

ARTICLE 3.12 – FLOOD PLAINS

SECTION 3.12.001 - PURPOSE

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

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

SECTION 3.12.002 - METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purpose, this article 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; 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.

SECTION 3.12.003 - APPLICABLE LANDS

This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of La Grande.

SECTION 3.12.004 - BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of La Grande" dated April 3, 1996, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at City Hall, 1000 Adams Avenue, La Grande, Oregon.

The maps and study may be periodically revised or modified by the Federal Emergency Management Agency (FEMA) in accordance with prescribed procedures pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (PL 92-234). These changes are technical in nature and are made in order to reflect new or revised data on base flood elevations, ground elevations, flood control structures or other factors. In order to employ the best available information and maintain compliance with Federal Flood Insurance Program regulations, the City of La Grande shall utilize any such revisions or modifications upon the effective date.

SECTION 3.12.005 - ABROGATION AND GREATER RESTRICTIONS

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 3.12.006 - INTERPRETATION

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

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

SECTION 3.12.007 - WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance 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 Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of La Grande, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

SECTION 3.12.008 - ESTABLISHMENT OF DEVELOPMENT PERMIT

- A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.12.004. The permit shall be for all structures including manufactured homes, as set forth in the definitions Chapter 1 and for all other development including fill and other structures, also as set forth in the definitions Chapter 1.
- B. Application for a development permit shall be made on forms furnished by the City of La Grande Community Development Director/Planner and may include but not be limited to:
 - 1. Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question;
 - 2. Existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, or the lowest floor (including basement) of all structures;
 - b. Elevation in relation to mean sea level to which any structure has been flood proofed;
 - c. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 3.12.014(B)(2); and,
 - d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- C. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot (1') at any point. This standard only applies when no floodway is determined (per 44CFR, Chapter 1, §60.3(C)(10))

SECTION 3.12.009 - DESIGNATION OF THE CITY OF LA GRANDE Community Development Director/Planner

The City of La Grande Community Development Director/Planner is hereby appointed to administer and implement this Ordinance by granting or denying development permit applications in accordance with its provision.

SECTION 3.12.010 - DUTIES AND RESPONSIBILITIES OF THE CITY OF LA GRANDE COMMUNITY DEVELOPMENT DIRECTOR/PLANNER

Duties of the City Community Development Director/Planner shall include, but not be limited to:

A. Permit Review

1. Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 3.12.015(A) are met.
4. Review all such development permits to ensure that the proposed grading and structures:
 - a. Will not reduce the channel flow capacity or storage volume necessary to deep flood hazards at an acceptable level of risk; and,
 - b. Will not cause adverse changes in the location and extent of the flood plain or increase flood elevations.

B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.12.004 - Basis for Establishing the Areas of Special Flood Hazard, the City Community Development

Director/Planner 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 Section 3.12.014 - Specific Standards, and Section 3.12.015 - Floodways.

C. Information to be Obtained and Maintained by the City Building Official in Coordination with the City Community Development Director/Planner

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 3.12.010(B), obtain and record with the Building Permit the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved flood proofed structures:
 - a. Verify and record with the Building Permit the actual elevation in relation to mean sea level), and,
 - b. Maintain the flood proofing certifications required in Section 3.12.010(A).
3. Maintain for public inspection all records pertaining to the provisions of this Ordinance.

D. Alteration of Watercourses

1. Notify adjacent communities, the Department of Land Conservation and Development and the United States Army Corps of Engineers prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 3.12.012.

SECTION 3.12.011 - VARIANCE PROCEDURE

Please refer to Article 8.4, Section 8.4.004 for Variance Procedures.

SECTION 3.12.012 - VARIANCE CRITERIA

A. Appeal Board

1. The City of La Grande Planning Commission as established by the La Grande City Council shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
2. In passing upon such applications, the La Grande Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The dangers to 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 owners;
 - 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 relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;
 - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i. 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,
 - j. 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.
3. Upon consideration of the factors of Sections 3.12.012(A)(2) and the purposes of this Ordinance, the City Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
4. The City Community Development Director/Planner shall maintain the records of all appeal actions and report any variances to the Federal 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 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Subsections a through j, in Section 3.12.012(A)(2) have been fully considered. As the lot size increases the technical justification required for issuing the variance increase.

2. Variances may be issued for the repair or rehabilitation of structures listed on the National Register of Historic Places on the State Inventory of Historic Places, without regard to the procedures set forth in this section.
3. Variances shall not be issued within a 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 Section 3.12.012(A)(2), 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. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 3.12.012(B)(2), and otherwise complies with Sections 3.12.013(A) and 3.12.013(B) of Article 3.12.
8. 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.

SECTION 3.12.013 - PROVISIONS FOR FLOOD HAZARD REDUCTION

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

A. Anchoring

1. All new construction and substantial improvements shall be adequately anchored to prevent floatation, collapse, or lateral movement of the structure.
2. All manufactured homes to be placed within Zone "A" shall be installed using methods and practices that minimize flood damage.

For the purposes of this requirement, manufactured homes must be elevated and anchored to resist floatation, collapse, or lateral movement.

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.)

B. Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. 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 including proposals for manufactured home parks and subdivisions greater than fifty (50) lots or five (5) acres (whichever is less).

E. Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study from another source Section 3.12.010(B), applications for Building Permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.

SECTION 3.12.014 - SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.12.004 - Basis for Establishing the Areas of Special Flood Hazard, or Section 3.12.010(B) - Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction

1. New construction and substantial improvement of a residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot (1') above base flood elevation.
2. Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding, 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:
 - a. A minimum of two (2) openings having a total net area of not less than one square inch (1" square) for every square foot (1' square) of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot (1') above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. 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 or above the base flood level; or, together with attendant utility and sanitary facilities, shall:

1. Be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or 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, including the specific elevation to which such structures are flood proofed, shall be provided to the official as set forth in Section 3.12.010(C)(2).
4. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in Section 3.12.014(A)(2).
5. Applicants flood proofing non-residential 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 flood proofed to the base flood level will be rated as one foot (1') below].

C. Manufactured Homes and Recreational Vehicles

1. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on sites:
 - a. Outside of a manufactured home park or subdivision,
 - b. In a new manufactured home park or subdivision,
 - c. In an expansion to an existing manufactured home park or subdivision, or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot (1') above the base flood elevation and securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement in accordance with provision of Subsection 3.12.013(A)(2).
2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE that are not subject to the provision of Section 3.12.014(C)(1) be elevated so that either:
 - a. The underside of the floor of the manufactured home is to be a minimum of one foot (1') above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
3. All recreational vehicles placed on sites within Zones A1-30, AH, and AE either:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days,
 - b. Be fully licensed and ready for highway use, or
 - c. Meet the permit requirements of Section 3.12.010(A) and the elevation and anchoring requirements for "Manufactured Homes" in Section 3.12.014(C)(1).
4. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION 3.12.015 - FLOODWAYS

Located within areas of special flood hazard established in Section 3.12.004 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- B. If Section 3.12.015(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provision of Section 3.12.013 - Provisions for Flood Hazard Reduction.

SECTION 3.12.016 - STANDARDS FOR SHALLOW FLOODING AREA (AO ZONES)

Shallow flooding areas appear on FIRM's as AO zones with depth designations. The base flood depths in these zones range from one to three feet (1' - 3') where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, (at least two feet (2') if no depth number is specified); or
- B. New construction and substantial improvements of nonresidential structures with AO zones shall either:
1. Have the lowest floor (including basement) elevated above the adjacent grade at least as high as the depth number specified in feet on the FIRM, (at least two feet (2') if no depth number is specified); or
 2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 3.12.014(B)(3).
- C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.