section are met.

12. Appeals.

a. The hearing examiner shall hear and decide appeals ~~and of~~ requests for variances from the requirements of this chapter pursuant to Chapter ~~4.34~~ MCMC. Appeals of such decisions of the hearing examiner shall be made in accordance with Chapter ~~14.11~~ MCMC.

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 director of public works ~~and development services~~ in the enforcement or administration of this chapter.

~~c. In passing upon such applications~~ c. The hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger to life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

d. Upon consideration of the record submitted, the factors in subsection ~~(Dc)~~(4) of this section and the purposes of this chapter, the hearing examiner may affirm the Director's decision, reverse the Director's decision or amend the Director's decision by including attach such additional conditions to the granting of variances as deemed necessary to further the purposes of this chapter.

e. The records of the hearing examiner constitute records of the city for all purposes. The hearing examiner shall maintain and manage such records in conjunction with the city and in conformance with all city requirements. The hearing examiner shall report decisions on all variances to the Federal Insurance Administration as required.

~~2. Conditions for Variances.~~

~~a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsection (D)(1)(e) of this section has been fully considered. As the lot size increases the technical justification required for issuing the variance increases.~~

~~b. Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~

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

~~e. Variances shall only be issued upon:~~

~~i. A showing of good and sufficient cause;~~

~~ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;~~

~~iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this chapter, or conflict with existing local laws or ordinances.~~

~~f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.~~

~~g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, except subsection (D)(2) of this section, and otherwise complies with MCMC 15.20.050(A)(1) and (2), General Standards.~~

~~h. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:~~

~~i. The issuance of a variance to construct a structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will result in be commensurate with the increased risk resulting from the reduced lowest floor elevation premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and~~

~~ii. Such construction below the BFE increases risks to life and property. (Ord. 2018-830 § 13)~~

~~i. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.~~

~~j. The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this section are met.~~

15.20.050 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

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

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Refer to FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional techniques.

2. Construction Materials and Methods.

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

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

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Storage of Materials and Equipment.

a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas

b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

34. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

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

d. Water wells shall be located on high ground that is not in the floodway.

45. Subdivision Proposals.

All subdivisions, as well as new development, shall:

~~a. All subdivision proposals shall be~~ a. All subdivision proposals shall be consistent with the need to minimize flood damage;

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

~~c. All subdivision proposals shall have~~ c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

~~d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and~~

other proposed developments ~~that~~ contain at least 50 lots or five acres (whichever is less), base flood elevation data shall be included as part of the application.

56. Review of Building Permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (MCMC 15.20.040(C)), applications for ~~building permits~~ floodplain development shall be reviewed to ensure 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.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in MCMC 15.20.030(B), Basis for Establishing the Areas of Special Flood Hazard, or MCMC 15.20.040(C)(2), Use of Other Base Flood Data, the following provisions are required:

1. Residential Construction.

a. In AE and A1-30 zones or other A zoned areas where the base flood elevation has been determined or can be reasonably obtained, ~~New~~ construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. 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:

i. 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.

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

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

iv. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation^[DG1], must be designed to allow for the automatic entry and exit of floodwaters.

c. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in MCMC 15.20.060.

d. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall ~~either have the lowest floor, including basement, elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall~~ meet all of the following requirements:

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

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

~~c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in MCMC 15.20.040(C);~~

~~d. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1) of this section;~~

~~e. Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building flood proofed to the base flood level will be rated as one foot below).~~

a. In AE and A1-30 zones or other A zoned areas where the base flood elevation has been determined or can be reasonably obtained:

(i) Have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the base flood elevation, or as required by ASCE 24, whichever is greater.

(ii) If located in an AO zone, the structure shall meet the requirements in MCMC 15.20.060.

(iii) If located in an unnumbered A zone for which a base flood elevation is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.

- (iv) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (1) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - (4) A garage attached to a structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters.

b. If the requirements of subsection (a) are not met, then new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet all of the following requirements:

- (i) Be dry flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood-proofed to the elevation required by ASCE 24, whichever is greater;
- (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the 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 MCMC 15.20.040(C);
- (iv) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1) of this section; and
- (v) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building flood-proofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums.

3. Manufactured Homes.

a. All manufactured homes to be placed or substantially improved ~~within Zones A1-30, AH, and AE on the community's FIRM~~ on sites:

- i. Outside of a manufactured home park or subdivision;
- ii. In a new manufactured home park or subdivision;
- iii. In an expansion to an existing manufactured home park or subdivision;
or
- iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately ~~designed~~ anchored foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision ~~within Zones A1-30, AH, and AE on the community's FIRM~~ that are not subject to the above manufactured home provisions be elevated so that either:

- i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or
- ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately ~~designed~~ anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites ~~within Zones A1-30, AH, and AE on the community's FIRM~~ are require to either:

- a. Be on the site for fewer than 180 consecutive days; or
- b. Be fully licensed and ready for highway use, on ~~its~~ wheels or jacking system, ~~is~~ be attached to the site only by quick disconnect type utilities and security devices, and ~~has~~ have no permanently attached additions; or
- c. Meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.

5. Enclosed Area below the Lowest Floor.:

If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

6. Appurtenant Structures (Detached Garages and Small Storage Structure. s[DG2]:

For A Zones (A, AE, A1-30, AH, AO):

- a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:
 - i) Use of the appurtenant structure ~~must~~ shall be limited to parking of vehicles or limited storage;
 - ii) The portions of the appurtenant structure located below the base flood elevation, must be built using flood resistant materials;
 - iii) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - iv) Any machinery or equipment servicing the appurtenant structure must be elevated or flood-proofed to or above the base flood elevation;
 - v) The appurtenant structure ~~must~~ shall comply with floodway encroachment provisions in MCMC 15.20.050(C)(1);
 - vi) The appurtenant structure ~~must~~ shall be designed to allow for the automatic entry and exit of flood waters in accordance with MCMC 15.20.050(B)(1)(b);
 - vii) The structure shall have low damage potential;
 - viii) If the structure is converted to another use, it ~~must~~ shall be brought into full compliance with the standards governing such use; and
 - ix) The structure shall not be used for human habitation.
- b. Detached garages, storage structures, and other appurtenant structures not meeting the ~~above~~ standards set forth in 6(a) ~~must~~ shall be constructed in accordance with all applicable standards in MCMC 15.20.050(B)(1).
- c. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

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

C. Floodways. Located within areas of special flood hazard established in MCMC 15.20.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer ~~or architect~~ is provided demonstrating ~~that encroachments shall~~ through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored, before the damage occurred. ~~Work done on structures~~ Any project for improvement of a structure to comply with correct existing violations of state or local health, sanitary, or safety codes code specifications that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions, or to structures identified as historic places shall not be included may be excluded in the 50 percent calculation.

3. General Requirements for Other Development: All development, including man-made changes to improved or unimproved real estate for which are not specifically addressed herein or specific provisions are not specified in this ordinance or in the state building codes as adopted by reference or as amended by with adopted amendments and any The City of Mill Creek amendments, shall:

- a. Be located and constructed to minimize flood damage;
- b. Meet the encroachment limitations of this ordinance if located in a regulatory floodway;
- c. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- d. Be constructed of flood damage-resistant materials;
- e. Meet the flood opening requirements of MCMC 15.20.050(B)(1)(b), and
- f. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

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

D. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

E. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

15.20.060 -Severability

Should any provision of this chapter be declared invalid or unenforceable it shall not affect the validity of the other provisions of this Chapter that can be given effect without the invalid provision, and to this end the provisions of this Chapter are severable.

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**Chapter 15.20
FLOOD DAMAGE PREVENTION**

Sections:

- 15.20.010 Statutory authorization, findings of fact, purpose, and objectives.**
- 15.20.020 Definitions.**
- 15.20.030 General provisions.**
- 15.20.040 Administration.**
- 15.20.050 Provisions for flood hazard reduction.**
- 15.20.060 Severability.**

Legislative history: Ord. 97-416.

15.20.010 Statutory authorization, findings of fact, purpose, and objectives.

A. Statutory Authorization. The Washington State Legislature has delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Mill Creek ordains as follows.

B. Findings of Fact.

1. The flood hazard areas of the city of Mill Creek are subject to periodic inundation, which may result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement of Purpose. It is the duty of the city of Mill Creek to help protect its citizens from personal injury and property damage caused by flooding. It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;
5. 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;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize blight areas caused by flooding;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard;
8. Notify those who occupy the areas of special flood hazard that they assume responsibility for their actions; and
9. Participate in and maintain eligibility for flood insurance and disaster relief.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

1. Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development that may increase flood damage; and
5. Preventing or regulating the construction of flood barriers that unnaturally divert flood waters or may increase flood hazards in other areas.

15.20.020 Definitions.

Unless specifically defined below, 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.

“Alteration of watercourse” means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community’s flood insurance rate map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow and is also referred to as the sheet flow area.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, and VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

“ASCE 24” means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

“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 map designation always includes the letters A or V.

“Base flood elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

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

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

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

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

“Elevated building” means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Existing manufactured home park or subdivision” means a manufactured home park subdivision, and/or a mobile home park and subdivision, for which the construction of facilities for servicing the lots on which the manufactured and/or mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes and/or mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood” or “flooding” means:

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

“Flood elevation study” means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“Flood insurance rate map (FIRM)” means the official map of a community on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

“Flood insurance study” see “flood elevation study.”

“Floodplain administrator” means the community official designated by title to administer and enforce the floodplain management regulations.

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

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source. See “Flood or flooding.”

“Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Floodway is also referred to as “regulatory floodway.”

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

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

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

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at MCMC 15.20.040(A)(2).

“Manufactured home” means a new single-family dwelling built according to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act that has the attributes and characteristics described in RCW 59.20.030. In addition, a manufactured home shall meet the following requirements as specified in RCW 35A.21.312:

- A. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer. The space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product which can be either load-bearing or decorative;
- B. The manufactured home shall comply with the design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;
- C. The manufactured home shall be thermally equivalent to the State Energy Code; and
- D. The manufactured home shall otherwise meet all other requirements for a designated manufactured home as specified in RCW 35.63.160.

“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.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the vertical datum to which base flood elevations show on the community’s Flood Insurance Rate Map are referenced.

“Mobile home” means a structure built prior to June 15, 1976, transportable in one or more sections, that is built on a permanent chassis and is designed for residential uses with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle or a manufactured home. A mobile home is not considered a single-family detached dwelling.

“National Flood Insurance Program (NFIP)” means a program managed by the Federal Emergency Management Agency (FEMA), enables homeowners, business owners and renters in participating communities to purchase federally backed flood insurance. This insurance offers an insurance alternative to disaster assistance to meet the escalating costs of repairing flood damage to buildings and their contents.

“New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” is commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent

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

“New manufactured home park or subdivision” means a manufactured home park or subdivision, and/or a mobile home park or subdivision, for which the construction of facilities for servicing the lots on which the manufactured and/or mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“Reasonably safe from flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks, and other data known to the City. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, “reasonably safe from flooding” means that the lowest floor is at least two feet above the highest adjacent grade.

“Recreational vehicle” means a vehicle which is:

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

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on 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 foundations or the erection of temporary forms, nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“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.

“Substantial improvement” means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.

The term does not include either:

- A. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions; or
- B. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

“Variance” means a grant of relief by a community from the terms of a floodplain management regulation.

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 2006-633 § 2)

15.20.030 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of only special flood hazards within the jurisdiction of the city of Mill Creek.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Snohomish County, Washington, and Incorporated Areas” dated June 19, 2020, and any revisions thereto, with accompanying flood insurance rate maps (FIRMs) dated June 19, 2020, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIS and the FIRM are on file at the city of Mill Creek, which shall be the basis for regulation until a new FIRM is issued that incorporates the data utilized under MCMC 15.20.040(C). The best available information for flood hazard area identification is outlined in MCMC 15.20.040(C).

C. Compliance: All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

D. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations 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 constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$5,000 or imprisoned for not more than one year, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Mill Creek from taking such other lawful action as is necessary to prevent or remedy any violation.

E. 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.

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

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

G. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Mill Creek, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

15.20.040 Administration.

A. Establishment of Development Permit.

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in MCMC 15.20.030(B). The permit shall be for all structures including manufactured homes, as set forth in the definitions (MCMC 15.20.020), and for all development including fill and other activities, also as set forth in the definitions.
2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Mill Creek and may include but not be limited to

plans drawn to scale, showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood-proofed;
- c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in MCMC 15.20.050(B)(2); and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- e. Where development is proposed in a floodway, an engineering analysis indicating no rise of the base flood elevation.
- f. Any other such information that is required by the Floodplain Administrator in order to review the application.

B. Designation of the Local Administrator. The director of public works and development services is hereby appointed to administer, implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

C. Duties and Responsibilities of the Director of Public Works and Development Services. Duties of the director of public works and development services shall include, but not be limited to:

1. Permit Review.

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- b. 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.
- c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, ensure that the encroachment provisions of MCMC 15.20.050(D) are met.

d. Review all development permits to determine that the site is reasonably safe from flooding.

e. Notify FEMA when annexations occur in the special flood hazard area.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with MCMC 15.20.030(B), Basis for Establishing the Areas of Special Flood Hazard, the director of public works and development services shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer MCMC 15.20.050(B), Specific Standards, and MCMC 15.20.050(C), Floodways.

3. Information to Be Obtained and Maintained.

a. Where base flood elevation data is provided through the flood insurance study, FIRM, or as required above, obtain and maintain a record of the actual (as-built) 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.

b. For all new or substantially improved flood-proofed non-residential structures, where base flood elevation data is provided through the FIS, FIRM, or as required in MCMC 15.20.040(C)(2):

- i. Obtain and maintain a record of the actual elevation (in relation to mean sea level) to which the structure was flood-proofed; and
- ii. Maintain the flood-proofing certifications required in this section.

c. Maintain, for public inspection, all records for the purpose of administering and/or enforcing the provisions of this chapter.

d. Records of all variance actions, including justification for their issuance.

e. Improvement and damage calculations.

f. Certification required by MCMC 15.20.050(C)(1).

4. Alteration of Watercourses.

a. 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 Administrator through appropriate notification means.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. 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 as provided in this section. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

6. Changes to Special Flood Hazard Area: If a project will alter the base flood elevation or boundaries of the SFHA, then the project proponent shall provide the city with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

If a CLOMR application is made then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

D. Variances. A variance may be granted for a parcel of property with physical characteristics so unusual that compliance with all code provisions would result in an extraordinary hardship to the applicant or the surrounding property owners. The physical characteristics must exist only on the applicant's property, must be a characteristic of the property itself, not relate to any structure on the property or be shared by adjacent parcels.

1. Conditions for Variances

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

b. Variances shall only be issued upon a determination that all of the following criteria are met:

i. A showing of good and sufficient cause;

ii. Failure to grant the variance would result in exceptional hardship to the applicant;

iii. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this chapter, or conflict with existing local laws or ordinances; and

iv. The terms of the variance are the minimum necessary, considering the flood hazard, to afford relief.

c. Additional Criteria for Specific Structures:

i. New Construction. The only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsection (D)(1)(a) of this section has been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

ii. Historic Structures. Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

iii. Non-Residential Structures Variances may be issued for nonresidential structures in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, except subsection (D)(2) of this section, and otherwise complies with MCMC 15.20.050(A)(1) and (2), General Standards.

d. Any applicant for whom a variance is granted shall receive written notice signed by the Floodplain Administrator that shall include the following:

i. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

ii. Such construction below the BFE increases risks to life and property. (Ord. 2018-830 § 13)

e. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

f. The Floodplain Administrator shall condition the variance to ensure that the requirements and criteria of this section are met.

2. Appeals.

a. The hearing examiner shall hear and decide appeals of requests for variances from the requirements of this chapter pursuant to Chapter 4.34 MCMC. Appeals of such decisions of the hearing examiner shall be made in accordance with Chapter 14.11 MCMC.

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 director of public works and development services in the enforcement or administration of this chapter.

c. The hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger to life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

d. Upon consideration of the record submitted, the factors in subsection (c) of this section and the purposes of this chapter, the hearing examiner may affirm the Director's decision, reverse the Director's decision or amend the Director's

decision by including such additional conditions to the granting of variances as deemed necessary to further the purposes of this chapter.

e. The records of the hearing examiner constitute records of the city for all purposes. The hearing examiner shall maintain and manage such records in conjunction with the city and in conformance with all city requirements. The hearing examiner shall report decisions on all variances to the Federal Insurance Administration as required.

15.20.050 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

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

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.

2. Construction Materials and Methods.

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

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

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Storage of Materials and Equipment.

a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas

b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

4. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

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

d. Water wells shall be located on high ground that is not in the floodway.

5. Subdivision Proposals.

All subdivisions, as well as new development, shall:

a. Be consistent with the need to minimize flood damage;

b. Have public utilities, facilities and systems such as sewer, gas, electrical, and water located and constructed to minimize or eliminate flood damage;

c. Have adequate drainage provided to reduce exposure to flood damage; and

d. Where subdivision proposals and other proposed developments contain at least 50 lots or five acres (whichever is less), base flood elevation data shall be included as part of the application.

6. Review of Building Permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (MCMC 15.20.040(C)), applications for floodplain development shall be reviewed to ensure 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.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in MCMC 15.20.030(B), Basis for Establishing the Areas of Special Flood Hazard, or MCMC 15.20.040(C)(2), Use of Other Base Flood Data, the following provisions are required:

1. Residential Construction.

a. In AE and A1-30 zones or other A zoned areas where the base flood elevation has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. 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:

i. 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.

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

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

iv. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters.

c. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in MCMC 15.20.060.

d. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

- a. In AE and A1-30 zones or other A zoned areas where the base flood elevation has been determined or can be reasonably obtained:
- i. Have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the base flood elevation, or as required by ASCE 24, whichever is greater.
 - ii. If located in an AO zone, the structure shall meet the requirements in MCMC 15.20.060.
 - iii. If located in an unnumbered A zone for which a base flood elevation is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.
 - iv. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (1) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - (4) A garage attached to a structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters.
- b. If the requirements of subsection (a) are not met, then new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet all of the following requirements:
- i. Be dry flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood-proofed to the elevation required by ASCE 24, whichever is greater;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted

standards of practice for meeting the 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 MCMC 15.20.040(C);

- iv. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1) of this section; and
- v. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building flood-proofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums.

3. Manufactured Homes.

a. All manufactured homes to be placed or substantially improved on sites:

- i. Outside of a manufactured home park or subdivision;
- ii. In a new manufactured home park or subdivision;
- iii. In an expansion to an existing manufactured home park or subdivision;
or
- iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

- i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or
- ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an

adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites are require to either:

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

5. Enclosed Area below the Lowest Floor.

If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

6. Appurtenant Structures (Detached Garages and Small Storage Structure:

For Zones (A, AE, A1-30, AH, AO):

- a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:
 - i. Use of the appurtenant structure shall be limited to parking of vehicles or limited storage;
 - ii. The portions of the appurtenant structure located below the base flood elevation, must be built using flood resistant materials;
 - iii. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - iv. Any machinery or equipment servicing the appurtenant structure must be elevated or flood-proofed to or above the base flood elevation;
 - v. The appurtenant structure shall comply with floodway encroachment provisions in MCMC 15.20.050(C)(1);
 - vi. The appurtenant structure shall be designed to allow for the automatic entry and exit of flood waters in accordance with MCMC 15.20.050(B)(1)(b);
 - vii. The structure shall have low damage potential;
 - viii. If the structure is converted to another use, it shall be brought into full compliance with the standards governing such use; and
 - ix. The structure shall not be used for human habitation.

- b. Detached garages, storage structures, and other appurtenant structures not meeting the standards set forth in 6(a) shall be constructed in accordance with all applicable standards in MCMC 15.20.050(B)(1).
- c. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

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

C. Floodways. Located within areas of special flood hazard established in MCMC 15.20.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, or reconstruction is started, or (ii) 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 that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions, or to structures identified as historic places may be excluded in the 50 percent calculation.

3. General Requirements for Other Development: All development, including manmade changes to improved or unimproved real estate which are not specifically addressed herein or in the state building codes as adopted by reference or as amended by the City of Mill Creek, shall:

- a. Be located and constructed to minimize flood damage;
- b. Meet the encroachment limitations of this ordinance if located in a regulatory floodway;

- c. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- d. Be constructed of flood damage-resistant materials;
- e. Meet the flood opening requirements of MCMC 15.20.050(B)(1)(b), and
- f. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

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

D. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

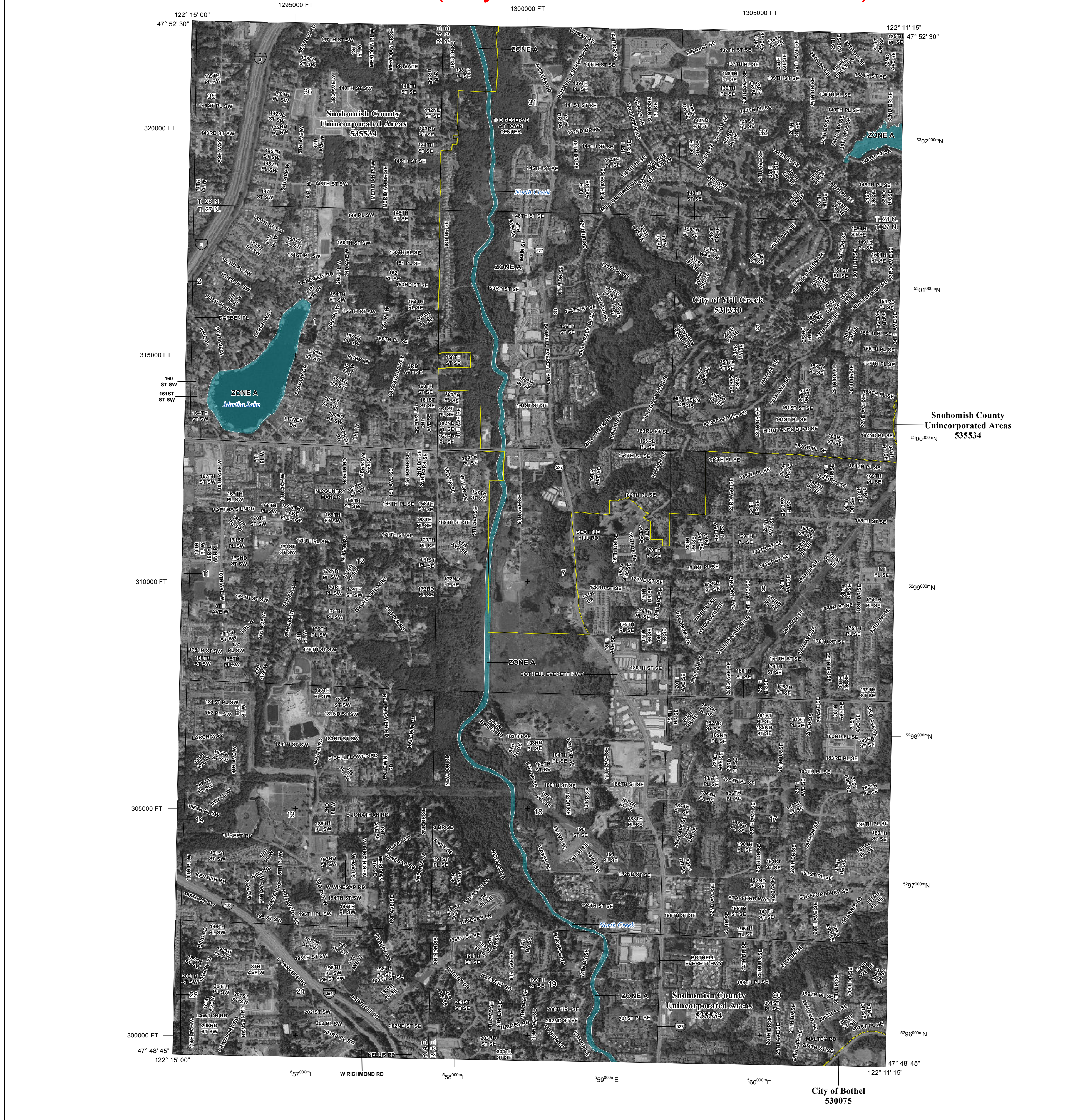
E. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

15.20.060 Severability

Should any provision of this chapter be declared invalid or unenforceable it shall not affect the validity of the other provisions of this Chapter that can be given effect without the invalid provision, and to this end the provisions of this Chapter are severable.

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Attachment 3 (City of Mill Creek NFIP Panels)



FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR ZONE DESCRIPTIONS AND INDEX MAP
THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTP://MSC.FEMA.GOV](http://MSC.FEMA.GOV)

	Without Base Flood Elevation (BFE)
	With BFE or Depth Zone AE, AO, AH, VE, AR
	Regulatory Floodway
	0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
	Future Conditions 1% Annual Chance Flood Hazard Zone X
	Area with Reduced Flood Risk due to Levee See Notes, Zone X
	Areas Determined to be Outside the 0.2% Annual Chance Floodplain Zone X
	Area of Undetermined Flood Hazard Zone D
	Channel, Culvert, or Storm Sewer Accredited or Provisionally Accredited Levee, Dike, or Floodwall
	Non-accredited Levee, Dike, or Floodwall
	Cross Sections with 1% Annual Chance Water Surface Elevation (BFE)
	Coastal Transect
	Coastal Transect Baseline
	Profile Baseline
	Hydrographic Feature
	Base Flood Elevation Line (BFE)
	Limit of Study
	Jurisdiction Boundary

NOTES TO USERS

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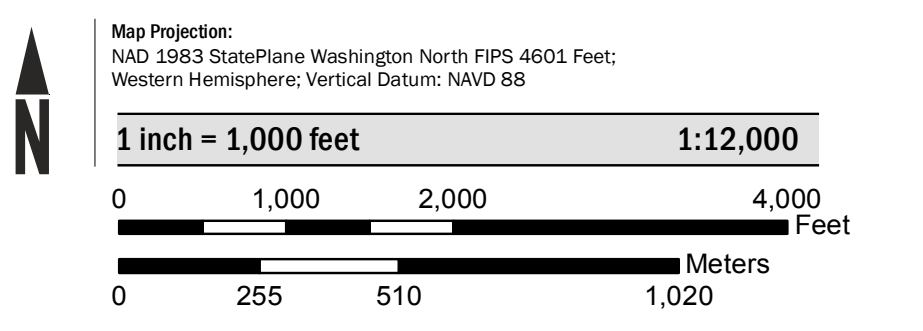
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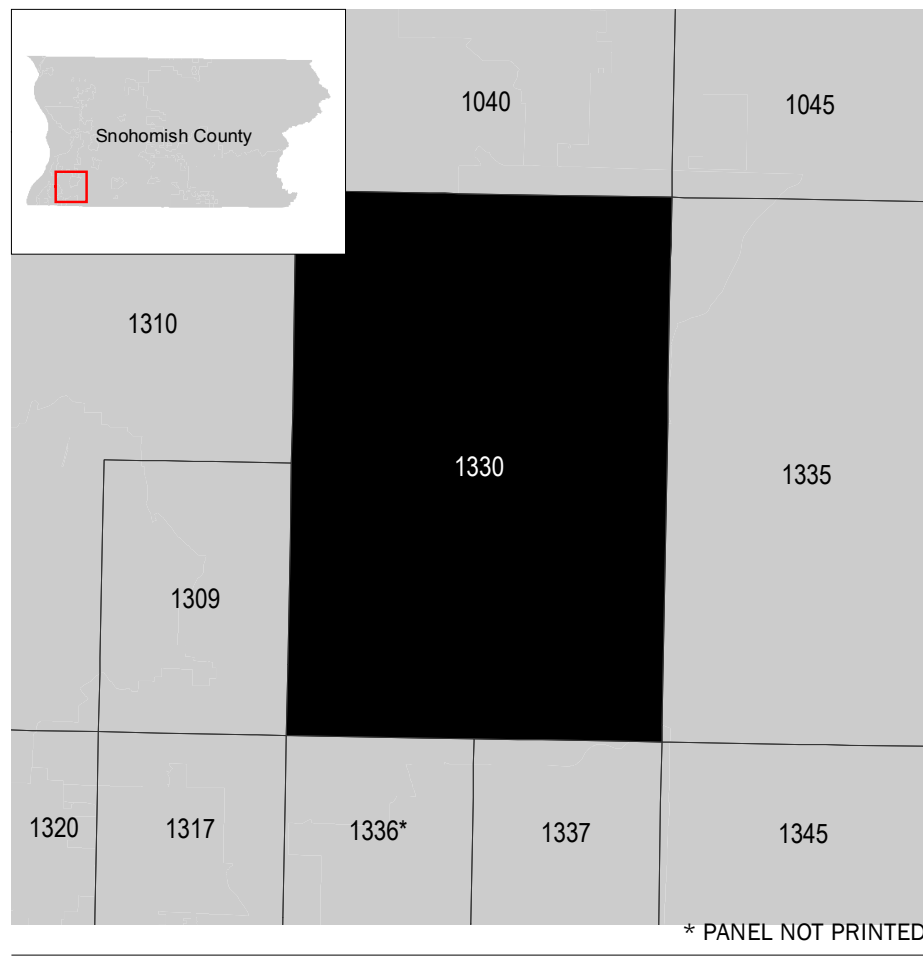
To determine if flood insurance is available in the community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

Base map information shown on this panel was provided by the USDA-FSA Aerial Photography Field Office. This information was derived from digital orthorectification at a scale of 1:12,000 and 1-meter pixel resolution from photography dated 2009.

SCALE



PANEL LOCATOR



National Flood Insurance Program

NATIONAL FLOOD INSURANCE PROGRAM
 FLOOD INSURANCE RATE MAP

SNOHOMISH COUNTY, WASHINGTON
 (AND INCORPORATED AREAS)

PANEL 1330 of 1575

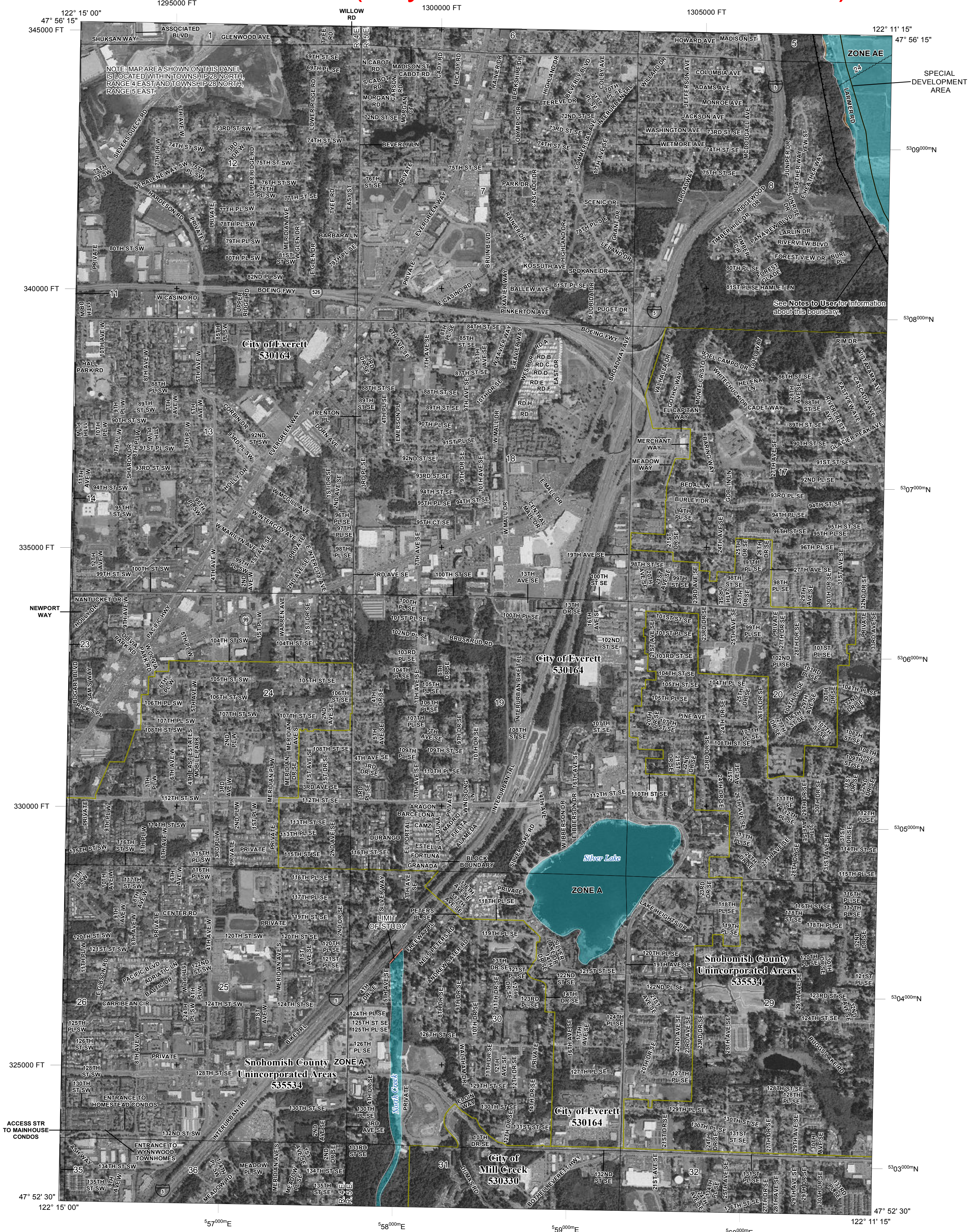
COMMUNITY	NUMBER	PANEL	SUFFIX
BOTHELL CITY OF	530075	1330	F
MILL CREEK CITY OF	530039	1330	F
SNOHOMISH COUNTY	535534	1330	F

Panel Contains:

REVISED PRELIMINARY
7/22/2016

VERSION NUMBER
2.3.2.1
MAP NUMBER
53061C1330F
EFFECTIVE DATE

Attachment 3 (City of Mill Creek NFIP Panels)



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	Without Base Flood Elevation (BFE)
	With BFE or Depth Zone AE, AO, AH, VE, AR
	Regulatory Floodway
	0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
	Future Conditions 1% Annual Chance Flood Hazard Zone X
	Area with Reduced Flood Risk due to Levee See Notes, Zone X
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	Area of Undetermined Flood Hazard Zone D
	Channel, Culvert, or Storm Sewer Accredited or Provisionally Accredited Levee, Dike, or Floodwall
	Non-accredited Levee, Dike, or Floodwall
	Cross Sections with 1% Annual Chance Water Surface Elevation (BFE)
	Coastal Transect
	Coastal Transect Baseline
	Profile Baseline
	Hydrographic Feature
	Base Flood Elevation Line (BFE)
	Limit of Study
	Jurisdiction Boundary

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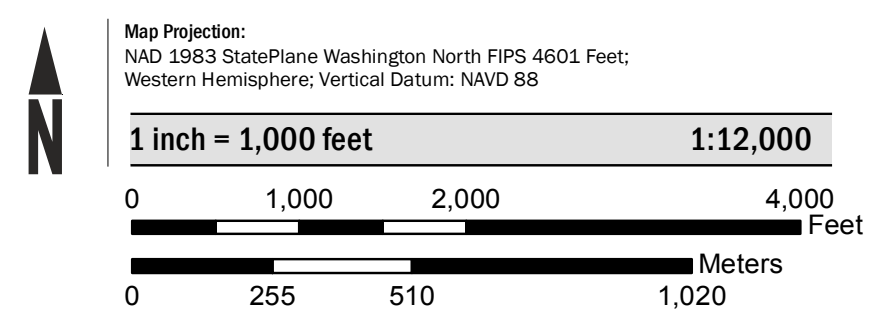
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Special Development Area

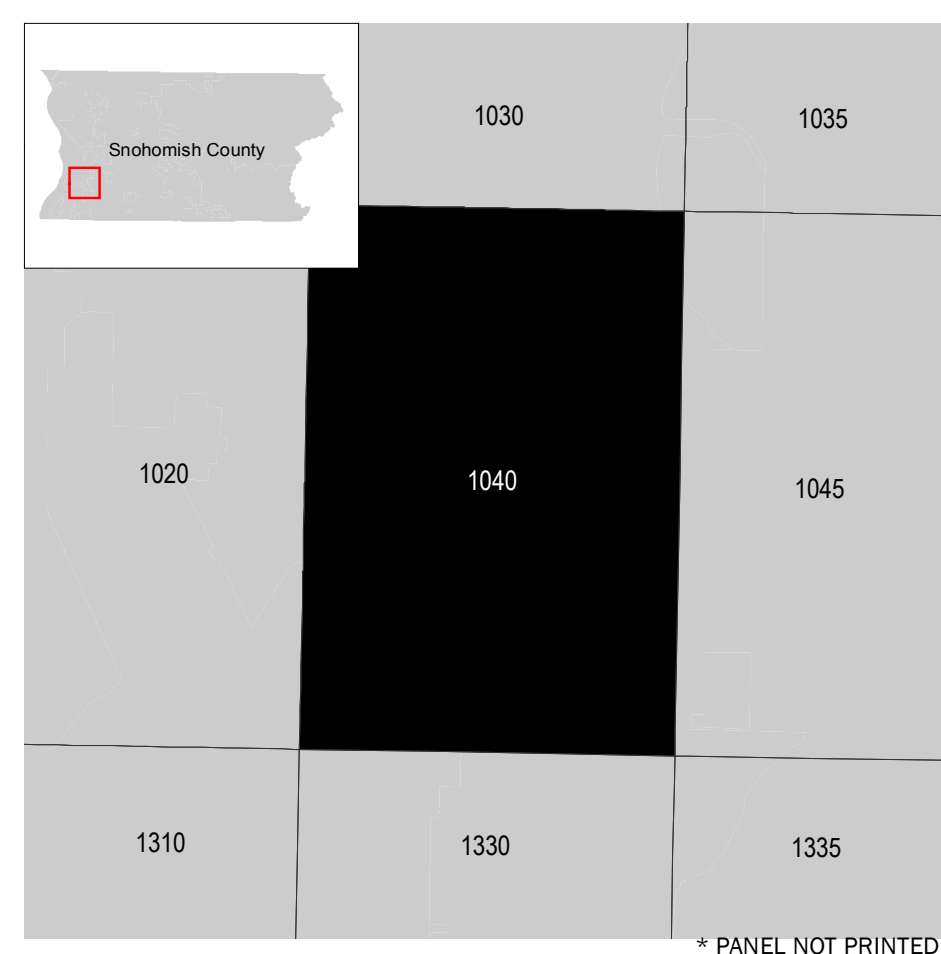
ATTENTION: The levee, dike or other structure that impacts flood hazards inside this boundary has not been shown to comply with Section 65.10 of the NFIP Regulations. As such, this FIRM panel will be revised at a later date to update the flood hazard information associated with this structure.

The flood hazard data inside this boundary on the FIRM panel has been republished from the previous effective (historic) FIRM for this area, after being converted from NGVD 29 to NAVD 88.

SCALE



PANEL LOCATOR

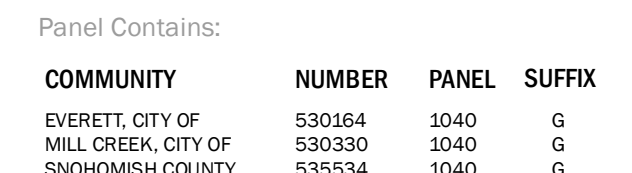


NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP

SNOHOMISH COUNTY, WASHINGTON
 (AND INCORPORATED AREAS)

PANEL 1040 of 1575

COMMUNITY	NUMBER	PANEL	SUFFIX
EVERETT, CITY OF	530164	1040	G
MILL CREEK, CITY OF	530130	1040	G
SNOHOMISH COUNTY	535534	1040	G

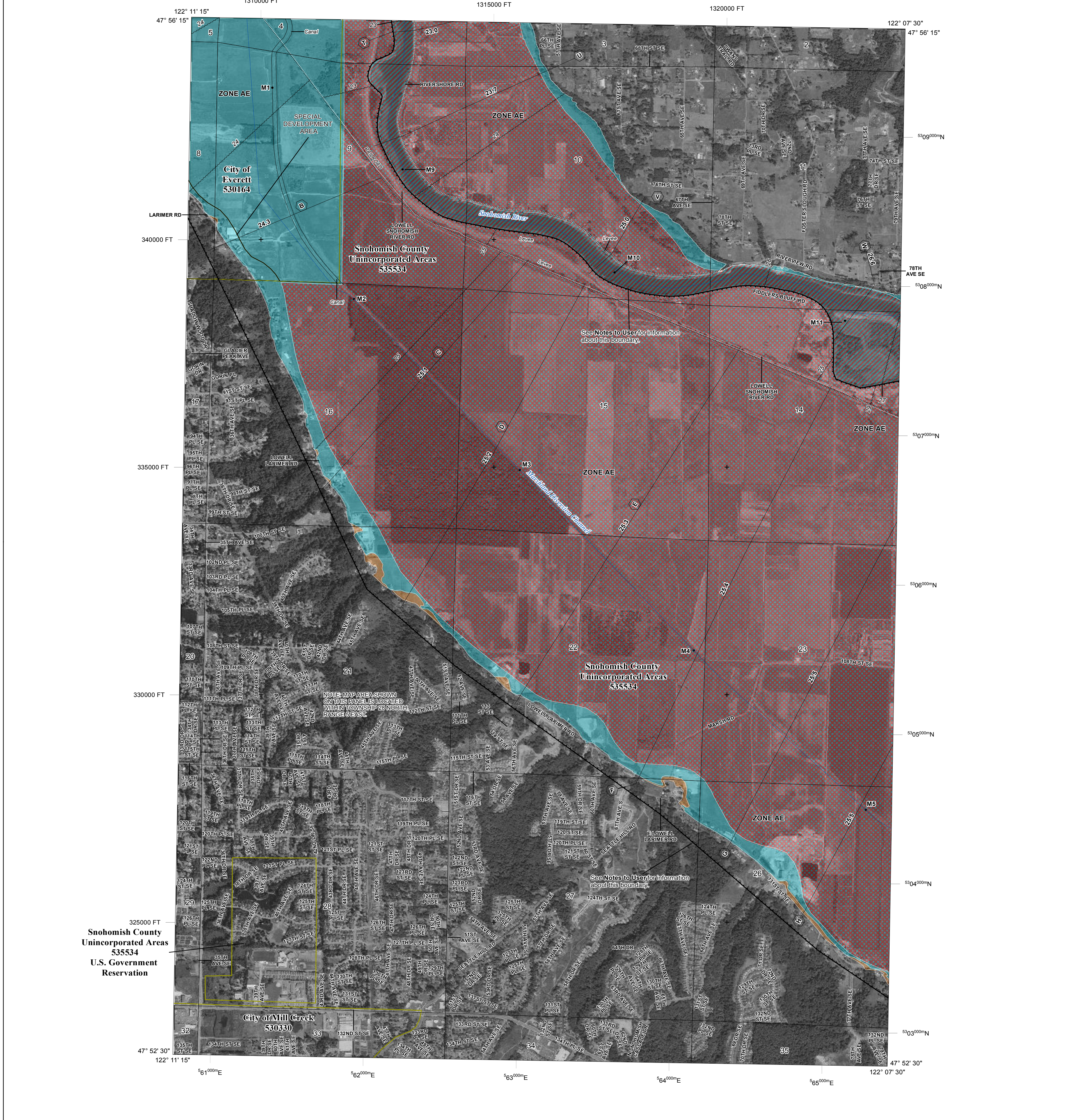


Panel Contains:

REVISED PRELIMINARY
 7/22/2016

VERSION NUMBER
 2.3.2.1
 MAP NUMBER
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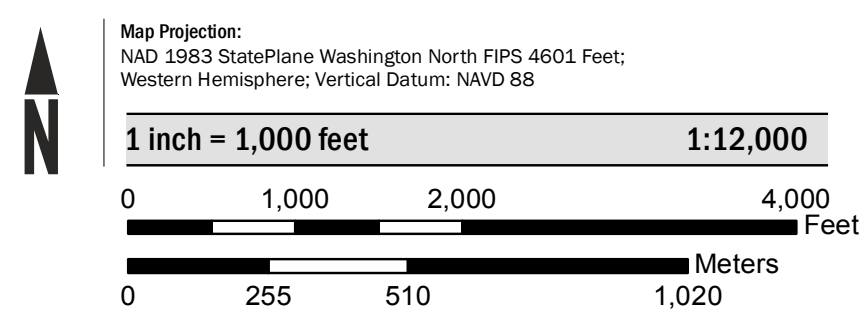
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- Density Fringe Area
- River Mile Marker
- Special Development Area

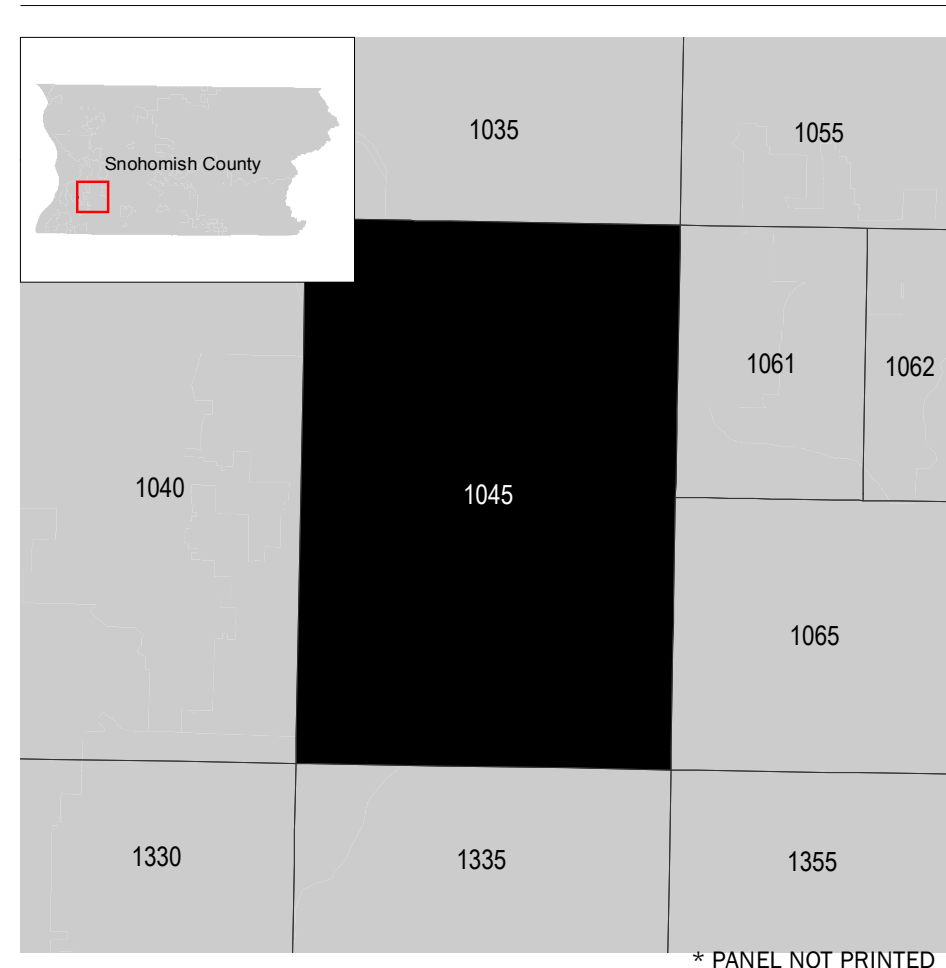
ATTENTION: The levee, dike or other structure that impacts flood hazards inside this boundary has not been shown to comply with Section 65.10 of the NFIP Regulations. As such, this FIRM panel will be revised at a later date to update the flood hazard information associated with this structure.

The flood hazard data inside this boundary on the FIRM panel has been republished from the previous effective (historic) FIRM for this area, after being converted from NGVD 29 to NAVD 88.

SCALE



PANEL LOCATOR



NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP

SNOHOMISH COUNTY, WASHINGTON
 (AND INCORPORATED AREAS)

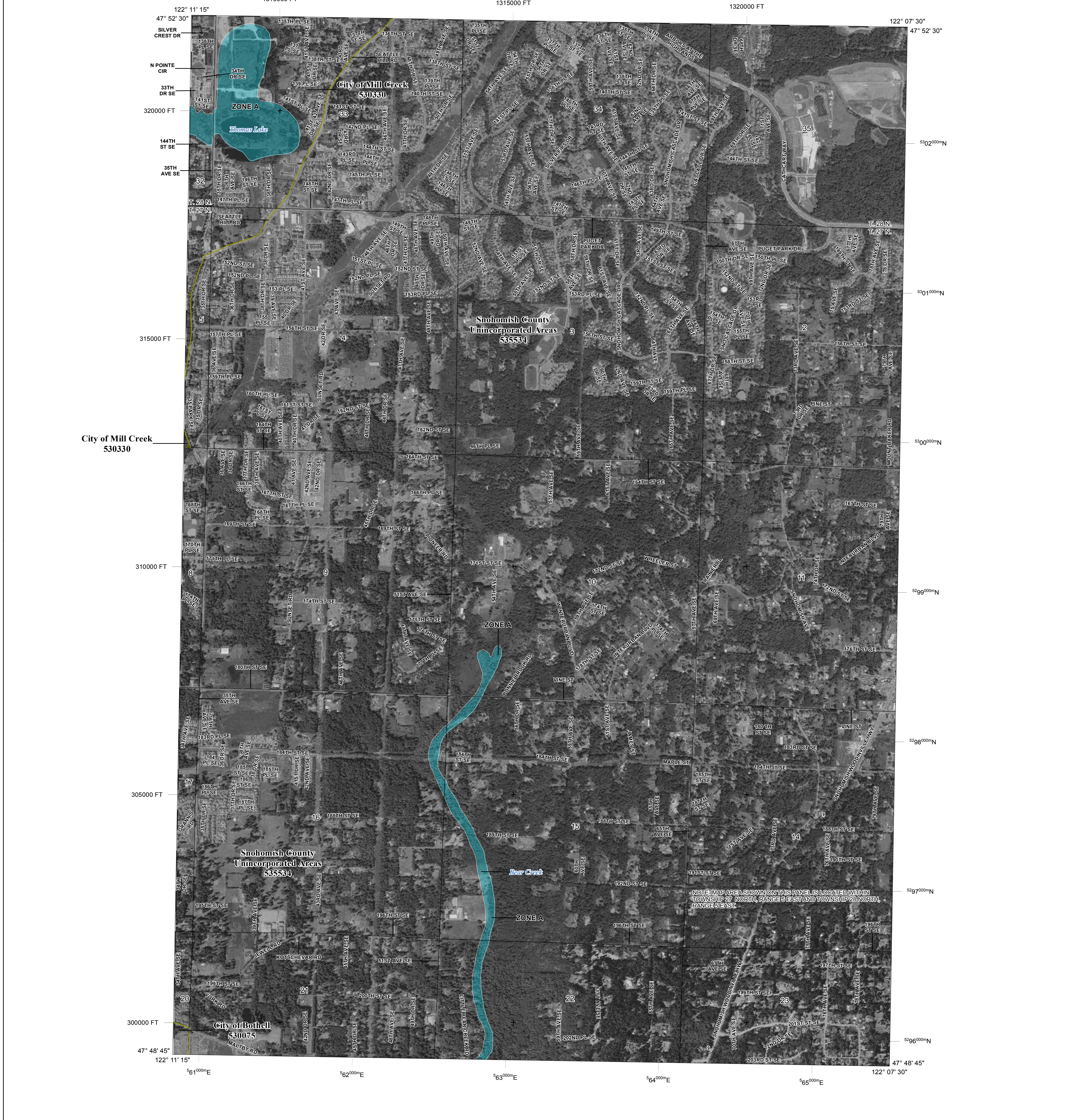
PANEL 1045 of 1575

COMMUNITY	NUMBER	PANEL	SUFFIX
EVERETT, CITY OF	530164	1045	G
MILL CREEK, CITY OF	530330	1045	G
SNOHOMISH COUNTY	535534	1045	G

REVISED PRELIMINARY
 7/22/2016

VERSION NUMBER
 2.3.2.1
 MAP NUMBER
 53061C1045G
 EFFECTIVE DATE

Attachment 3 (City of Mill Creek NFIP Panels)



FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR ZONE DESCRIPTIONS AND INDEX MAP
 THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING
 DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTP://MSC.FEMA.GOV](http://MSC.FEMA.GOV)

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE)
		With BFE or Depth Zone AE, AO, AH, VE, AR
OTHER AREAS OF FLOOD HAZARD		Regulatory Floodway
		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee See Notes, Zone X
OTHER AREAS		Areas Determined to be Outside the 0.2% Annual Chance Floodplain Zone X
		Area of Undetermined Flood Hazard Zone D
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer Accredited or Provisionally Accredited Levee, Dike, or Floodwall
		Non-accredited Levee, Dike, or Floodwall
OTHER FEATURES		Cross Sections with 1% Annual Chance Water Surface Elevation (BFE)
		Coastal Transect
		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary

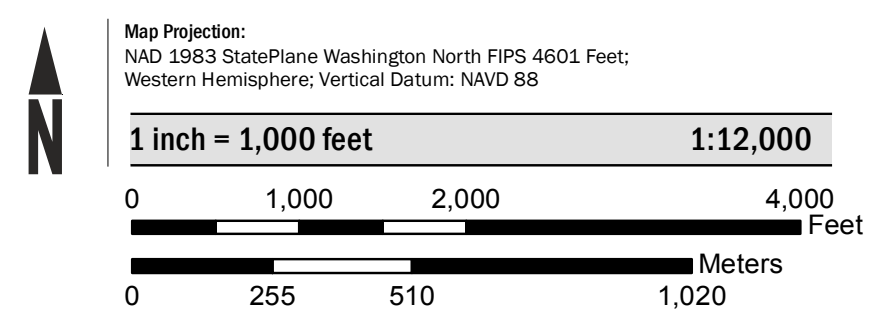
NOTES TO USERS

For information and questions about this map, available products associated with this FIRM including historic versions of this FIRM, how to order products or the National Flood Insurance Program in general, please call the FEMA Map Information Exchange at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA Map Service Center website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website. Users may determine the current map date for each FIRM panel by visiting the FEMA Map Service Center website or by calling the FEMA Map Information Exchange.

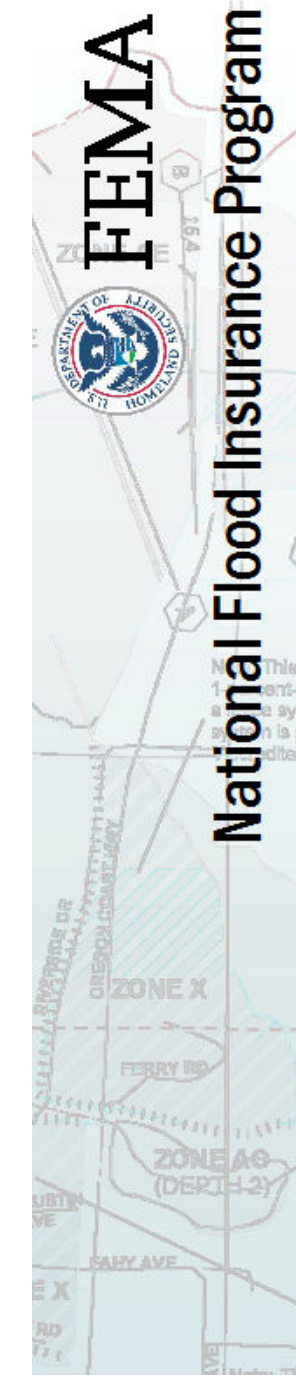
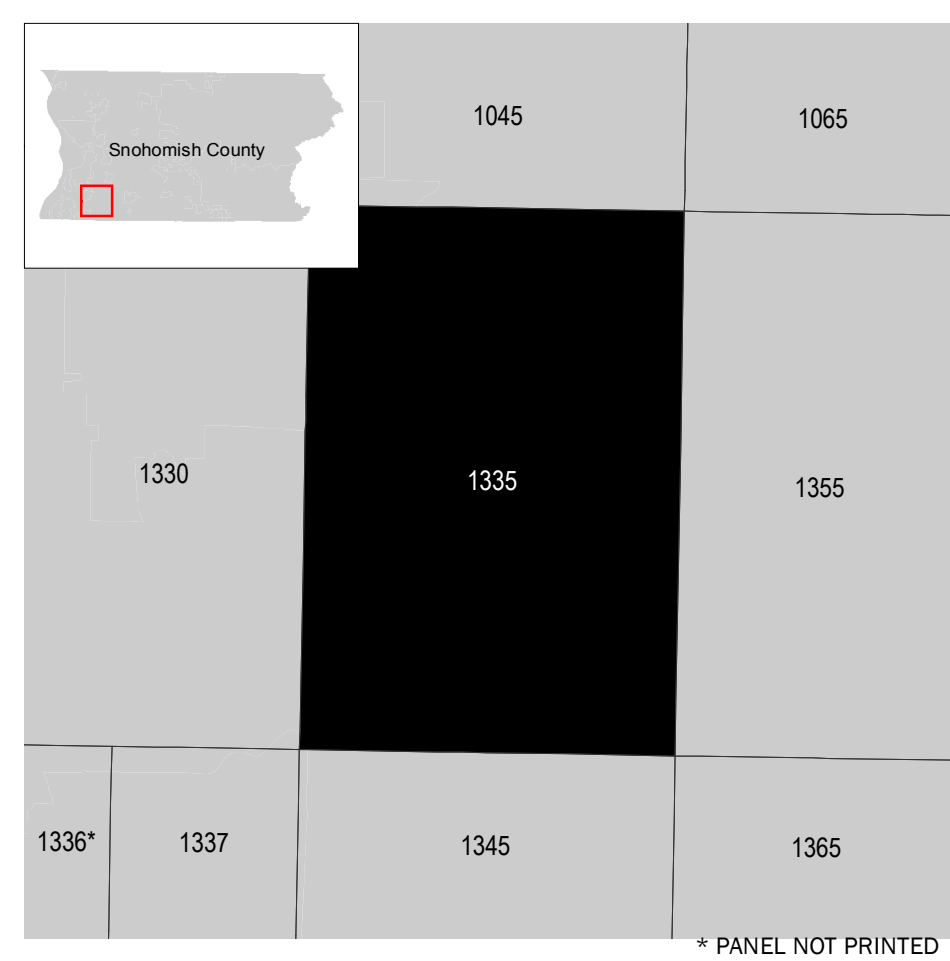
Communities annexing land on adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM Index. These may be ordered directly from the Map Service Center at the number listed above. For community and countywide map dates refer to the Flood Insurance Study report for this jurisdiction. To determine if flood insurance is available in the community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

Base map information shown on this panel was provided by the USDA-FSA Aerial Photography Field Office. This information was derived from digital orthophotography at a scale of 1:12,000 and 1-meter pixel resolution from photography dated 2009.

SCALE



PANEL LOCATOR



NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP

SNOHOMISH COUNTY, WASHINGTON (AND INCORPORATED AREAS)

PANEL 1335 of 1575

COMMUNITY	NUMBER	PANEL	SUFFIX
BOTHELL CITY OF	530075	1335	F
MILL CREEK CITY OF	530330	1335	F
SNOHOMISH COUNTY	535534	1335	F

REVISED PRELIMINARY
7/22/2016

VERSION NUMBER
2.3.2.1
MAP NUMBER
53061C1335F
EFFECTIVE DATE

Attachment 4 - DOE Compliance Email dated April 23, 2020.

Christi Schmidt

From: Radabaugh, David (ECY) <DRAD461@ECY.WA.GOV>
Sent: Thursday, April 23, 2020 1:43 PM
To: Christi Schmidt
Cc: Tom Rogers; Petersen, Amelia (ECY)
Subject: RE: City of Mill Creek - Expedited Review Request Granted for Submittal ID: 2020-S-1336

CAUTION: This email originated from outside the City of Mill Creek. **Do not click links or open attachments** unless you recognize the sender and know the content is safe.

Christi,

The draft ordinance looks good. Please send us a signed copy when adopted.

David Radabaugh, AICP, CFM
State NFIP Coordinator
Department of Ecology
Northwest Regional Office
3190 - 160th Avenue SE
Bellevue, WA 98008-5452
Office: (425) 649-4260
Cell: (425) 417-3777
david.radabaugh@ecy.wa.gov

**EXHIBIT B
PLANNING COMMISSION MOTION**

MOTION: Vice Chair Nolan moved, seconded by Commissioner Berg, to adopt Planning Commission Resolution 2020-167 recommending that the City Council adopt the amendments to MCMC Chapter 15.20 as proposed. The motion was approved unanimously.



MINUTES

City Council Regular Meeting

6:00 PM - Tuesday, May 26, 2020

Council Chambers, 15728 Main Street, Mill Creek, WA 98012

Minutes are the official record of Mill Creek City Council meetings. Minutes summarize the council meeting and documents any actions taken by City Council.

A recording of this City Council meeting can be found [here](#):

The agenda packet for this City Council meeting can be found [here](#).

VIRTUAL CITY HALL MEETING

Due to the COVID-19 pandemic, the City of Mill Creek has established a virtual and audio meeting for the Council meetings.

Call in Number:

- You may call one of these phone numbers and enter the access code:
- United States (Toll-Free): 1 866 899 4679
- One-touch: tel: 1-866-899-4679: 644789413#
- Access Code: 644-789-413

- United States: +1 (224) 501-3318
- One-touch: tel:1-224-501-3318: 644789413#
- Access Code: 644-789-413

CALL TO ORDER

Mayor Pruitt called the meeting of the Mill Creek City Council to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

- A. The Pledge of Allegiance of led by Councilmember Vignal.

ROLL CALL

Councilmembers Present:

Pam Pruitt, Mayor
Brian Holtzclaw, Mayor Pro Tem
Vince Cavaleri, Councilmember
Mike Todd, Councilmember
Mark Bond, Councilmember
John Steckler, Councilmember
Stephanie Vignal, Councilmember

Councilmembers Absent:

AUDIENCE COMMUNICATION

- B. Barbara Heidel, Mill Creek resident commented that she was disappointed that elected officials namely Congresswoman Suzan DelBene and Senator Parry Murray as well as Parade Coordinator Jon Ramer did not participate in the City of Mill Creek's Memorial Day Pre-recorded Ceremony.

OLD BUSINESS

PRESENTATIONS

NEW BUSINESS

- C. 2019-2020 Budget Amendment #2
(*Jeff Balentine, Director of Finance*)

City Manager Michael Ciaravino introduced the 2019-2020 Budget Amendment as the second step in a five step process to inform and give Members of Council an opportunity to discuss and review the current financial condition and the potential impacts on ongoing operations, resources, and possible economic consequences resulting from the COVID-19 Pandemic.

Finance Director Jeff Balentine presented and briefed Members of Council on the proposed budget amendments that accounted for the current revenue forecast and resource requirements given the COVID-19 Pandemic impact on the City's financials. This action is "necessary and routine" because the finances of the City of Mill Creek have been impacted by the COVID 19 pandemic and therefore requires amendment as per RCW 35A.34.200 - Funds—Limitations on expenditures—Transfers and adjustments.

To view items included in the Budget Amendment [click here](#).

Council engaged in discussion and Q & A.

Councilmember Todd made a motion to adopt Ordinance 2020-860 amending the 2019-2020 Budget. Mayor Pro Tem Holtzclaw seconded the motion. The motion passed unanimously.

- D. Resolution to Approve the Sale of a 2009 Chevy Tahoe (car 31) by Live Auction
(*Acting Chief Scott Eastman*)

Acting Chief Scott Eastman briefed Members of Council on the condition of a Mill Creek Police Department vehicle that was assigned to the Citizens Patrol volunteer group. Pursuant to MCMC 3.44, the City routinely sells surplus assets. In order to avoid any further reduction in value, the sale is recommended to take place as soon as possible due to the high risk exposure to mold.

Council engaged in discussion and Q & A.

Councilmember Steckler made a motion to adopt Resolution 2020-586 authorizing the City Manager to sell Car 31, a 2009 Chevy Tahoe SUV, by a live

auction and that the City Manager direct James G. Murphy Company to accept the highest bid that exceeds the City's estimated value of \$4,340. Councilmember Bond seconded the motion. The motion passed unanimously.

- E. 2020 Street Pavement Marking Program – Award Construction Contract
(Gina Hortillosa, Director of Public Works and Development Services)

Director Hortillosa provided Members of Council with information regarding the 2020 Street Pavement Marking Program. Action on this project is deemed as both "necessary and routine" because the contract needs to be executed in order to ensure the work can be scheduled and completed during the current construction season. The project is an element of the approved 2019-2024 CIP and furthers the City's objectives of maintaining city facilities and ensuring public safety. The project was advertised in late February and bids were opened on March 4, 2020. The City received four bids and recommended to award Northwest Traffic, Inc. as the lowest responsible bidder. Construction on the project is planned to begin in late spring.

Council engaged in discussion and Q & A.

Councilmember Todd made a motion to authorize the City Manager, to execute a contract with Northwest Traffic, Inc. for construction of the 2020 Street Pavement Marking Program in an amount not to exceed \$109,343.07 to cover the Base Bid and Additives A, B, and C. Councilmember Vignal seconded the motion. The motion passed unanimously.

- F. Motion to Reject Bid received for RRFB Installation (Group A and Group B) Project
(Gina Hortillosa, Director of Public Works and Development Services)

Director Hortillosa presented to Members of Council information regarding the recent bid opening on the RRFB Installation Project with the recommendation to reject the bid. Action on this project is both "necessary and routine" because the City routinely reserves the right to reject all bids received however, it is obligated to do so in a timely manner. The project received only one bid in the amount of \$370,449.00 from Transportation Systems Inc. which was \$13,829 above the engineer's estimate. Staff recommended the bid packet be modified to only include the improvements covered by the TIB grant (Group A) and the project be re-bid in December 2020.

To find out more about the project [click here](#).

Council engaged in discussion and Q & A. Councilmember Todd stated that he is not in favor to rebid the project because it is not cost effective to do this project as designed.

Councilmember Todd made a motion to reject the bid received for the RRFB Installation (Group A and Group B) Project. Councilmember Bond seconded the motion. The motion passed unanimously.

STUDY SESSION

CONSENT AGENDA

- G. Approval of Checks #61956 through #62004 and ACH Wire Transfers in the Amount

of \$235,491.76

(Audit Committee: Councilmember Steckler and Councilmember Cavaleri)

- H. Payroll and Benefit ACH Payments in the Amount of \$278,856.33
(Audit Committee: Councilmember Steckler and Councilmember Cavaleri)
- I. City Council Meeting Minutes of: May 12, 2020
June 4, 2019
June 11, 2019
June 25, 2019
July 2, 2019
July 9, 2019
July 23, 2019

Councilmember Cavaleri made a motion to approve the Consent Agenda. Councilmember Steckler seconded the motion. The motion passed unanimously.

REPORTS

J. Mayor/Council

Mayor Pruitt reported that spoke the Governor's office regarding the COVID 19 regulations and the restrictions in place that determine the date for the Phase 2 opening. Mayor Pruitt was told more information will follow regarding the COVID 19 State regulations and criteria of number of COVID 19 cases in order to determine regulations and expressed her concerns of how they determine the criteria. Mayor Pruitt also received the latest numbers from the Health District with 240 new cases of COVID 19 in the last 2 weeks with 10 new deaths.

Councilmember Cavaleri motioned to send out letter of no confidence to Governor Inslee similar to Burlington Mayor Steve Sexton's letter where he accused Gov. Jay Inslee of using the economic shutdown caused by the COVID-19 pandemic to promote "his climate change agenda". Councilmember Bond seconded the motion. Council engaged in discussion. The motion failed 1-for 6-against and 0-abstaining.

Councilmember Cavaleri motioned to send out a letter to State Legislators in Washington to request that convene an emergency session in order to review the emergency powers of Governor Inslee. Councilmember Bond seconded the motion. Council engaged in discussion. The motioned failed 1-for 6-against and 0-abstaining.

Councilmember Todd reported that Puget Sound Regional Council (PSRC) Executive Board is virtually meeting Thursday, May 28, 2020 to discuss and approve among other things approve the 2020 Adjustment of PSRC's Federal Transit Administration Funds and Distribution of Funds to the FTA Regional Contingency List of Projects. [Click here](#) to view.

K. City Manager

- Extension to Proclamation of Emergency - COVID 19 Related
- Graduating Class of 2020 - Jackson High School Update Car Parade

Councilmember Bond made a motion to extend the Proclamation of Emergency to July 1, 2020. Councilmember Steckler seconded the motion. The motioned passed unanimously.

City Manager Ciaravino reported that City staff, Mayor Pruitt and Councilman Steckler had a conference call to discuss the Graduating Class of 2020 Car Parade and the number of participants to be limited to up to 100 participants with a travel route explained by Acting Chief Eastman. Council engaged in discussion and City staff will continue efforts in coordination.

Councilmember Cavaleri requested an update regarding the schedule of opening the parks and signage. Council engaged in discussion and requested that new tape be installed to ensure children are off the playground equipment.

Councilmember Todd thanked City Manager Ciaravino, City Staff and those involved in the Memorial Day Celebration for a job well done. Council and City Manager engaged in a discussion.

L. Staff

- Report, etc.

AUDIENCE COMMUNICATION

- M.** Public comment on items on or not on the agenda were given by Barbara Heidel, Mill Creek resident to extend her thanks regarding the Reverse Parade during Memorial Day.

ADJOURNMENT

With no objection, Mayor Pruitt adjourned the meeting at 7:58 p.m.

Pam Pruitt, Mayor

Naomi Fay, Interim City Clerk