

**PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE –
TITLE 17, ZONING ORDINANCE**

New proposed language is represented by **bold underline font**, deleted language is represented by ~~strikethrough font~~.

ZONING*

Chapters:

- 17.03 General Provisions
- 17.06 Definitions
- 17.09 Zone Classifications, Boundaries, and Maps
- 17.10 Area and Master Planning Process
- 17.11 Residential Design and Development Standards
- 17.12 R-1 Low-Density, 9000 SF Lot Residential Zone
- 17.15 R-2 Low-Density, 7000 SF Lot Residential Zone
- 17.18 R-3 Medium-Density, 6000 SF Lot Residential Zone
- 17.21 R-4 Medium, High-Density, 5000 SF Lot Residential Zone
- 17.22 R-5 High-Density, Multiple-Dwelling Residential Zone
- 17.24 O-R Office/Residential Zone
- 17.27 C-1 Neighborhood Business Zone
- 17.30 C-2 Travel Commercial Zone
- 17.33 C-3 General Commercial Zone
- 17.36 M-L Limited Light Industrial Zone
- 17.39 M-1 Light Industrial Zone
- 17.42 M-2 General Industrial Zone
- 17.45 AH Agricultural Holding
- 17.48 F-P Flood Plain Zone
- 17.49** **Natural Hazard Overlay Subdistricts**
- 17.50 Neighborhood Activity Center Overlay District
- 17.51 Planned Development Overlay
- 17.52 Airport Overlay Zone
- 17.53 Land Division Standards
- 17.54 General Regulations
- 17.55 Wireless Communication Facilities
- 17.56 Large Format Commercial Development
- 17.57 Landscaping
- 17.58 Trees
- 17.59 Downtown Design Standards and Guidelines
- 17.60 Off-Street Parking and Loading
- 17.61 Solid Waste and Recycling Enclosure Plan

* Prior ordinance history: Ord. 3380 as amended by Ords. 3392, 3441, 3497, 3557, 3565, 3603, 3614, 3633, 3677, 3694, 3707, 3742, 3764, 3803, 3817, 3888, 3898, 3925, 3933, 3966, 3967, 3968, 3983, 3995, 4001, 4011, 4017, 4025, 4043, 4046, and 4066.

<u>17.62</u>	<u>Signs</u>
<u>17.63</u>	<u>Nonconforming Uses</u>
<u>17.64</u>	<u>Marijuana Related Activities</u>
<u>17.65</u>	<u>Historic Preservation</u>
<u>17.66</u>	<u>City Center Housing Overlay Zone</u>
<u>17.67</u>	<u>Home Occupations</u>
<u>17.72</u>	<u>Applications and Review Process</u>
<u>17.74</u>	<u>Review Criteria</u>

Chapter 17.48

F-P FLOOD AREA ZONE

Sections:

17.48.005	Purpose.
17.48.010	Established - Area Included.
17.48.020	Boundaries Indicated on Map.
17.48.025	Definitions.
17.48.030	Permitted Uses.
17.48.040	Conditional Uses.
17.48.045	Conditional Use Factors.
17.48.060	Use Limitations.
17.48.070	Use of Other Base Flood Data.

17.48.005 Purpose. The purpose of a floodplain is to establish and regulate land uses in those areas designated as hazardous due to periodic flooding in order to protect the community from financial burdens through flood damage losses. Further, this zone is intended to protect natural floodways and drainage ways from encroachment by uses and/or indiscriminate land filling or diking which may adversely affect the overall stream and downstream flood levels, **wetland water quality or flood control values, tree canopy, native vegetation and water quality.** Finally, the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.010 Established—Area Included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled “The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas,” (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM) is declared to be flood area zone property and subject to the requirements of this Chapter. (Ord. 4921 §4A, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.020 Boundaries Indicated on Map. The boundaries for the zone established by Section 17.48.010 shall be indicated on the McMinnville Zoning Map. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.025 Definitions. For the purpose of this section refer to Section 17.06.030 for Flood Area related definitions. (Ord. 4952 §1, 2012).

17.48.030 Permitted Uses. In an F-P zone, the following uses and their accessory uses are permitted (subject to the provisions of Section 17.48.060 **and Chapter 17.49 Natural Hazard Subdistricts**):

- A. Farming;
- B. Public park and recreation facility, not requiring the use of any structure;
- C. Sewage pump station. (Ord. 4684 §1, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.040 Conditional Uses. In an F-P zone, the following uses and their accessory uses may be permitted, subject to the provisions of Section 17.47, Section 17.48.045, Section 17.4 and Chapters **17.49**, 17.72 and 17.74:

- A. Boat landing and launching facility;
- B. Open land recreation facility requiring the use of any structure;
- C. Removal of sand, gravel, topsoil, or rock;
- D. Landfill or diked land, including culvert and bridge installations, subject to the following procedures:
 - 1. Preliminary submittal of the proposal shall be made to the Planning Department, which shall check the proposal to ensure its compliance to the ordinance. Said proposal shall then be submitted to the Planning Commission.
 - 2. The City shall provide written notice to the City Recorder's office in adjacent communities, Yamhill County, and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse (i.e., stream channel), and shall submit a copy of that notification to the Federal Insurance Administration.
 - 3. The Planning Department shall prescribe the form and information required for applications made for any conditional use listed in this subsection. No application shall be accepted unless it complies with such requirements and is verified as to the correctness thereto. There shall be included, as a part of the application, an accurate map. Such plans shall be in triplicate, drawn at a scale of not larger than one inch equals fifty feet nor smaller than one inch equals five hundred feet, and shall show:
 - a. 100-year flood projection elevation on the subject site. State source of information.
 - b. Property boundaries and dimensions.
 - c. Ground elevations shown by contour lines of not less than two-foot vertical intervals. State source of information.
 - d. Existing and proposed structures.
 - e. Dimensions and elevations of existing and/or proposed fill.

- f. Location of stream channel in relationship to items “a” through “e” above.
 - g. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed fill and high-water information.
 - h. Profile showing the slope of the bottom of the channel or flow line of the stream, and the slope line of the proposed fill.
 - i. Specifications of fill material, grading, channel improvement or maintenance plans, dimensions, and restoration of completed project.
 - j. **The location of applicable natural hazard on or adjacent to the subject site.**
- E. Weapons Training Facility subject to the following conditions:
- 1. The property on which the facility is located must be owned or leased by a Federal, State, or local government agency for the exclusive use of public safety personnel engaged in firearms or other related training;
 - 2. The facility must be located no closer than 2,640 feet (one-half mile) to any land planned and zoned for residential use; and
 - 3. Only those firearms or weapons authorized by a government agency and utilized for law enforcement related purposes shall be allowed within the area approved for a weapon training facility. Possession of other firearms or weapons at a weapon training facility site shall be considered a violation of this ordinance.
- F. Wireless communications facilities, not to include antenna support structures and their associated facilities, subject to the provisions of Chapter 17.55 (Wireless Communications Facilities). (Ord. 4921 §4C, 2010; Ord. 4732, 2000; Ord. 4684 §2, 1998; Ord. 4559 §1, 1994; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.045 Conditional Use Factors. The Planning Commission shall consider the following factors and special conditions when making a decision regarding a conditional use in the floodplain zone:

- A. Factors to be Considered:
- 1. The danger to life and property due to increased flood heights or velocities caused by any proposed fill.
 - 2. The danger that materials may be swept onto other lands or downstream to the injury of others.
 - 3. The importance to the community of the service provided by the proposed facility.
 - 4. The availability of alternative locations not subject to flooding.
 - 5. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - 6. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - 7. The compatibility of the proposed use with the potential of the site and the surrounding floodplain area for open space, natural habitats, and recreational places.

8. The impact of the proposed use on fish, wildlife habitat, **and water quality.**
 9. **The danger to life and property from landslides, wildfire or earthquakes due to excavation, vegetation removal and construction of the proposed use.**
 10. Such other factors which are relevant to the purposes of this section.
- B. Special Conditions. Upon consideration of the factors listed above and the purposes of this section, the Planning Commission may attach such conditions to the granting of a conditional use permit as it deems necessary to further the purposes of this portion of the zoning ordinance. The following such conditions, but not exclusively limited thereto, may be included:
1. Limitations on periods of use and operation, and upon the area to be filled and the elevation of the fill as well as to the kinds of material which may be so emplaced.
 2. Imposition of operational controls, sureties, and deed restrictions.
 3. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
 4. Limitations on the removal or destruction of critical fish and wildlife habitat including any area of riparian vegetation. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).
 5. **Limitations imposed by applicable natural hazard overlay zones per Chapter 17.49.**

[17.48.050 Signs. Moved to Chapter 17.62 (Signs), by Ord. 4900 November 5, 2008.]

17.48.060 Use Limitations. In an F-P zone, the following limitations shall apply:

- A. No residence shall be constructed;
- B. A lot shall not be less than one acre in area;
- C. Within the floodway and flood fringe, no encroachment will be allowed which causes any increase in the flood height or which would result in hazardous velocities (see floodway schematic). To demonstrate compliance with this requirement, the applicant shall submit an engineering certification stating the proposed development will not impact the pre-project base floodway and flood fringe elevations. The certification shall be signed and sealed by a professional engineer and be supported by the appropriate technical data and studies, which are typically based upon the standard step-backwater computer model utilized to develop the 100-year floodway and flood fringe shown on the appropriate Federal Insurance Rate Map (FIRM) and tabulated in the adopted Flood Insurance Study. (Ord. 4921 §4D, 2010; Ord. 4684 §3, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.070 Use of Other Base Flood Data. When base flood elevation data has not been provided (FIRM zones A), the applicant shall provide alternative base flood elevation as available from a Federal, State, or other source in order to comply with this chapter. (Ord. 4921 §4E, 2010)

This whole chapter is new to the McMinnville Municipal Code

Chapter 17.49

NATURAL HAZARD OVERLAY SUBDISTRICTS

Sections:

- 17.49.00** Natural Hazard Subdistricts Generally.
- 17.49.10** Definitions
- 17.49.20** Purpose and Intent of the Natural Hazard Subdistricts.
- 17.49.30** Applicability and General Provisions.
- 17.49.40** Permitted and Conditional Uses.
- 17.49.50** Review Procedures.
- 17.49.60** Natural Hazard Subdistrict Application Requirements.
- 17.49.70** Required Natural Hazard Mitigation Reports.
- 17.49.80** Decision Options and Conditions
- 17.49.90** Land Divisions.
- 17.49.95** Appeals

Natural Hazards – Mitigation (NH-M) Subdistrict

- 17.49.100** Natural Hazards - Mitigation (NH-M) Subdistrict
- 17.49.110** Earthquake Mitigation Standards.
- 17.49.120** Steep Slope and Landside Mitigation Standards
- 17.49.130** Wildfire Assessment and Mitigation Standards.
- 17.49.140** Reserved for Future Use.

Natural Hazard – Protection (NH-P) Subdistrict

- 17.49.150** Natural Hazards – Protection (NH-P) Protection Subdistrict
- 17.49.160** Use Limitations
- 17.49.170** Residential Density Transfer
- 17.49.180** Earthquake Mitigation Standards
- 17.49.190** Steep Slope and Landside Mitigation Standards
- 17.49.200** Wildfire Assessment and Mitigation Standards

17.49.00 Natural Hazard Subdistricts Generally. Natural Hazard Subdistricts (NH Subdistricts) implement the Natural Hazard Policies of the McMinnville Comprehensive Plan and are intended to protect life and property from inventoried natural hazard areas pursuant to Statewide Planning Goal 7 – Natural Hazards.

- A. NH Subdistricts are based on adopted natural hazard inventories – which include maps showing significant resource sites and supporting reports documenting the criteria and methods used to determine local resource site significance.
- B. NH Subdistricts implement McMinnville Comprehensive Plan Chapter XI Natural Features policies related to Natural Hazards.
- C. NH Subdistrict boundaries appear on the official City Zoning Map.
- D. NH Subdistrict standards apply in addition to standards of the underlying base zone. In cases of conflict, the more restrictive NH Subdistrict standards control.

17.49.10 Definitions. The following definitions apply within the NH-P and NH-M Subdistricts.

- A. **Landmark and Significant Trees.** Please see definitions in Chapter 17.58 Trees.
- B. **Native Plants.** “Native plant species” are those listed on the Portland Plant List, which is incorporated by reference into this chapter.
- C. **Fire Resistant Plants.** Fire-resistant plants burn at a relatively low intensity, slow rates of spread and with short flame lengths.¹ In addition to listed species, fire-resistant tree and plant species may be determined based on the professional opinions of licensed landscape architects, certified arborists or foresters. Fire-resistant vegetation has the following characteristics:
 - 1. Growth with little or no accumulation of dead vegetation (either on the ground or standing upright).
 - 2. Non-resinous plants.
 - 3. Low volume of total vegetation (for example, a grass area as opposed to a forest or shrub-covered land).
 - 4. Plants with high live fuel moisture (plants that contain a large amount of water in comparison to their dry weight).
 - 5. Drought-tolerant plants (deeply rooted plants with thick, heavy leaves).
 - 6. Stands without ladder fuels (plants without small, fine branches and limbs between the ground and the canopy of overtopping shrubs and trees).
 - 7. Plants requiring little maintenance (slow-growing plants that, when maintained, require little care).

¹ A handbook entitled *Fire-resistant Landscape Plants for the Willamette Valley* (OSU Extension Service, 2015) provides a list of fire-resistant shrubs and plants applicable to the McMinnville area.

8. Plants with woody stems and branches that require prolonged heating to ignite.

Note: This list may be modified based on the professional opinions of licensed landscape architects, certified arborists or foresters.

- D. **Fuel Reduction Area.** An area where vegetation or material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations. Establishment of a fuel reduction area does not include stripping the ground of all native vegetation.
- E. **Highly Flammable Trees and Plants.** Plant species that have characteristics which make them more volatile by encouraging easy ignition and the spread of fire through their foliage due to low moisture content, dense dry leaves, needles, grass-like leaves, or volatile resins and oils. Highly flammable trees and plants generally include coniferous and resinous trees and shrubs.² In addition to listed species, highly flammable tree and plant species may be determined based on the professional opinions of licensed landscape architects, certified arborists or foresters.
- F. **The McMinnville Natural Hazards Map.** A map that identifies earthquake, steep slope, landslide, wildfire, and flood hazard areas within the McMinnville Urban Growth Boundary. This generalized, composite map is based on the McMinnville Natural Hazards Inventory – adopted 2023.

17.49.20 Purpose and Intent of the Natural Hazard Subdistricts.

The purpose and intent of this chapter are to comply with the McMinnville Comprehensive Plan, minimize the cumulative risks associated with inventoried natural hazards, while allowing reasonable economic use of land within the McMinnville city limits.

- A. **Comprehensive Plan.** This chapter is designed to implement the Natural Hazard Policies found in Chapter XI Natural Features of the McMinnville Comprehensive Plan.
- B. **Reasonable Economic Use.** This chapter is intended to allow reasonable economic use of property while establishing standards to avoid or mitigate cumulative risks related to earthquake liquefaction and shaking hazards, steep slope and landslide hazards, wildfire hazards and flood hazards.

² Highly flammable trees and plants include at least the following:

- A. **Trees (including but not limited to):** Acacia (*Acacia* sp.); Arborvitae (*Thuja* sp.); Cedar (*Cedrus* sp.); Cedar/Cypress (*Chamaecyparis* sp.); Cypress (*Cupressus* sp.); Douglas fir (*Pseudotsuga menziesii*); Fir (*Abies* sp.); Hemlock (*Tsuga* sp.); Juniper (*Juniperus* sp.); Pine (*Pinus* sp.); Sequoia (*Sequoia* sp.); Spruce (*Picea* sp.); and Yew (*Taxus* sp.).
- B. **Shrubs (including but not limited to):** Blackberry (*Rubus armeniacus*); Juniper (*Juniperus* sp.); Laurel sumac (*Malosma laurina*); Oregon grape (*Mahonia aquifolium*); Rosemary (*Rosmarinus* sp.); Scotch broom (*Cytisus scoparius*); and Wild Lilac (*Ceanothus* sp.).
- C. **Grasses and Ground Cover (including but not limited to):** Dry annual grasses; Large bark mulch; and Pampas grass (*Cortaderia selloana*).

- C. Disclaimer.** The degree of Natural Hazard protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger hazard events can and will occur on rare occasions. Landslide risks may be increased by man-made or natural causes.
- 1. Areas impacted by other natural hazards may differ from those shown on the McMinnville Natural Hazards Map.**
 - 2. This Chapter does not imply that land outside the natural hazard areas or that uses permitted within such areas will be free from earthquake, steep slope, landslide, wildfire or flooding hazards. Nor does it imply that land outside of mapped hazard areas will be free from damage in a hazard event.**
 - 3. This Chapter shall not create liability on the part of the City of McMinnville, any officer or employee thereof, or the Federal Insurance Administration, for any hazard damages that result from reliance on this chapter, or any administrative decision lawfully made based on the provisions of this chapter.**
 - 4. Compliance with the minimum standards established by this chapter is not intended to relieve any private party from liability for the design or construction of development which causes damage or injury by aggravating an existing and known hazard.**

17.49.30 Applicability and General Provisions. The Natural Hazards Subdistricts apply to mapped Natural Hazards existing throughout the city limits. However, the cumulative severity of natural hazards varies by location. The provisions of this chapter apply to public and private development proposed within three areas – based on the cumulative hazards ranking found in the McMinnville Natural Hazards Inventory:

- A. The Area.** The following standards apply to public facilities, planned developments, land divisions, and new construction within the city limits:
- 1. Oregon Structural Specialty Code Seismic Standards.** All land within the McMinnville UGB is subject to moderate to severe earthquake shaking and liquefaction hazards. Oregon Structural Specialty Code and Residential Specialty Code seismic requirements shall apply to new construction in all city zones.
 - 2. City Erosion Control Standards.** City of McMinnville Storm Drainage Design and Construction Standards, including Erosion Control Standards, shall apply to development in all city zones. For development on sites where the prevailing slope is 10 percent or more, the erosion control plan shall be prepared by an engineer registered in the State of Oregon. The City Engineer may require special erosion control standards for development:
 - a. On slopes of 15% or greater;**
 - b. Within the Flood Area Zone; and**
 - c. Within the NH-M and NH-P Subdistricts; and**

- B. The Natural Hazard - Mitigation (NH-M) Subdistrict.** The NH-M Subdistrict includes land with cumulative earthquake, landslide and/or wildlife hazard risk that can be mitigated on-site based on the recommendations of required studies. The NH-M Subdistrict therefore requires geological site assessments, geotechnical studies and/or wildfire impact studies that include recommendations to mitigate earthquake, landslide and/or wildfire risks on development sites.
- C. The Natural Hazard – Protection (NH-P) Subdistrict.** The NH-P Subdistrict generally applies to the 100-year floodplain and areas with high cumulative earthquake, landslide, wildfire and/or flooding risks (1) that are more difficult to or cannot be effectively mitigated on-site, and/or (2) where the location and density of development may be limited. Where development is permitted, it shall occur consistent with the recommendations of geological, geotechnical and/or wildfire impact studies. The Flood Area (F-P) Zone includes additional standards to avoid and/or mitigate flood hazards.
- D. Determination of Site-Specific Natural Hazards and Mitigation Standards.** The presence and severity of natural hazard types (earthquake liquefaction, earthquake shaking, slide hazards and wildfire hazards) on specific properties is determined by referencing the McMinnville Natural Hazard Inventory GIS database.
1. Specific mitigation standards in this chapter depend on the presence (or absence) of specific natural hazards on a development site.
 2. For example, if a dwelling is proposed within a moderate-to-severe wildfire hazard area, the fuel reduction area standards required to mitigate wildfire hazards will apply.
- E. Overlap with Natural Resource Subdistricts.** Natural Hazard Subdistricts may overlap with Natural Resource Subdistricts, especially near riparian corridors and tree groves. Generally, the review authority shall seek to harmonize subdistrict standards that appear to conflict. However, where standards cannot be read together to achieve a consistent outcome:
1. The more restrictive standards apply, except that,
 2. NH-P and NH-M Subdistrict fuel reduction area standards shall prevail in cases of unavoidable conflict with the significant tree and vegetation standards of this chapter.
- F. Significant and Landmark Trees.** Significant and landmark trees stabilize landslide prone areas and reduce erosion.
1. Significant and landmark trees as defined in Chapter 17.58 Trees shall not be removed from land within Natural Hazard Subdistricts, except as provided in this chapter and Chapter 17.48 Trees.
 2. Removal of significant and landmark trees within NH-M and NH-P Subdistricts may be permitted when authorized as part of a land use application subject to the provisions of this chapter.

17.49.40 Permitted and Conditional Uses. The underlying zoning district determines permitted and conditional uses, subject to additional development limitations and standards required in the NH-M or NH-P Subdistricts.

A. **Conforming Uses.** Existing development within the NH-M or NH-P Subdistrict shall be considered conforming with respect to the development standards of the Subdistrict and may be expanded without meeting the substantive or procedural requirements of Chapter 17.63 Nonconforming Uses.

B. **Exempt Uses.** When performed under the direction of the City, and in compliance with the provisions of the City of McMinnville Construction Standards on file in the Engineering Division, the following shall be exempt from the provisions of this chapter:

1. Farming activities permitted in the underlying zone.
2. Public emergencies, including emergency repairs to public facilities.
3. Stream restoration and enhancement programs outside of wildfire hazard areas.
4. Invasive vegetation (not including significant or landmark trees) removal.
5. Additions of up to 50% of the habitable floor area of building(s) constructed before the effective date of this ordinance, or date of annexation within the city limits whichever is later, subject to applicable building safety code standards, including applicable seismic and wildfire safety standards.
6. Routine maintenance or replacement of existing public facilities projects.

17.49.50 Review Procedures. The natural hazard mitigation and protection standards in this chapter usually are applied in conjunction with a development application. Where a use is proposed within, or partially within, the NH-P or NH-M Subdistrict, the following procedures shall apply pursuant to Chapter 17.72 (Applications and Review Process).

A. **Permitted Uses.** Where a use is permitted outright in the applicable base zone (for example, residential, commercial, industrial or public uses), compliance with the standards of this chapter is determined by the Community Development or Planning Director, based on required natural hazard studies, as part of the site plan review process (if applicable), and prior to issuance of a building or construction permits.

B. **Land Divisions.** When land divisions are proposed pursuant to Chapter 17.53 Land Division Standards, compliance with the standards of this chapter is determined by the Planning Director, based on required natural hazard studies.

C. **Planned Developments.** When planned developments are proposed pursuant to Chapter 17.51 (Planned Development Overlay), compliance with the standards of this chapter is determined by the Planning Commission, based on required natural hazard studies.

- D. Density Transfer.** The Planning Commission shall review density transfer from land within the NH-P Subdistrict to buildable land, pursuant to Section 17.49.170 Density Transfer.
- E. Conditional Uses and Variances.**
1. Where a conditional use is proposed, compliance with the standards of this chapter is determined by the Planning Commission, based on required natural hazard studies, prior to issuance of building or construction permits.
 2. Where a variance is requested, compliance with the variance criteria in this chapter is determined by the Planning Commission, based in part on required natural hazard studies, prior to issuance of building or construction permits.
 3. **Public Facilities.** Construction of public facilities within natural hazard areas must follow the recommendations of required natural hazard studies.

17.49.60 Natural Hazard Subdistrict Application Requirements.

Development applications for all properties within the NH-M or NH-P Subdistricts shall accurately indicate the site-specific locations of specific types of natural hazard areas based on City GIS maps in relation to proposed development. City planning staff will assist the applicant by providing GIS maps showing city information sources listed below. Development applications within or partially within natural hazard subdistricts shall include:

- A. A site plan showing the proposed development on the site, drawn to a standard scale and including an illustrated scale for use in reductions.
- B. Topography showing 2-foot contour intervals and slopes of:
 1. 15 to 24.9 percent; and
 2. 25 percent and greater.
- C. The location of existing and proposed infrastructure necessary to serve the proposed development. Such infrastructure includes streets, driveways, water, sanitary sewer, and storm drainage.
- D. The potential hazard impact area showing land uses and tree cover within 200 feet of the subject property.
- E. A title block, north arrow, and bar scale.
- F. Date(s) of field check(s).
- G. A grading plan, if grading is to occur, showing existing and finished contours on the site, at two-foot contour intervals.
- H. Information sources, such as soil survey maps and applicable McMinnville Natural Hazard and Natural Resource inventory maps.
- I. Relevant City maps applicable to the site and impact area including the Zoning Map, natural hazard, and natural resource subdistrict maps.
- J. Aerial photos, including their date and scale.
- K. Depending on the type of natural hazard or natural resource identified on a proposed development site, the applicant shall be responsible for:
 1. Showing the precise location of each type of inventoried natural hazard or natural resource present on the development site;

2. Submitting required flooding, seismic, geological and/or wildfire hazard mitigation studies as prescribed in Section 17.49.060; and
 3. Demonstrating compliance with recommended mitigation measures pursuant to required hazard studies.
- L. The location and size of significant and landmark trees within 25 feet of any proposed disturbance area. If development is proposed within a wildfire area, the location and size of significant and landmark trees must be shown within 50 feet of the outer limits of above-ground construction.
- M. Any other submittal requirements identified for development in areas with specific types of natural hazards, as specified in this chapter.

17.49.70 Required Natural Hazard Mitigation Reports. Depending on the natural hazards present on a particular property, the applicant for land development shall be responsible for preparing one or more of the following studies within the NH-M and NH-P Subdistricts.

- A. Geological Site Assessment is an overview of existing geological conditions that includes recommendations for mitigation measures. The Site Assessment shall be completed and stamped by either a Certified Engineering Geologist or by a Licensed Civil Engineer, licensed in the Specialty of Geotechnical Engineering. At a minimum, the Geological Site Assessment shall include the following elements:
1. Relevant landslide and earthquake hazard information from the McMinnville Natural Hazards Inventory;
 2. A field investigation of the site and vicinity including a description of geologic hazards that may be present on the site;
 3. An analysis of the geological suitability of the site for proposed development;
 4. A description of any unusual or extreme geologic processes at work on the site, such as rapid erosion, landslide hazard, flood hazard, rockfall, subsidence, debris run-out, or other features;
 5. A description of any geologic hazards that may affect the proposed land use, including but not limited to slope stability, debris flow, flooding, topography, erosion hazard, shallow groundwater, springs, expansive soils, subsidence, fault rupture, landslide hazard, rockfall, debris run out, or any other geologic hazard discovered by the investigation;
 6. Identification of any areas of the site that should be avoided for human-occupied structures;
 7. An analysis of the feasibility of developing the site for the proposed land use(s);
 8. Identification of any mitigation measures needed to address any anticipated geologic problems; and
 9. Recommendations regarding the need for follow-up studies, such as engineering geotechnical reports, additional subsurface exploration, or more extensive soil reports.

- B. Geotechnical (Soils Engineering) Report is prepared and stamped by a Licensed Civil Engineer, licensed in the Specialty of Geotechnical Engineering by the Oregon State Board of Engineering Examiners. The Geotechnical Report usually makes specific recommendations to avoid or mitigate geological hazards. At a minimum, the Geotechnical Report shall include the following elements:**
- 1. Data regarding the nature, distribution and strength of existing soils on the site.**
 - 2. Analysis, conclusions, and recommendations for grading procedures.**
 - 3. Design standards for corrective measures, including buttress fill, when necessary.**
 - 4. A professional opinion on the adequacy of the development site for the intended use considering the proposed grading in relation to soils engineering factors, such as slope stability.**
 - 5. The location of proposed development and public facilities; and**
 - 6. Relevant information from the McMinnville Natural Hazards Inventory.**
- C. Wildfire Hazard Assessment and Mitigation Plan is prepared, in consultation with the McMinnville Fire Department, by a certified arborist or professional forester with experience in wildfire management. This plan must address wildfire mitigation standards in this chapter and may recommend additional fire safety standards. At a minimum, in addition to site plan requirements, the plan shall include:**
- 1. The location and dimensions of all existing and proposed structures, parking areas and driveways on the property.**
 - 2. The location, dimension, and grade of fire apparatus access roads and driveways serving all structures on the property.**
 - 3. The location and dimensions of all structures on adjoining properties located within 30 feet of a shared property line.**
 - 4. The location of all existing and proposed fire hydrants.**
 - 5. Site contours showing two foot intervals detailing elevation and slope.**
 - 6. A tree and vegetation management plan showing:**
 - a. The location, species and size of existing significant trees and landmark trees, including those to be removed and those to be retained, and whether they qualify as “fire-resistant” or “highly flammable” as defined in this chapter.**
 - b. The location, species and size of shrubs, including those to be removed and those to be retained, and whether they qualify as “fire-resistant” or “highly flammable” as defined in this chapter.**
 - c. Areas where trees will be removed to reduce overlapping tree canopies including a description of the tree species and diameter at breast height (DBH).**
 - d. New trees, shrubs and bushes to be planted including the species, location and size at maturity, and whether they qualify as “fire-resistant” or “highly flammable” as defined in this chapter.**
 - 7. The location of and information addressing required fuel reduction area standards as described in Section 17.49.130.**

8. A schedule and timetable for vegetation removal and thinning to meet fuel reduction area standards.

17.49.80 Decision Options and Conditions. The Approval Authority may approve, approve with conditions, or deny an application based on the provisions of this chapter. The Approval Authority may require conditions necessary to comply with the intent and provisions of this chapter.

- A. **Conditions.** The required reports shall include design standards and recommendations necessary for the geologist or geotechnical engineer to provide reasonable assurance that the standards of this section can be met with appropriate mitigation measures. These measures, along with staff recommendations, shall be incorporated as conditions into the final decision approving the proposed development.
- B. **Assurances and Penalties.** Assurances and penalties for failure to comply with mitigation, engineering, erosion and water quality plans required under this section shall be as stated in Chapter 17.03 General Provisions.

17.49.90 Land Divisions. No land division or property line adjustment shall be approved that would result in an unbuildable lot or parcel (*i.e.*, a lot or parcel where a permitted or conditional use could not be allowed because it would be unable meet the standards of this chapter).

17.49.95 Appeal / Verification of Natural Hazards boundaries. The Natural Hazards boundaries may be appealed and must be verified occasionally to determine the true location of a hazard area and its functional values on a site. This may be through a site-specific survey or a simple site visit in those cases where existing information demonstrates that the Natural Hazard significance rating does not apply to a site-specific area. Applications for development on a site located in a Natural Hazard area may request a determination that the subject site is not subject to the standards of Chapter 17.49. Verifications / appeals shall be processed as either a Type I or Type II process as outlined below.

A. Type I Appeal / Verification.

1. Applicants for a determination under this section shall submit a site plan meeting the requirements of Chapter 17.72, as applicable.
2. An applicant may request a Type I Verification determination by the community development director. Such requests may be approved provided that there is evidence substantiating that all the requirements of this chapter relative to the proposed use are satisfied and demonstrates that the property also satisfies the following criteria, as applicable:
 - a. No natural features have been disturbed.
 - b. No natural features have been changed.
 - c. The property does not contain a natural hazard area as identified by the city's local natural hazards area maps.

- d. Evidence of prior land use approvals that conform to the natural hazards overlay districts, or which conformed to the natural hazard area overlay district that was in effect prior to the Natural Hazards code adoption date _____.

- B. Type II Appeal / Verification. Verifications of the Natural Hazards areas which cannot be determined pursuant to the standards of Chapter 17.49 may be processed under the Type II permit procedure.**
1. Applicants for a determination under this section shall submit a site plan meeting the requirements of (site plan requirements) as applicable.
 2. Such requests may be approved provided that there is evidence that demonstrates in a report prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology and forestry, that a resource function(s) and/or land feature(s) does not exist on a site-specific area.
 3. Verification to remove a recently developed area from the Natural Hazards shall show that all of the following have been met:
 - a. All approved development in the Natural Hazards area has been completed
 - b. All mitigation required for the approved development has been successful.
 - c. The previously identified Natural Hazards area on the developed site no longer exist or have been subject to a significant impact.

Natural Hazards – Mitigation (NH-M) Subdistrict

17.49.100 Natural Hazards – Mitigation (NH-M) Subdistrict. The NH-M is intended to mitigate natural hazard impacts based on objective development standards for each applicable hazard type (earthquakes, steep slopes, landslides and wildfires) and the recommendations of required site-specific hazard studies.

17.49.110 Earthquake Mitigation Standards. Buildings and on-site construction projects must meet the seismic standards of the applicable Oregon Structural Specialty Code and Residential Specialty Code seismic requirements per Section 17.49.30.A.

17.49.120 Steep Slope and Landside Mitigation Standards. The following plans and development standards apply to steeply sloped land (15% or greater) and to mapped landslide hazard areas on any proposed development site, as determined by the McMinnville Natural Hazards Inventory.

A. Required Plans.

1. If slopes of 15% or greater exist on the development site, the applicant shall submit an Erosion Control Plan per Section 17.49.30.A.
2. If moderate to high landslide hazard areas exist on the development site, the applicant shall submit a Geological Site Assessment per Section 17.49.60.A.
3. The City may contract with an independent geologist or geotechnical engineer to review the Geological Site Assessment.

B. Development Standards. The applicant's site and building plans shall be consistent with the recommendations of the required Geological Site Assessment, including any changes and conditions required by the review authority after considering the recommendations of the independent peer reviewer.

1. If the Geological Site Assessment recommends a Geotechnical Engineering Study, building and construction plans shall be consistent with the recommendations of this study.
2. Generally, development should avoid slopes of 25% and greater, except where consistent with the recommendations of the Geological Site Assessment.
3. Removal of landmark trees shall be prohibited – except where the review authority determines that there is no reasonable alternative available to achieve project objectives.
4. Removal of significant trees shall be the minimum necessary to meet project objectives or to comply with an approved wildfire mitigation plan.

17.49.130 Wildfire Assessment and Mitigation Standards. This section supplements base zone development regulations to mitigate potential impacts of wildfire on land with moderate to severe wildfire areas shown on the McMinnville Natural Hazards Inventory Map.

- A. **Purpose.** These standards balance the need to protect riparian corridors, and landmark and significant trees, while reducing fuel loads and facilitating firefighter access to structures in the event of a wildfire.
1. The following studies and development standards apply to moderate, high and severe wildfire hazard areas on any proposed development site, as determined by the McMinnville Natural Hazards Inventory.
 2. In limited situations, removal or major pruning of significant trees may be required to meet the standards of this section. Removal of landmark trees shall only be considered as a last resort.
- B. **Required Wildfire Mitigation Plan.** If moderate to severe wildfire hazards exist on or adjacent to a development site, or when a development site abuts a significant tree grove, the applicant shall prepare a Wildfire Mitigation Plan as prescribed by Section 17.49.060.C. The plan shall apply for the following land use applications:
1. When a new habitable building, or an addition to an existing habitable building is proposed.
 2. Applications for Planned Developments and/or Land Divisions.
- C. **Fuel Reduction Area.** To reduce fire spread both from and to structures on the property, and to adjoining properties, the establishment and maintenance of a fuel reduction area shall be required.
1. The general fuel reduction area shall be measured thirty feet from the exterior walls of habitable structures on development sites with slopes of 10% or less.
 2. In steeply sloped areas, an additional ten feet of fuel reduction area shall be added for each 10% increase in slope. Thus, a 40-foot fuel reduction area would be required for a site with an average slope of 11-20%, and a 50-foot fuel reduction area would be required for a lot with a site with an average slope of 21-30%.

General Fuel Reduction Area for New Construction on Vacant Lots



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| <p>1 Keep all tree branches 10 feet from chimney</p> <p>2 Flammable trees or shrubs require a minimum vertical separation of 3x the height of shrub to lowest branches of trees</p> <p>3 For new construction on vacant lots, the General Fuels Modification Area includes the entire property. For additions and decks, it is 30 feet, subject to slope adjustments.</p> <p>4 Prune branches of flammable trees 10 feet from roof or deck</p> | <p>5 Tree spacing: 10 feet between outer most branches of flammable trees</p> <p>6 Flammable shrub spacing: 2x the height of shrub at maturity</p> <p>7 No fire prone plants or bark mulch within 5 feet</p> <p>8 Fencing made of non-combustable materials within 5 feet of connection to structure</p> <p>9 Class B or better roofing material</p> | <p>10 Prune flammable trees a minimum of 8 feet above the ground, or 1/3 of tree height, whichever is less.</p> <p>11 General fuel modification area is 30 feet from the building or deck when located on slopes of less than 10%, 40 feet on slopes between 11 and 20%, and a 50 foot distance for slopes greater than 20%.</p> <p>12 Before bringing combustible materials on site, complete all fuels reduction</p> |
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D. Vegetation and combustible materials within the fuel reduction area shall meet the following standards:

1. All standing dead and dying vegetation shall be removed from the property, except when considered ecologically beneficial (e.g., a snag located in a riparian corridor).
2. Newly planted vegetation within 30 feet of any building or deck shall not include highly flammable species. The setback shall be increased by ten feet for each ten percent increase in the average slope of the

property (measured from the proposed building or buildings) over ten percent.

3. Within five feet of a new building, addition, or deck, existing highly flammable vegetation shall be removed. However,
 - a. Land divisions and planned developments shall be designed to save landmark trees and minimize impacts on significant trees; and
 - b. The placement and design of new buildings on an existing lot shall avoid landmark trees if possible and minimize impacts on significant trees.
4. Within five feet of a new building, addition, or deck, combustible man-made and natural materials are prohibited, including but not limited to bark mulch, stored wood, and accumulation of dry leaves and needles. Exception: Combustible materials may be permitted within five feet of a structure by the Planning Director in consultation with the Fire Marshall, if the portion of the structure adjoining the combustible material is constructed with ignition resistant building materials sufficient to reduce the spread of fire.
5. Tree crowns or limbs shall not extend into the vertical plane of a chimney outlet.
6. Highly flammable significant and landmark trees shall be maintained to provide at least a 10-foot clearance from new structures (and any subsequent additions thereto) measured as follows:
 - a. Horizontally from a chimney outlet;
 - b. From above the roof of a new building, or addition; and
 - c. From the furthest extension of a new building, or addition or deck.
 - d. If pruning a tree to meet the above requirements would compromise the health and survival of an existing tree(s), the standards a-c above may be modified by the Community Development or Planning Director in consultation with the Fire Marshall, but at a minimum, the trees shall be pruned to maintain at least eight feet of ground clearance.
7. Canopy spacing of the outermost limbs of highly flammable trees shall be separated by at least 10 feet at mature size within the fuel reduction area.
 - a. Groups of trees that form a continuous canopy may be considered as one tree canopy.
 - b. Canopy spacing requirements do not apply landmark trees, as defined in Chapter 17.58 Trees, or to fire-resistant trees.
8. Fire-resistant trees (i.e., trees that are not highly flammable) shall be maintained to provide clearance from structures as follows:
 - a. 10 feet horizontal clearance from a chimney outlet.
 - b. At no time shall tree crowns or limbs extend into the vertical plane of a chimney outlet.
 - c. Tree limbs shall be pruned to ensure they do not touch any part of a structure including but not limited to roofs, eaves, and decks.

9. Existing highly flammable trees shall be pruned to provide a ground clearance of a minimum eight feet above the ground, or one-third of the tree height, whichever is less.
10. Existing highly flammable shrubs shall be maintained to provide a clearance from new structures and other flammable vegetation as follows:
 - a. Five feet clearance from the furthest extension of a new building, addition, or deck.
 - b. Separation from other highly flammable shrubs within the fuel reduction area shall be a minimum of two times the shrub's height at maturity.
11. Newly planted highly flammable shrubs shall be:
 - a. A minimum of 30 feet from the furthest extension of any building addition or deck.
 - b. Separated from other listed flammable shrubs by a minimum of two times the shrub's height at maturity.
 - c. Located outside of the drip line of a highly flammable tree.
12. Where either the tree or vegetation is highly flammable: the vertical clearance between the top of understory vegetation (within the drip line of a tree) and the lowest tree limbs, shall be at least three times the height of vegetation.
13. Existing vegetation may be allowed to be retained consistent with an approved Wildfire Mitigation Plan, or upon written approval of the Planning Director in consultation with the Fire Marshall:
 - a. To maintain slope stability;
 - b. To preserve or enhance riparian functions and values;
 - c. To protect or ensure the health of landmark or significant trees; or
 - d. For aesthetic purposes.
- E. Fuel reduction in areas steep slope / slide hazard areas, or significant riparian corridors, shall be included in the erosion control measures outlined in Section 17.49.060.
- F. The Fuel Reduction Area may be reduced or waived when approved by the Planning Director in consultation with the Fire Marshall, based on a finding that fire risk has been reasonably reduced such as in cases where ignition resistant materials and construction methods, or vegetation type and separation, function to enhance the structure's protection from exterior wildfire exposure.

17.49.140 Reserved for Future Use

Natural Hazard – Protection (NH-P) Subdistrict

17.49.150 Natural Hazards – Protection (NH-P) Protection Subdistrict

The NH-P is intended to avoid, and where avoidance is not feasible, to mitigate natural hazard impacts to life and property from each applicable natural hazard type (earthquakes, steep slopes, landslides and wildfires).

- A. Use Limitations and Development Standards. The NH-P Subdistrict includes use limitations and development standards to reduce composite risks to life and property associated with earthquakes, steep slopes, landslides, wildfires and flooding within its boundaries.
- B. Mitigation Based on Required Studies. To mitigate for unavoidable impacts, proposed development must follow the recommendations of required site-specific hazard studies.

17.49.160 Use Limitations. The underlying zoning district determines permitted and conditional uses within the NH-P Subdistrict, subject to additional development limitations and standards required by the NH-P Subdistrict. Residential density transfer may be permitted as prescribed in Section 17.49.170. The following use limitations apply to land within the NH-P Subdistrict.

- A. Creation of New Lots. Creation of new lots on land within the NH-P Subdistrict shall be prohibited, except when based on site-specific natural hazard impact studies and approved through the Chapter 17.48 Planned Development Overlay.
- B. Residential Zones. In residential zones, one dwelling unit shall be permitted for each lot-of-record, provided that:
 - 1. There is inadequate space to place a residence with a footprint of 2,000 square feet or less on the lot outside of the NH-P Subdistrict.
 - 2. The recommendations of required natural hazard impact studies are followed.
 - 3. Landmark trees are protected except where there is no reasonable alternative to allow a home with a 2,000 square foot footprint (or less) on a lot-of-record.
 - 4. Impacts on significant trees shall be minimized, recognizing that tree removal may be required to meet Section 17.49.130 Wildfire Assessment and Mitigation requirements and fuel reduction requirements.
- C. Large-Format Commercial Development. Large format commercial development as defined in Chapter 17.56 shall not be permitted within the NH-P Subdistrict.
- D. Commercial and Industrial Zones. In commercial and industrial zones, existing habitable structures and surface parking areas may be expanded by up to 50% within the NH-P Subdistrict, provided that:
 - 1. There is inadequate space to expand the structure by 50% outside of the NH-P Subdistrict.

2. The proposed expansion is located outside mapped high risk landslide and wildfire areas and is designed to minimize the building footprint and loss of significant and landmark trees on land within the NH-P Subdistricts.
 3. Outdoor storage areas are prohibited within the NH-P Subdistrict.
 4. The recommendations of required natural hazard impact studies are followed.
- E. **Flood Area Zone (F-P Zone)**. Public uses are permitted within the F-P Zone, provided that:
1. Impacts on significant and landmark trees are minimized.
 2. Scenic views are considered, enhanced and maintained.
 3. The recommendations of required natural hazard studies are followed.

17.49.170 Residential Density Transfer. A transfer of development density from undeveloped buildable land within the Natural Hazard Protection zone to other property within the city limits is encouraged. Density transfer may occur through the planned development process, as indicated below.

- A. **Development Density to Transfer from National Hazard Protection Zone (NH-P)**. The land area from which density can be transferred excludes developed and unbuildable areas, such as riparian corridors, slopes 15% or greater and easements. 50% of the development density of identified qualifying land within land may be transferred to any other residential zone.
- B. **Development Density in Receiving Area.** Up to a maximum 20% reduction in average minimum lot size or lot area per unit requirements, is allowed in order to accommodate the density transfer. Developments utilizing a transfer of density will need to apply for a Planned Development pursuant to Chapter 17.51/
- C. **If Density Transfer is Not Feasible.** In situations where density transfer is not feasible, a maximum of one dwelling unit per 2.5 acres may be allowed on land zoned for residential use within the NH-P Subdistrict, consistent with the recommendations of a geotechnical engineering study and any conditions required by the review authority.
- D. **Recording of Density Transfer.** In all cases where this bonus is used, covenants or other legally binding agreements that run with the land shall preclude the development of the land from which the density is transferred. The covenants or other legally binding agreements shall be recorded before the transferred density may be used.

17.49.180 Earthquake Mitigation Standards. Buildings and on-site construction projects must meet the seismic standards of the applicable Oregon Structural Specialty Code and Residential Specialty Code seismic requirements per Section 17.49.30.A.

17.49.190 Steep Slope and Landside Mitigation Standards. The following plans and development standards apply to when development is authorized pursuant to Section 17.49.160 on steeply sloped land (15% or greater) and to mapped landslide hazard areas on any proposed development site, as determined by the McMinnville Natural Hazards Inventory.

A. Required Plans.

1. If slopes of 15% or greater exist on the development site, the applicant shall submit an Erosion Control Plan per Section 17.49.30.A.
2. If moderate to high landslide hazard areas existing on the development site, the applicant shall submit a Geological Site Assessment per Section 17.49.60.A.
3. The City may contract with an independent geologist or geotechnical engineer to review the Geological Site Assessment.

B. Development Standards. Where development is authorized pursuant to Section 17.49.160 (Use Limitations), the applicant's site and building plans shall be consistent with the recommendations of the required Geological Site Assessment, including any changes and conditions required by the review authority after considering the recommendations of the independent peer reviewer.

1. If the Geological Site Assessment recommends a Geotechnical Engineering Study, building and construction plans shall be consistent with the recommendations of this study.
2. Generally, development should avoid slopes of 25% and greater, except where consistent with the recommendations of the Geological Site Assessment.
3. Removal of landmark trees shall be prohibited – except where the review authority determines that there is no reasonable alternative available to achieve project objectives.
4. Removal of significant trees shall be the minimum necessary to meet project objectives or to comply with an approved wildfire mitigation plan.

17.49.200 Wildfire Assessment and Mitigation Standards. Where development is permitted pursuant to Section 17.49.160 (Use Limitations), proposed development within mapped moderate to severe wildfire areas within the NH-P Subdistrict shall be subject to the Wildfire Assessment and Mitigation Stan