

BEFORE THE BOARD OF COMMISSIONERS OF COWLITZ COUNTY, STATE OF WASHINGTON

Ordinance No. 23-079

AN ORDINANCE OF COWLITZ COUNTY REPEALING, REVISING AND AMENDING CHAPTER 16.25 OF THE COWLITZ COUNTY CODE REGARDING THE FLOODPLAIN MANAGEMENT ORDINANCE

WHEREAS, the Washington Department of Ecology, working as partner with the Federal Emergency Management Agency (FEMA), has provided the county within planning assistance to review and produce a periodic update to Cowlitz County Code Chapter 16.25.

WHEREAS, The Cowlitz County Planning Commission (Planning Commission) unanimously recommended to the Board of County Commissioners (Board) to the Board to repeal the existing chapter and adopt the revised ordinance, subject to two revisions.

WHEREAS, Cowlitz County Department of Building and Planning staff has recommended to the Planning Commission and the Board to adopt the national standard as approved and accepted by FEMA which requires one-foot of elevation above the regulatory floodplain or base flood elevation (BFE), as applicable.

WHEREAS, the Planning Commission recommends maintaining the existing requirement of three feet of elevation above the regulatory floodplain or BFE for the Cowlitz and Toutle Rivers and two feet of elevation for all other regulated floodplains within Cowlitz County.

WHEREAS, The Board rejects the Planning Commission recommendation and adopts its own findings and conclusions as follows:

1. The existing ordinance, Chapter 16.25 CCC, generally provides for a minimum of three feet of elevation above the base flood elevations (BFE) of the Cowlitz and Toutle Rivers, and where there is no base flood elevation available for all other regulatory waterways. For all other regulatory flood elevations not protected by levee and where the BFE is available, the minimum elevation is two feet.
2. The current elevation requirements have been incorporated into the proposed ordinance, but one foot is the minimum requirement to maintain compliance with the National Flood Insurance Program (NFIP) requirements in order to be eligible for applicable NFIP rates and coverage.
3. The Department of Building & Planning has requested assistance and best available data from the Department of Ecology, FEMA, and the U.S. Army Corps of Engineers to substantiate the additional elevation, but none has been provided. However, all referenced agencies continue to recommend the enhanced elevation requirements in Cowlitz County, whereas one foot is the general standard throughout Washington State.
4. The additional elevation may cause undue hardship and expense related to associated construction costs.
5. Property owners can make the decision to increase the elevation on an individual basis and should be afforded that property right in accordance with applicable and available regulation.
6. Continued management of the Cowlitz and Toutle Rivers is included within the Final Supplemental Environmental Impact Statement for sediment control at Mount St. Helens, which gives the Army Corps of Engineers approval with funding, to manage, mitigate and dredge the Cowlitz and Toutle Rivers (in addition to its responsibility on the Columbia River) to continue managing flood risk for communities in Cowlitz County.

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of Cowlitz County, State of Washington that:

SECTION 1. Cowlitz County Code (CCC) Chapter 16.25 of the hereby is amended, revised, and repealed in its entirety in accordance with Exhibit A.

SECTION 2. Severability. The provisions of this ordinance are declared separate and severable. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, paragraph subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraph subsections, clauses or phrases may subsequently be found to be unconstitutional or invalid.

SECTION 3. Savings. The repeal, revision and amendment of Chapter 16.25 CCC shall not affect any other section of related ordinances, or be construed as affecting any existing right or registration acquired under the ordinances or portions of ordinances currently existing, or as repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder, except as provided at law.

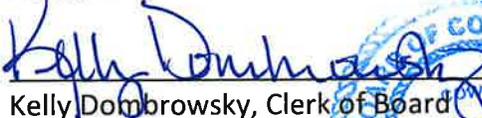
Notwithstanding the foregoing actions, obligations under such ordinances or as to such registrations issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified, except as provided at law.

SECTION 4. Only code adoptions and amendments in Section 1, above, shall be codified.

SECTION 5. These regulations are in the public interest and shall take effect immediately.

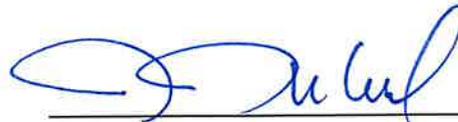
APPROVED THIS 21st day of November 2023, after a public hearing was held on said date.

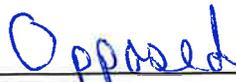
ATTEST:


Kelly Dombrowsky, Clerk of Board



**BOARD OF COMMISSIONERS
COWLITZ COUNTY, WASHINGTON**


Richard R. Dahl, Chairman


Dennis P. Weber, Commissioner

APPROVED AS TO FORM, ONLY:
RYAN JURVAKAINEN, Prosecuting Atty.


Arne Mortensen, Commissioner

Douglas E. Jensen, Chief Civil Deputy

EXHIBIT A

**Chapter 16.25
Floodplain Management**

Sections:

16.25.010	Title
16.25.010	Purpose
16.25.030	Definitions
16.25.040	General Provisions
16.25.060	Administration
16.25.080	Provisions for Flood Hazard Reduction
16.25.090	Variances

16.25.010 TITLE

This ordinance codified in this chapter shall be cited as the “Cowlitz County Floodplain Management Ordinance.”

16.25.020 Purpose

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

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- G. Notify potential buyers that the property is in a Special Flood Hazard Area;

H. Notify those who occupy flood hazard areas that they assume responsibility for their actions; and

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

16.25.030 Definitions

For the purposes of this chapter, the following terms shall be defined as follows, and all other words shall carry their customary meanings:

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

Appeal: A request for a review of the interpretation of any provision of this ordinance in accordance with provisions of Cowlitz County Code Section 18.02.110.

Area of shallow flooding: A designated zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

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

Base flood: The flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the "100-year flood").

Base Flood Elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Breakaway wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading

forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building: See "Structure."

Building Code: The currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council as amended and adopted by Cowlitz County.

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

Department: Means the Cowlitz County Department of Building and Planning.

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 or storage of equipment or materials located within the area of special flood hazard.

Director: Means the Director of the Cowlitz County Department of Building and Planning, or their designee.

Elevated Building: For insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Elevation Certificate: An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

Essential Facility: This term has the same meaning as "Essential Facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Farmhouse: A single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

Flood or Flooding:

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

Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or

improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

Floodplain administrator: The community official designated by title to administer and enforce the floodplain management regulations.

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 a designated height. Also referred to as "Regulatory Floodway."

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

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4) Individually listed on the Cowlitz County Historic Register or Cowlitz County Historic Inventory.

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 this ordinance (i.e. provided there are adequate flood ventilation openings).

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 attached to the required utilities. This term includes park model manufactured homes. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into three or more manufactured home lots for rent or sale.

Mean Sea Level: For purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Map (August 1, 1980), and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations adopted by the community.

One-hundred-year flood or 100-year flood: See "Base flood."

Reasonably Safe from Flooding: Development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least one-foot above the Highest Adjacent Grade.

Recreational Vehicle: A vehicle,

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;

- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

This term includes park model manufactured homes.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- 1) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a "historic structure," provided that the alteration will not

preclude the structure's continued designation as a "historic structure."

Variance: A grant of relief by a community from the terms of a floodplain management regulation.

Water surface elevation: The height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Water Dependent: A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

16.25.040 General Provisions

A. Lands to Which This Ordinance Applies

This ordinance shall apply to all special flood hazard areas within the unincorporated areas of Cowlitz County.

B. Basis for Establishing the Areas of Special Flood Hazard

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Cowlitz County, Washington and Incorporated Areas" dated December 16, 2015, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated December 16, 2015, and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file at the Department of Building and Planning.

The best available information for flood hazard area identification as outlined in Section 16.25.060.C.2 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized.

C. Compliance

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

D. Penalties For Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of

its requirements (including violations of conditions and safeguards established in connection with conditions), shall be handled in accordance with Cowlitz County Code Chapter 2.06 Civil Enforcement Code.

E. 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.

F. Severability

This Ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

16.25.060 Administration

A. Establishment of Floodplain Permit

1. Floodplain Permit Required

A floodplain permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16.25.040.B. 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."

2. Application for Floodplain Permit

Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. In addition to the permit review requirements of CCC 18.02.080 (Contents of Application), application for a floodplain permit shall at minimum include the following:

a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.

b) Elevation in relation to mean sea level to which any structure has been

floodproofed;

- c) Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Section 16.25.080.B.2;
- d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- e) Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation, and
- f) Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

B. Designation of the Floodplain Administrator

The Director of the Department of Building and Planning is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

C. Duties & Responsibilities of the Floodplain Administrator

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Permit Review

Review all floodplain permits to determine that:

- a) The permit requirements of this ordinance have been satisfied;
- b) All other required state and federal permits have been obtained;
- c) The site is reasonably safe from flooding;
- d) The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Section 16.25.080.E.1 are met;
- e) Notify FEMA when annexations occur in the Special Flood Hazard Area.

2. Use of Other Base Flood Data (In A Zones)

When base flood elevation data has not been provided (in A zones) in accordance with Section 16.25.040.B, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Floodplain Administrator 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 Sections 16.25.080.B, Specific Standards, and 16.25.080.E Floodways.

3. Information to be Obtained and Maintained

- a) Where base flood elevation data is provided through the FIS, FIRM, or required as in Section 16.25.060.C.2, obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 16.25.060.C.2:
 - i) Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed.
 - ii) Maintain the floodproofing certifications required in Section 16.25.060.A.2(c).
- 3) Certification required by Section 16.25.080.E (floodway encroachments).
- 4) Records of all variance actions, including justification for their issuance.
- 5) Improvement and damage calculations.
- 6) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4. Alteration of Watercourse

Whenever a watercourse is to be altered or relocated:

- a. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate

notification means,

- b. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

5. Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. 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 pursuant to CCC 18.02 and CCC 2.06. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

6. Review of Building Permits

Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (Section 16.25.060.C.2), applications for floodplain development shall be reviewed to assure that proposed construction will be *reasonably safe from flooding*. The test of reasonableness includes use of historical data, high water marks, photographs of past flooding, etc., where available.

7. Changes to Special Flood Hazard Area

If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project approval shall be conditioned accordingly.

Section 16.25.080 Provisions for Flood Hazard Reduction

A. General Standards

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

1. Anchoring

- a) All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation,

collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

- b) All manufactured homes (including park model manufactured homes) shall 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. For more detailed information, refer to guidebook, FEMA-P85, "Manufactured Home Installation in Flood Hazard Areas."

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, elevated and located at least two feet above the base flood elevation, except on the Cowlitz and Toutle Rivers where it shall be at least three feet above base flood elevation, so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Storage of Materials and Equipment

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

4. Utilities

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- b) Water wells shall be located on high ground that is not in the floodway;
- c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

- d) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5. Subdivision Proposals and Development

All subdivisions, as well as new development shall:

- a) Be consistent with the need to minimize flood damage;
- b) Have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c) Have adequate drainage provided to reduce exposure to flood damage.
- d) Where subdivision proposals and other proposed new developments contain greater than 50 lots or 5 acres (whichever is the lesser) base flood elevation data shall be included as part of the application.

B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 16.25.040.B, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, or Section 16.25.040.B, USE OF OTHER BASE FLOOD DATA. The following provisions are required:

1. Residential Construction

- a) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, and all machinery, utilities and mechanical equipment elevated one-foot or more above the BFE.
- b) New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements CCC 16.25.080.D and include at least one-foot above the depth number identified. Mechanical equipment and utilities in an AO zone shall be elevated at least two feet above the depth number identified and designed so as to prevent water from entering or accumulating within the components during flooding.
- c) New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all

cases the lowest floor shall be at least one-foot above the Highest Adjacent Grade.

- d) 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 must meet or exceed the following minimum criteria:
 - i) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - ii) The bottom of all openings shall be no higher than one foot above grade.
 - iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - iv) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

2. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection a) or b), below.

- a) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
 - i) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained:

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one-foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater, or more above BFE. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.

- ii) If located in an AO zone, the structure shall meet the requirements in CCC 16.25.080.D.
- iii) If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least one-foot above the Highest Adjacent Grade.
- iv) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - 1) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - 2) The bottom of all openings shall be no higher than one foot above grade.
 - 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - 4) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

- b) If the requirements of subsection a) are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
 - i) Be dry floodproofed so that below one-foot or more above the base flood level, the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
 - ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - iii) Be certified by a registered professional engineer or architect that the

design and methods of construction are in accordance with accepted standards of practice for meeting 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 Section 16.25.060.A.2(c);

- iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 16.25.080.B.1(d).

3. Manufactured Homes

- a) All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home and all machinery and equipment is elevated one-foot or more above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

4. Recreational Vehicles

Recreational vehicles (including park models) placed on sites are required to either:

- a) Be on the site for fewer than 180 consecutive days, or
- b) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- c) Meet the requirements of 16.25.080.B.3 above.

5. Enclosed Area Below the Lowest Floor

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

6. Appurtenant Structures (Detached Garages & Small Storage Structures)

- a) Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided

the structure is designed and constructed in accordance with the following requirements:

- i) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
 - ii) The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
 - iii) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - iv) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
 - v) The appurtenant structure must comply with floodway encroachment provisions in Section 16.25.080.E.1;
 - vi) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 16.25.080.B.1(d).
 - vii) The structure shall have low damage potential,
 - viii) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and
 - ix) The structure shall not be used for human habitation.
- b) Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 16.25.080.B.1.
 - c) Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

C. AE and A1-30 Zones with Base Flood Elevations but No Floodways

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

base flood more than one foot at any point within the community.

D. Standard for Shallow Flooding Areas (AO Zones)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground 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 addition to other provisions in this code, the following additional provisions also apply in AO zones:

1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one-foot or more above the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).
2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one-foot or more above the depth number specified on the FIRM (at least one-foot if no depth number is specified); or
 - b) 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 16.25.080.B.2.a.iv
3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
4. Recreational vehicles placed on sites within AO zones on the community's FIRM either:
 - a) Be on the site for fewer than 180 consecutive days, or
 - b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

- c) Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes (Section 16.25.080.B.3)

E. Floodways

Located within areas of special flood hazard established in Section 16.25.040.B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. No Rise Standard

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

2. Residential Construction in Floodways

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

a. Replacement of Farmhouses in Floodway

Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:

- i. The new farmhouse is a replacement for an existing farmhouse on the same farm site;

- ii. There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
- iii. Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
- iv. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
- v. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
- vi. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
- vii. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
- viii. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
- ix. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

b. Substantially Damaged Residences in Floodway

- i. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the Department of Ecology for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

ii. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

- 1) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
- 2) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
- 3) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
- 4) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one-foot higher than the BFE.
- 5) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.
- 6) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.
- 7) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

3. All Other Building Standards Apply in the Floodway

If Section 16.25.080.D.1 is satisfied or construction is allowed pursuant to section 16.25.080.D.2, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 16.25.080, Provisions For Flood Hazard Reduction.

F. General Requirements for Other Development

All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the state building codes with adopted amendments and any Cowlitz County amendments, shall:

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

3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials;
5. Meet the flood opening requirements of Section 16.25.080.B.1(iv), and
6. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

G. Critical Facility

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

H. Livestock Sanctuaries

Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

Section 16.25.090 - Variances

The variance criteria set forth in this section of the ordinance are based on the general principle that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of Cowlitz County to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Base Flood Elevation are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

A Requirements for Variances

1. Variances shall only be issued:
 - a) Upon 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, or conflict with existing local laws or ordinances;
 - b) For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
 - c) Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - d) Upon a showing of good and sufficient cause;
 - e) Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - f) Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in this ordinance in the definition of "Functionally Dependent Use."
2. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
3. Generally, variances may be issued 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 BFE,

provided the procedures of Sections 16.25.060 and 16.25.080 of this ordinance have been fully considered.

B. Variance Criteria

In considering variance applications, the Floodplain Administrator shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
11. 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, water system, and streets and bridges.

C. Additional Requirements for the Issuance of a Variance

1. Any applicant to whom a variance is granted shall be given written notice over the signature of the Director that:

- a) The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance, and
- b) Such construction below the BFE increases risks to life and property.

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

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

4. Variances as interpreted in the NFIP are based on the environmental and land use regulations as 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.