City Council Introduction: **Monday**, December 13, 2010
Public Hearing: **Monday**, January 3, 2011, at **3:00** p.m.

Bill No. 10-158

FACTSHEET

TITLE: **MISCELLANEOUS NO. 10010,** requested by the Director of the Public Works & Utilities Department, amending Title 26 of the Municipal Code, the Land Subdivision Ordinance, relating to Flood Insurance Rate Maps (FIRM).

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUESTS: Change of Zone No. 10022 (10-157).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 12/01/10
Administrative Action: 12/01/10

RECOMMENDATION: Approval (9-0: Larson, Esseks, Partington, Cornelius, Taylor, Francis, Gaylor Baird, Lust and Sunderman voting 'yes').

FINDINGS OF FACT:

1. This proposed text amendment to Title 26 and the associated text amendment to Title 27 (Change of Zone No. 10022) were heard at the same time before the Planning Commission.

2. This is a request to amend Title 26 of the Lincoln Municipal Code by amending Sections 26.24.010 and 26.25.010 to adopt the February 18, 2011, Flood Insurance Rate Map (FIRM), as required by the Federal Emergency Management Agency.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2, concluding that the adoption of this text amendment is required to insure continued participation in the National Flood Insurance Program and its provisions.

4. On December 1, 2010, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.

5. On December 1, 2010, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

6. On December 1, 2010, the Planning Commission also voted 9-0 to recommend approval of the associated text amendment to the Zoning Ordinance (Change of Zone No. 10022, Bill #10-157).

7. On December 1, 2010, the Planning Commission also voted 9-0 to recommend approval of the same text amendment to the Lancaster County Zoning Resolution, which will be scheduled for public hearing and action by the Lancaster County Board in the near future.

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: December 6, 2010

REVIEWED BY:_____ **DATE**: December 6, 2010

REFERENCE NUMBER: FS\CC\2010\MISC.10010+ text

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for December 1, 2010 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 10022 and ***Miscellaneous No. 10010***

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items.

PROPOSAL: An amendment to the City zoning and subdivision ordinances to update the referenced effective floodplain map dates.

LOCATION: 27.52 "Flood Regulations for Existing urban Area
27.53 "Flood Regulations for New Growth Areas
26.24 "Flood Regulations for Existing Urban Areas
26.25 "Flood Regulations for New Growth Areas

CONCLUSION: Adoption of these adjustments is required to insure continued participation in the National Flood Insurance Program (NFIP) and it's provisions.

RECOMMENDATION: Approval of the attached text

ANALYSIS:

1. This is a text amendment to Chapters 27.52 and 27.53 Flood Regulation of the Lincoln Zoning Ordinance and Chapter 26.24 and 26.25 of the Lincoln Subdivision Ordinance. These changes are an update of the referenced date of the Flood Insurance Rate Map (FIRM).

2. These revisions are due to new FEMA approved Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) that will become effective February 18, 2011.

3. This will provide updates to the best available technical information for the City and County.

4. These text amendments to the Zoning Ordinance and Land Subdivision Ordinance effectively adopt the new Floodplain Maps.

5. This new information has been developed in floodplain studies done in cooperation between the City of Lincoln, the Lower Platte NRD and Lancaster County. These have been approved by FEMA.

6. FEMA requires we adopt the map and associated language prior to February 18, 2011 to continue to participate in the National Flood Insurance Program (NFIP).

Prepared by:

Mike DeKalb, Planner
mdekalb@lincoln.ne.gov
402-441-6370

DATE: November 9, 2010

APPLICANT: Greg MacLean
Director of Public Works and Utilities
555 S. 10th ST.
Lincoln, NE 68508
402-441-7589

CONTACT: Ben Higgins
Watershed Manager
555 S. 10th ST.
Lincoln, NE 68508
402-441-7589

CHANGE OF ZONE NO. 10022
and
MISCELLANEOUS NO. 10010

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **December 1, 2010**

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 10023, CHANGE OF ZONE NO. 10022 and MISCELLANEOUS NO. 10010.**

Ex Parte Communications: None

Francis moved to approve the Consent Agenda, seconded by Larson and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

CITY OF LINCOLN
NEBRASKA
MAYOR CHRIS BEUTLER
lincoln.ne.gov

Public Works and Utilities Department
Gregory S. MacLean, Director
555 South 10th Street
Suite 208
Lincoln, Nebraska 68508

November 2, 2010

Marvin Krout, Director
Lincoln-Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln, NE 68508

Dear Marvin:

Re: Approval and Text Revisions to change the Floodplain Map effective date for the City of Lincoln and Lancaster County

Attached please find proposed text revisions to the City Zoning and Subdivision Ordinances and the County Zoning Regulation for providing new dates associated with the approval of the effective floodplains for the City and County effective floodplain map. Approval of the floodplains is planned for City Council and the County Board. Text revisions are proposed for:

- City Ordinance 26.24 "Flood Regulations for Existing Urban Area"
- City Ordinance 26.25 "Flood Regulations for New Growth Areas"
- City Ordinance 27.52 "Flood Regulations for Existing Urban Area"
- City Ordinance 27.53 "Flood Regulations for New Growth Areas"
- County Zoning Regulations Article 11 "Flood Plain District"

These revisions are due to new FEMA approved floodplain maps and Flood Insurance Rate Map (FIRM) that are effective February 18, 2011, for Southeast Upper Salt Creek, Deadmans Run, Beal Slough, Cardwell Branch, Deadmans Run, Stevens Creek, and portions of Salt Creek. Major reductions in the Antelope Creek floodplain have already been approved by FEMA through a Letter of Map Revision process (effective October 8, 2010) but are not shown on the updated federal floodplain maps due to FEMA timing constraints. However the reduced Antelope Creek floodplain map is effective and is on the City's website for viewing floodplains.

These revisions will provide updated consistent floodplain maps to apply the best technical flood hazard information available throughout the City and County, and therefore better protect and forewarn local homes and businesses in the future.

Please contact Ben Higgins with my staff at 441-7589 (bhiggins@lincoln.ne.gov) with any questions or concerns.

Sincerely,

Greg MacLean
Director of Public Works and Utilities

cc: Miki Esposito, Devin Beisecker - Pubic Works
Mike DeKalb - Planning
Terry Kathe - Building and Safetly
Doug Pillard - Lancaster County
Bill Jones - NDNR
Glenn Johnson - LPSNRD

LINCOLN
The Community of Opportunity

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Planning Commission Fact Sheet

To: Planning Department
From: Ben Higgins, Public Works
Re: Approval and Text Revisions to change the Floodplain Map effective date for the City of Lincoln and Lancaster County
Date: November 3, 2010

1. On February 18, 2011 new floodplain maps for the City of Lincoln and Lancaster County will become effective as approved by the Federal Emergency Management Agency. Text revisions are attached with this submittal for the related text changes regarding updated effective floodplain map dates in the City of Lincoln Zoning and Subdivision Ordinances as well as the County Zoning Regulations.

2. It will be requested that City Council and the County Board formally adopt the new floodplain maps (see attached map - Exhibit A) known as Flood Insurance Rate Maps, as well as the aforementioned ordinance and regulation text changes.

3. The City, as a Cooperating Technical Partner with FEMA, coordinated floodplain mapping efforts with the Lower Platte South Natural Resources District (NRD) and Lancaster County (where appropriate) to contract with consults to develop revised floodplain maps for Beal Slough, Southeast Upper Salt Creek, Stevens Creek, portions of Salt Creek, Cardwell Branch and Deadmans Run. The technical flood studies were completed and certified by a licensed engineering and completed in compliance with FEMA's Guidelines and Specifcations for Flood Hazard Mapping Partners. The revisions as proposed have been approved by FEMA and will be effective February 18, 2011 given that the City Council and County Board accept the proposed maps and related text changes.

4. The technical floodplain studies were undertaken as a major component of proposed Watershed Master Plans (except for Salt Creek) and were done in a cooperative effort with the NRD and where appropriate the County. All of the Watershed Master Plans as well as the technical flood study on Salt Creek went through an extensive public process to solicit input from a broad range of interest groups. The public process included a variety of public open houses, newsletters, project web sites, and citizen/technical advisory committees. Draft Floodprone area/Floodway maps were made available for review at public meetings and project websites. In addition, letters were mailed to owners of property within the existing floodplain or proposed floodprone areas to inform them that their property may be a risk of flooding. Also to invite the public to public meetings or to visit the project website where they could view the new flood maps.

5. The Beal Slough Watershed Master Plan was adopted as an approved subarea plan of the Comprehensive Plan by City Council on June 5, 2000 (Resolution A-80226) and by the

County Board of Commissioners on July 14, 2000 (Resolution R-00-87). The Beal Slough Floodprone Areas were adopted by City Council on January 9, 2006 (Resolution A-83704). The floodplain area increased in Beal Slough due to the amount of urbanization from the previous floodplain mapping in the late 1970's as well as mapping of tributaries.

6. The Southeast Upper Salt Creek Watershed Master Plan was adopted as an approved subarea plan of the Comprehensive Plan by City Council on October 6, 2003 (Resolution A-82386) and by the County Board of Commissioners on October 21, 2003 (Resolution 03-0012). The Southeast Upper Salt Creek Floodprone Areas were adopted by City Council on January 9, 2006 (Resolution A-83706). Southeast Upper Salt Creek was not previously mapped so all of the floodplain mapping is new for Southeast Upper Salt Creek.

7. The Stevens Creek Watershed Master Plan was adopted as an approved subarea plan of the Comprehensive Plan by City Council on April 4, 2005 (Resolution A-83258) and by the County Board of Commissioners on March 2, 2005 (Resolution 05-0033). The Stevens Creek Floodprone Areas were adopted by City Council on January 9, 2006 (Resolution A-83705). Major revisions to the Stevens Creek floodplain are from mapping of tributaries.

8. The Cardwell Branch Watershed Master Plan was adopted as an approved subarea plan of the Comprehensive Plan by City Council on November 5, 2007 (Resolution A-84614) and by the County Board of Commissioners on October 31, 2007 (Resolution 07-0097). The Cardwell Branch Floodprone Areas were adopted by City Council on January 9, 2006 (Resolution A-83707). Cardwell Branch was remapped to Yankee Hill Lake along the main stem and also along the south tributary.

9. The Deadmans Run Watershed Master Plan was adopted as an approved subarea plan of the Comprehensive Plan by City Council on February 11, 2008 (Resolution A-84746). The Deadmans Run Floodprone Areas were adopted by City Council on February 11, 2008 (Resolution A-84724). Major revisions to the Deadmans Run floodplain include an increase in floodplain area near the confluence with Salt Creek.

10. The Salt Creek Floodprone Areas and related ordinances were adopted by City Council on February 27, 2007 (Resolution A-84280, Ordinance 18893). Portions of Salt Creek remapped were from south of Saltillo Road to the confluence of Salt Creek with Stevens Creek. Major revisions to Salt Creek included several structures removed from the mapped floodplain due to previous Letter of Map Revisions and Amendments. Similar to previous mapping in Salt Creek the floodway was confined to be between the levees from Calvert to Superior. Ordinances were approved in coordination with the floodplain mapping so that areas adjacent the Salt Creek know as Salt Creek Storage Areas would have maximum fill amounts (vary between maximum fill amounts of 35% and 60%) to

insure that floodway elevations won't increase more than a foot due to future development in conformance with local, state and federal regulations.

11. To date there has not been a Watershed Master Plan along Oak Creek. However due to channel revisions by others as well as the de-certification of the Oak Creek Levee there are significant floodplain revisions with the new floodplain maps. The Oak Creek floodplain was significantly reduced from W. Adams to W. Fletcher due to a Letter of Map Revision effective October 24, 2007. In regards to the levee, on December 13, 2005 FEMA sent a letter to the City of Lincoln requiring that the Oak Creek Levee be re-certified according to current federal levee standards per Federal Procedure Memorandum #34 (at that time named the 'Interim Guidances for Studies Including Levees'). This was done in conjunction with a nationwide levee effort as a result of the Katrina hurricane in August 2005. The City in coordination with the NRD and Airport Authority proceeded with a study of the Oak Creek Levee where it was determined that the levee could not be re-certified under existing conditions due to not enough freeboard (i.e. levee not high enough). Further communications/meetings were held with the above agencies as well as Nebraska Department of Natural Resources and Air/Army Guards regarding the Oak Creek levee issue. Due to not meeting the certification criteria the existing Oak Creek levee was decertified by FEMA in the summer of 2008.

12. Floodplain changes were also made on tributary creeks (Ash Hollow Ditch and End Run) to Salt Creek that flow through Waverly.

13. The City entered into a Cooperating Technical Partnership with FEMA on January 13, 2003 (Resolution A-81895) for remapping floodplains in Lincoln. Much of the funding was obtained from FEMA for this effort per an agreement with FEMA dated September 12, 2003 (ratified May 17, 2004, Resolution A-70300) for remapping of Beal Slough, Southeast Upper Salt Creek, Stevens Creek and portions of Salt Creek. This agreement was later amended to add remapping of Deadmans Run. All of the above noted floodplain maps (Beal Slough, Southeast Upper Salt Creek, Stevens Creek, portions of Salt Creek, Deadmans Run) have previously been through a FEMA review process as part of the Cooperating Technical Partnership agreement and funding agreement. All of the above floodplains were incorporated into one submittal to FEMA for another review for the federal process to formally adopt the updated floodplains in early 2008. In September 2008 local elected officials received a letter that FEMA had produced draft Digital Floodplain Insurance Rate Maps (DFIRM) and Flood Insurance Study (FIS) for Lancaster County and requested a 30 day review for non technical issues such as corporate limits, road names, stream labels, etc. Information was coordinated and returned within the 30 day review period. A formal Final Meeting with a FEMA representative was held November 19, 2008 in which local elected officials were invited. On April 3, 2009 local elected officials received a letter from FEMA regarding the Draft DFIRM and FIS and the start of the 90 day appeal period for appealing proposed Base Flood Elevations. The 90 day appeal began on April 15, 2009 (second notice of floodplain proposed modifications

in legal section of Lincoln Journal Star and The News-Waverly). Technical responses were again coordinated including those from non-city agencies and the public, and sent to FEMA. After additional communications and correspondence over the next several months, FEMA responded with a letter to local elected officials stating that the appeals have been resolved and the map products finalized. This letter, sent August 18, 2010, is known as the 'Letter of Final Determination' and it stated that the effective date for the new mapping would be February 18, 2011. FEMA also provided the final maps in both digital and hard copy formats.

14. Included with the August 18, 2010 letter was FEMA brochure (FEMA B-495/September 2005) regarding 'Adoption of Flood Insurance Rate Maps by Participating Communities'. The portion of that brochure that discusses the consequence of not adopting the new floodplain maps is attached as Exhibit B.

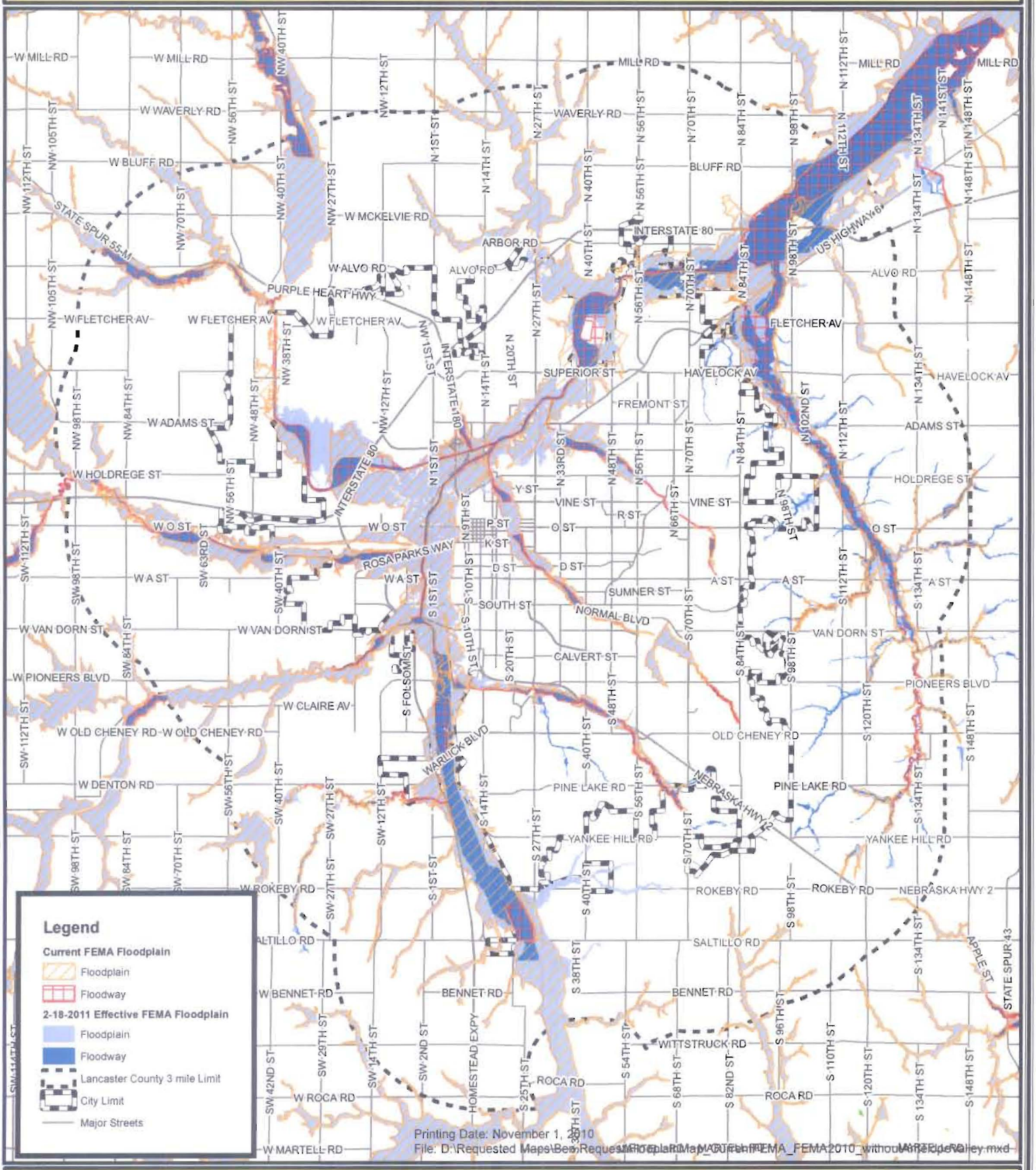
15. Due to the timing and length of FEMA process for adopting new maps no floodplain revisions that were done prior to the federal submittal date of 2008 are included in the new floodplain maps. This includes both the City/County adopted floodprone maps for Little Salt Creek and the Letter of Map Revision (effective October 8, 2010) for lower Antelope Creek.

16. Current future mapping projects for eventual FEMA approval include those for Little Salt Creek and Zone A mapping of Lancaster County, middle Antelope Creek, and lower Beal Slough. Any future formal floodplain map from FEMA would include previous Letter of Map Revisions such as lower Antelope Creek.

17. As part of the public process during the Watershed Master Plans and Salt Creek study the City/NRD offered to do surveys at their expense for structures (residential and commercial) that appeared to be barely in or very close to a new floodplain but that may actually be out based on the structure's elevation. The City also received some surveys by private property owners. The city is currently coordinating with FEMA so that those structures that are actually out (approximately 200) as a result of the City/NRD survey or private property owner survey will receive Letter of Map Amendments from FEMA stating that they are not in a floodplain. These letters should be received by the property owners on the day after the effective date (February 18, 2011) of the new floodplain maps.

Exhibit A

City of Lincoln and Lancaster County



CITY OF LINCOLN NEBRASKA

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Floodplain Map

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CITY OF LINCOLN WATERSHED MANAGEMENT

Exhibit B

Elevated home on pile foundation

Elevated home on crawl space foundation

What happens if a community does not adopt the appropriate floodplain management regulations during the six-month adoption period?

If a community does not adopt new floodplain management regulations or amend its existing regulations before the effective date of the flood map, the community will be suspended from the NFIP.

The following sanctions apply if a community is suspended from the NFIP:

- Property owners will not be able to purchase NFIP flood insurance policies and existing policies will not be renewed.
- Federal grants or loans for development will not be available in identified flood hazard areas under programs administered by Federal agencies such as the Department of Housing and Urban Development, Environmental Protection Agency, and Small Business Administration.
- Federal disaster assistance will not be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
- Federal mortgage insurance or loan guarantees will not be provided in identified flood hazard areas such as those written by the Federal Housing Administration and the Department of Veteran Affairs.
- Federally insured or regulated lending institutions, such as banks and credit unions, are allowed to make conventional loans for insurable buildings in flood hazard areas of non-participating communities. However, the lender must notify applicants that the property is in a flood hazard area and that the property is not eligible for Federal disaster assistance. Some lenders may voluntarily choose not to make these loans.

If your community is suspended from the NFIP for failure to adopt or amend its floodplain management regulations prior to the map effective date, your community can be reinstated into the program upon adoption. If development takes place in your community during suspension that does not meet the minimum NFIP requirements, your community will be asked to take actions to reduce the increased flood hazard prior to reinstatement.

ADOPTING YOUR COMMUNITY'S NEW DIGITALLY-FORMATTED FLOOD MAP

FEMA will be reformatting your community's existing (paper) flood map into a digital format. This means taking your existing flood map and producing a digital, geospatially referenced flood layer on a new, digital base map. For some communities where existing flood data is determined to be accurate, FEMA will prepare the new flood map without developing new flood hazard data or changing existing data (elevations or flood flows). However, geospatially referencing the floodplain delineations to a new base map will likely result in some changes in the floodplain boundaries. In addition, the flood map and flood study will be modified to incorporate Letters of Map Change that have been approved by FEMA since the original flood map was issued for your community.

When reformatting your community's map to a digital format, the flood map will need to be republished with a new effective date. Communities will be given a review period and an opportunity to provide comments to FEMA on the new flood map. In these cases, your community's floodplain management regulations will have to be amended to reference the new map unless your community has a valid automatic adoption provision. The digitally based flood map will provide you with increased capabilities in using the flood hazard information for floodplain management and other purposes.