

**TITLE 12
FLOOD CONTROL**

**CHAPTER 1
FLOOD CONTROL**

12-1-1: STATEMENT OF PURPOSE:

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

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To insure that potential buyers are notified that property is in an area of special flood hazard;
and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 537, 3-2-87)

12-1-2: METHODS OF REDUCING FLOOD LOSSES:

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

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

- D. Controlling filling, grading, dredging and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 537, 3-2-87)

12-1-3: DEFINITIONS:

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meanings they have in common usage and to give this Chapter its most reasonable application.

APPEAL: A request for a review of the Planning Commission's provision of this Chapter or a request for a variance.

AREA OF SHALLOW FLOODING: A designated AO Zone or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet (1' - 3'); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

FLOOD or FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) The overflow of inland waters, and/or 2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: 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.

FLOODWAY: 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 (1').

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of subsection 12-1-8B1b of this Chapter.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

MANUFACTURED HOME PARK or SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date of this Chapter.

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 one hundred eighty (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 foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE: A walled and roofed building including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT:

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: 1) before the improvement or repair is started, or 2) if the structure has been damaged and is being restored, before the damage occurred.
- B. 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.

- C. The term does not, however, include either: 1) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or 2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE: A grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter. (Ord. 537, 3-2-87)

12-1-4: GENERAL PROVISIONS:

- A. Lands to Which Provisions Apply: This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City.
- B. Basis for Establishing Areas of Special Flood Hazard: The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Umatilla", dated September 24, 1984, with accompanying flood insurance rate maps is hereby adopted by reference and declared to be a part of this Chapter. The flood insurance study is on file at 910 Sixth Street, Umatilla, Oregon.
- C. 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. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than two hundred fifty dollars (\$250.00) for each violation, each day of violation constitutes a separate offense; and in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
- D. 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 other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. 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.
- F. 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 man-made or natural causes. This Chapter does not imply that land outside the area 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, 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 thereunder. (Ord. 537, 3-2-87)

12-1-5: ESTABLISHMENT OF DEVELOPMENT PERMIT:

- A. Development Permit Required: A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection 12-1-4B of this Chapter. The permit shall be for all structures including manufactured homes as set forth in the definitions and for all development including fill and other activities, also as set forth in the definitions.
- B. Application for Development Permit: Application for a development permit shall be made on forms furnished by the City Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 - 1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
 - 2. Elevation in relation to mean sea level to which any structure has been flood-proofed.
 - 3. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in subsection 12-1-8B2 of this Chapter.
 - 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 537, 3-2-87)

12-1-6: PLANNING COMMISSION:

- A. Designation: The City Planning Commission is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.
- B. Duties and Responsibilities: Duties of the City Planning Commission 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, assure that the encroachment provisions of subsection 12-1-8C of this Chapter, are met.
- 2. Use of Other Base Flood Data: When base flood elevation data has not been provided in accordance with subsection 12-1-4B, the City Planning Commission 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 subsections 12-1-8B and 12-1-8C of this Chapter.
- 3. Information to be Obtained and Maintained:
 - a. Where base flood elevation data is provided through the flood insurance study or required as in subsection B2 hereinabove, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new substantially improved flood-proofed structures:
 - 1) Verify and record the actual elevation (in relation to mean sea level); and
 - 2) Maintain the flood proofing certifications required in subsection 12-1-5B3 of this Chapter.
 - c. Maintain for public inspection all records pertaining to the provisions of this Chapter.
- 4. Alteration of Watercourses:
 - a. Notify adjacent communities and the State coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - 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 the 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 Section 12-1-7 of this Chapter.

12-1-7: VARIANCE PROCEDURE:

A. Appeal Board:

- 1. The City Council as established by the City of Umatilla, shall hear and decide appeals and requests for variances from the requirements of this Chapter.

2. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the City Administrator in the enforcement or administration of this Chapter.
3. Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the Land Use Board of Appeals, as provided ORS 197.830 to 197.845.
4. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger of life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan, and flood plain management program of that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. 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
 - k. 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.
5. Upon consideration of the factors of subsection 12-1-7A4 and the purposes of this Chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to the purposes of this Chapter.
6. The City Planning Commission shall maintain the records of all appeal actions and report any variance to the Federal Insurance Administration upon request.

B. Conditions for Variances:

1. 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 (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items a through k in subsection 12-1-7A4 of this Chapter, have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. 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 subsection 12-1-7A4 of this Chapter, or conflict with existing local laws or ordinances.
6. 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.
7. Any applicant to whom a variance is granted shall be given written notice that the 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 be commensurate with the increased risk resulting from the reduced lowest floor elevation.

12-1-8: 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 shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - 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 (reference 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. Utilities:
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 4. Subdivision Proposals:
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage.
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less.)
 5. Review of Building Permits: Where elevation data is not available either through the flood insurance study or from another authoritative source (subsection 12-1-6B2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') 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 have been provided as set forth in subsection 12-1-4B or in subsection 12-1-6B2, the following provisions are required:
 1. Residential Construction:
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above 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 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) A Minimum of two (2) 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.
 - 2) The bottom of all openings shall be no higher than one foot (1') above grade.
 - 3) Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
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 to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:
- a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection 12-1-6B3b of this Chapter.
 - d. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection 12-1-8B1b 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 (1') below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
3. Manufactured Homes: All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 12-1-8A1b.

NOTE: Where base flood elevations have been provided but floodways have not, the following subsection C shall apply.

- C. Encroachments: The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot (1') at any point. (Ord.