

CHAPTER 151: FLOOD DAMAGE PREVENTION

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

- 151.01 Statutory Authority
- 151.02 Findings of Fact
- 151.03 Statement of Purpose
- 151.04 Methods of Reducing Flood losses
- 151.05 Definitions

GENERAL PROVISIONS

- 151.10 Lands to Which this Chapter Applies
- 151.11 Basis for Area of Special Flood Hazard
- 151.12 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division.
- 151.13 Establishment of a Development Permit
- 151.14 Interpretation
- 151.15 Warning and Disclaimer of Liability

ADMINISTRATION

- 151.20 Designation of Floodplain Administrator
- 151.21 Duties and Responsibilities of the Floodplain Administrator
- 151.22 Development Permit Required
- 151.23 Watercourse Alterations
- 151.24 Requirement to Submit New Technical Data

PROVISIONS FOR FLOOD HAZARD REDUCTION

- 151.30 Site Improvements and Subdivisions
- 151.31 Regulatory Floodway
- 151.32 Zones with Base Flood Elevations but No Regulatory Floodway
- 151.33 Areas of Special Flood Hazard without Base Flood Elevations
- 151.34 Specific Building Design and Construction Standards
- 151.35 Recreational Vehicles
- 151.36 Essential Facilities
- 151.37 Tanks
- 151.38 Fences and Walls

VARIANCE PROCEDURES AND CRITERIA

- 151.40 Variance
- 151.41 Criteria for Variances
- 151.42 Variance Decision

ENFORCEMENT

151.50 Penalties for Violation

151.51 Severability

151.52 Abrogation and Greater Restrictions

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, OBJECTIVES AND DEFINITIONS

151.01 Statutory Authority

The State of Oregon has delegated¹ the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Prineville, does ordain as follows:

151.02 Findings of Fact

(A) The flood hazard areas of the City of Prineville are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in flood hazard area causing increases in flood heights and velocities.

(C) The City of Prineville has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper management of special flood hazard areas.[CFR 44 CFR 59.12]

151.03 Statement of Purpose

The objectives of this ordinance are to,

(A) Protect human life, health and property;

(B) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(C) Help maintain a stable tax base by providing for the sound use and development of flood prone areas;

(D) Minimize expenditure of public money for costly flood control projects;

(E) Minimize the need for rescue, emergency services, and relief associated with flooding and generally undertaken at the expense of the general public;

(F) Minimize prolonged business interruptions, unnecessary disruption of commerce, access and public service during times of flood;

(G) Ensure that potential buyers are notified that property is in an area of special flood hazard;

(H) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions, and;

¹ Almost all Oregon cities and some Oregon counties will derive their authority to adopt a flood damage prevention ordinance from the home rule provisions of the Oregon Constitution. See Article XI, Section 2 of the Oregon Constitution and your local government charter, if applicable. All counties, including those without home rule charters, have been granted authority to enact ordinances under Oregon Revised Statute 203.035.

(I) Manage the alteration of areas of special flood hazard, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions.

151.04 Methods of Reducing Flood Losses

In order to accomplish its purpose, this ordinance includes methods and provisions to,

(A) Require development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, to be protected against flood damage at the time of initial construction;

(B) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(C) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(D) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;

(E) Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;

(F) Coordinate with and supplement provisions of State of Oregon Specialty Codes enforced by the State of Oregon Building Codes Division.

151.05 Definitions

Unless specifically defined in Chapter II, words or phrases used in this ordinance shall be interpreted according to the meaning they have in common usage.

“Accessory Structure” means a structure on the same or adjacent parcel as a principal structure, the use of which is incidental and subordinate to the principal structure.

“Addition” an alteration to an existing structure that results in any increase in its ground floor area.

“Appeal” means a request for review of the Floodplain Administrator’s interpretation of provisions of this ordinance.

“Area of Shallow Flooding” means a designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. [44 CFR 59.1, simplified]

“Area of Special Flood Hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zones designating areas of special flood hazard on Flood Insurance Rate Maps always include the letters A or V. Also known as the Special Flood Hazard Area (SFHA). [44 CFR 59.1, simplified]

“Base Flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. [44 CFR 59.1]

“Base Flood Elevation (BFE)” means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

“Basement” means any area of a building having its floor subgrade (below ground level) on all sides. [44 CFR 59.1]

“Below-grade Crawlspace” means an enclosed area below the Base Flood Elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

“Breakaway Wall” means 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.

“Critical Facility” See “Essential Facility”.

“Datum” The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of 1929 (NAVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

“Development” means 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. [44 CFR 59.1]

“Digital FIRM (DFIRM)” means Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

“Encroachment” means the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a regulatory Floodway which may impede or alter the flow capacity of a floodplain.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Essential Facility” or “Critical Facility” means:

- (1) Hospitals and other medical facilities having surgery and emergency treatment areas;
- (2) Fire and police stations;
- (3) Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
- (4) Emergency vehicle shelters and garages;
- (5) Structures and equipment in emergency-preparedness centers;
- (6) Standby power generating equipment for essential facilities; and
- (7) Structures and equipment in government communication centers and other facilities required for emergency response. [ORS 455.447 and Table 1-1 of ASCE 24]

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source. [44 CFR 59.1]

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community. [44 CFR 59.1]

“Flood Insurance Study (FIS)” means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, regulatory Floodway boundaries and water surface elevations of the base flood. [44 CFR 59.1, modified]

“Floodway (Regulatory Floodway)” means the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [44 CFR 59.1]

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG for more information.

“Historic Structure” means a structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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 to a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or;

(4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or;

(b) Directly by the Secretary of the Interior in states without approved programs. [44 CFR 59.1]

“Letter of Map Change (LOMC)” means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and/or Flood Insurance Studies. LOMCs are issued in the following categories:

Letter of Map Amendment (LOMA)

An amendment to the Flood Insurance Rate Maps based on technical data showing that an existing structure or parcel of land that has not been elevated by fill (natural grade) was inadvertently included in the special flood hazard area because of an area of naturally high ground above the base flood.

Letter of Map Revision (LOMR)

(1) LOMR-F (Letter of Map Revision based on Fill) is a letter from FEMA stating that an existing structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

(2) A LOMR revises the current Flood Insurance Rate Map and/or Flood Insurance Study to show changes to the floodplains, Floodways or flood elevations. LOMRs are generally based on manmade alterations that affected the hydrologic or hydraulic characteristics of a flooding source and thus result in modification to the existing regulatory Floodway, the effective Base Flood Elevation, or the Special Flood Hazard Area. It is recommended a Conditional Letter of Map Revision be approved by FEMA prior to issuing a permit to start a project if the project has a potential to affect the special flood hazard area. (See Conditional Letter of Map Revision)

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

“Lowest Floor” is the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure’s lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the Specialty Codes and this ordinance. [44 CFR 59.1,

modified for clarity]. The lowest floor of a manufactured dwelling is the bottom of the longitudinal chassis frame beam in A zones. *[Manufactured Dwelling Specialty Code, page 13]*

“Manufactured Dwelling” or “Manufactured Home” means a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Dwelling” does not include a “Recreational Vehicle.” *[44 CFR 59.1]*

“Mean Sea Level” means for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community’s FIRM are referenced. *[44 CFR 59.1, modified to add new datum]*

“New Construction” means a structure for which the “start of construction” commenced after the effective date of this Chapter. *[44 CFR 59.1, modified for clarity]*

“Oregon Specialty Codes” means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220. The combined specialty codes are often referred to as building codes.

“Reconstruction” The repair of a structure damaged by any cause (not just flooding) without increasing the floor area of the structure.

“Recreational Vehicle” means a vehicle that is:

- (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 towed 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. *[44 CFR 59.1]*

“Rehabilitation” Any improvement and repairs that are made to the interior and exterior of an existing structure that do not result in any increase in the ground floor area of the structure. This is perhaps the most common category and includes activities like remodeling a kitchen, gutting the building and redoing the interior, and adding a second story.

“Start of construction” includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 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 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 the alteration affects the external dimensions of a building. *[44 CFR 59.1]*

“Structure” means a walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground. *[44 CFR 59.1, modified for clarity]*

“Substantial Damage” means 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 its market value before the damage occurred. *[44 CFR 59.1]*

“Substantial Improvement” means 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 market value of the structure is:

(1) The real market value of the structure prior to the start of the initial repair or improvement, or

(2) In the case of damage, the real market value of the structure prior to the damage occurring. The term does not include either:

(a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(b) Alteration of an Historic Structure, provided that the alteration will not preclude the structure’s continued designation as an Historic Structure. [44 CFR 59.1]

“Variance” means a grant of relief from a requirement of this ordinance. [44 CFR 59.1]

“Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

“Watercourse” means the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the flood carrying capacity of the channel (except in the case of alluvial fans, where a channel is not typically defined).

“Water Dependent Use” means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

“Water Surface Elevation” means the height, in relation to a specific datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas. [44 CFR 59.1]

GENERAL PROVISIONS

151.10 Lands to Which This Ordinance Applies

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Prineville. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance or Specialty Codes.

151.11 Basis for Area of Special Flood Hazard

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for **Crook County, Oregon and incorporated areas**, dated February 2nd, 2012, and as amended, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM) are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the City Planning Department, City Hall, 387 NE 3rd St., Prineville, Oregon. [44 CFR Part 60.3(b)(1), (c)(1) and (d)(2)]

151.12 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division.

Pursuant to the requirement established in ORS 455 that the City of Prineville administers and enforces the State of Oregon Specialty Codes, the City Council of Prineville does hereby acknowledge that the Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Specialty Codes.

151.13 Establishment of a Development Permit

A development permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard established in Section 151.11 [44 CFR Part 60.3(a)]

Development permit applications that propose any changes to the Floodway, alterations to Special Flood Hazard Area boundaries, or increase Base Flood Elevations more than one (1) foot are subject to the provisions of Section 151.24 (Requirement to Submit New Technical Data) of this ordinance.

151.14 Interpretation

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

(A) Considered as minimum requirements;

(B) Reasonably construed at the discretion of the floodplain administrator.

(C) Deemed neither to limit nor repeal any other powers granted under state statutes, including state Specialty Codes.

151.15 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. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside Areas of Special Flood Hazard 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 Prineville or any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder. [FEMA Region X]

ADMINISTRATION

151.20 Designation of Floodplain Administrator

The Planning Director or designee is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance. [44 CFR 59.22(b)]

151.21 Duties and Responsibilities of the Floodplain Administrator

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

(A) Review all proposed development to determine whether it will be located in Areas of Special Flood Hazard or other flood-prone areas; [44 CFR 60.3(a)(1)]

(B) Review applications for new development or modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance; [44 CFR 60.3(a)(1)]

(C) Review proposed development to ensure that necessary permits have been received from governmental agencies from which approval is required by Federal or state law. Copies of such permits shall be maintained on file. [44 CFR 60.3(a)(2)]

(D) Review all development permit applications to determine if proposed development is located in the regulatory Floodway, and if so, ensure that the encroachment standards of Chapter V, Section B are met. [44 CFR 60.3(d)(1)]

(E) When Base Flood Elevation data or data have not been established in Chapter III, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, state or other authoritative source in order to administer the provisions of this ordinance. [44 CFR 60.3(b)(4)]

(F) When Base Flood Elevations are not available from an authoritative source, the Floodplain Administrator shall require Base Flood Elevations to be developed in accordance with to Section V.A.(3) of this ordinance or take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding². [44 CFR 60.3(a)(3) and 60.3(a)(4)]

Note: Oregon Residential Specialty Code authorizes the building official to require the applicant to determine a Base Flood Elevation where none exists.

(G) Where a determination is needed of the location of boundaries of the Areas of Special Flood Hazard including (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make a determination. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the determination.

(H) Issue development permits when the provisions of this ordinance have been met, or deny the same in the event of noncompliance; [44 CFR 59.24]

(I) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or in relation to the highest adjacent grade where no Base Flood Elevation is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures, including manufactured dwellings [44 CFR 60.3(b)(5), amended to address no BFE and manufactured dwellings]

(J) Obtain, verify and record the actual elevation of finished construction, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, to which any new or substantially improved non-residential buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of elevation to which the structure was flood-proofed from a registered professional engineer or architect; [44 CFR 60.3(b)(5), amended to address no BFE]

(K) Ensure that all records and certifications pertaining to the provisions of this ordinance are permanently maintained in the City of Prineville Planning Department and available for public inspection. [44 CFR 60.3(b)(5)]

151.22 Development Permit Required

For habitat restoration projects applicants shall follow procedures in section 151.23 (*Watercourse Alterations*) and/or 151.31 (*Regulatory Floodway*).

Applications involving structures shall submit a FEMA approved Elevation Certificate (FEMA Form 81-31 or as amended) for proposed structures or substantially improved structures (based on construction drawings) at the time of application for a floodplain development permit, for buildings under construction at the time of the inspection required by the Oregon Residential Specialty Code, and upon building completion prior to issuance of a Certificate of Occupancy.

² 44 CFR Part 65.2 defines “reasonably safe from flooding” as base flood waters will not inundate the land or damage structures ... and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Application for a Development Permit shall be made to the Floodplain Administrator or designee on forms furnished by the Floodplain Administrator or designee prior to starting development activities.[44 CFR Part 60.3(a)(1) and (b)(1)] Specifically, the following information is required:

(A) Application Stage:

(1) The site plan shall include any proposed or required fill within the City of Prineville. The reviewing authority may require the floodway to be delineated by a professional surveyor if developing near the floodway boundary on the DFIRM.

(2) An Elevation Certificate is required with submittal of any development within the special flood hazard area to ensure proper development of the structure.

(3) Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the NFIP and Specialty Codes; *[44 CFR Part 60.3 (c)(4)]*

(4) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development; *[44 CFR Part 60.3(b)(6)]*

(5) Proof that application has been made for necessary permits from other governmental agencies from which approval is required by Federal or state law. *[44 CFR Part 60.3 (a)(2) requires that other permits be received prior to issuing permit]*

(B) Construction Stage:

(1) Copies of all necessary permits from other governmental agencies from which approval is required by Federal or state law must be provided prior to start of construction.

(2) Development activities shall not begin without an approved Development Permit.

(3) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator and Building Department official an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction; *[Oregon Residential Specialty Code R109]*

(4) Any deficiencies identified by the Floodplain Administrator or Building Department official shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator or Building Department official to issue a stop-work order for the project. *[Good Practice based on 44 CFR Part 44 CFR 59.14]*

(C) Certificate of Occupancy:

(1) In addition to the requirements of the Specialty Codes pertaining to certificate of occupancy, and prior to the final inspection, the owner or authorized agent shall submit the following documentation for finished construction that has been signed and sealed by a registered surveyor or engineer:

(a) For elevated buildings and structures in non-coastal Areas of Special Flood Hazard (all A zones), a completed Flood Elevation Certificate with the elevation of the lowest floor, including basement or where no Base Flood Elevation is available the height above highest adjacent grade of the lowest floor; *[44 CFR Part 60.3(b)(5)]*

(b) For non-residential buildings and structures that have been floodproofed, the elevation to which the building or structure was floodproofed. *[44 CFR Part 60.3(b)(5)]*

(2) Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator or Building Department official to withhold a certificate of occupancy until such deficiencies are corrected. *[Good Practice]*

(D) Expiration of Floodplain Development Permit:

(1) A floodplain development permit shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing. [44 CFR 59.1]

151.23 Watercourse Alterations

(A) A CLOMR shall be submitted as part of the City's floodplain application to alter a watercourse.

(B) A watercourse alteration does not include the following:

(1) Habitat restoration of the channel or banks of a channel (see section 151.31).

(2) Constructing a side channel for fish passage permitted by a State or Federal agency.

(see section 151.31).

(C) A watercourse alteration does include the following:

(1) Installation of a culvert.

(2) Physically moving the river or stream channel from one place to another.

(D) Development shall not diminish the flood carrying capacity of a water course. If any water course will be altered or relocated as a result of the proposed development the applicant must submit certification by a registered professional engineer that the flood carrying capacity of the water course will not be diminished. [Good Practice]

(E) Applicant will be responsible for obtaining all necessary permits from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Division of State Lands regulations.

(F) If the altered or relocated watercourse is part of an Area of Special Flood Hazard, the applicant shall notify adjacent communities and Oregon Department of Land Conservation and Development prior to any alteration or relocation of the watercourse. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency as set forth in Section 151.24. [44 CFR 60.3(b)(6)]

(G) The Floodplain Administrator shall assure that maintenance for the altered or relocated portion of the water course is provided so that the flood carrying capacity will not be diminished. [44 CFR 60.3(b)(7)] It shall be the responsibility of the applicant to provide a maintenance plan and perform required maintenance.

(H) The applicant shall meet the requirements to submit technical data in Section 151.24 when an alteration of a watercourse results in the expansion, relocation or elimination of the special flood hazard area. [Good Practice]

151.24 Requirement to Submit New Technical Data

(A) Within six months of project completion, an applicant who obtains an approved Conditional Letter of Map Revision (CLOMR) from FEMA, or whose development alters a watercourse, modifies floodplain boundaries or Base Flood Elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM. [44 CFR Part 65.3]

(B) It is the responsibility of the applicant to have technical data prepared in a format required for a CLOMR or LOMR and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(C) Applicants shall be responsible for all costs associated with obtaining a CLOMR or LOMR.

(D) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met all applicable requirements of this ordinance.

PROVISIONS FOR FLOOD HAZARD REDUCTION

151.30 Site Improvements and Subdivisions

(A) All plans and permits for proposed new site improvements, subdivisions, and manufactured home parks shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding³. The test of reasonableness is a local judgment and includes historical data, high water marks, photographs of past flooding, etc. [44 CFR 60.3(a)(3) and (4)]

(B) Building lots shall have adequate buildable area outside of regulatory Floodways.

(C) Where base flood elevation data has not been provided or is not available from another authorized source; it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less). [44 CFR 60.3(a)(4)]

(D) Site improvements, subdivisions, and manufactured home parks shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize or eliminate damage and infiltration of floodwaters. Replacement public utilities and facilities such as sewer, gas, electric and water systems, likewise shall be sited and designed to minimize or eliminate damage and infiltration of floodwaters. [44 CFR 60.3(a)(4) and (5)]

(E) New and replacement on-site waste disposal systems and sanitary sewerage systems shall be located and constructed to avoid functional impairment, or discharges from them, during flooding. [44 CFR 60.3(a)(6)]

(F) Subdivisions and manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards. [44 CFR 60.3(a)(4) and 60.3(c)(1)]. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures. [44 CFR 60.3(c)(11)]

151.31 Regulatory Floodway

(A) Except as provided in paragraph (C) below, encroachments, including fill, new construction, substantial improvements, fences or other development are prohibited in the regulatory Floodway unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge. [44 CFR Part 60.3(d)(3)]

(B) Upon demonstration of no other alternative, applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, substantial improvement, fences, or other development, in the regulatory Floodway is permitted that will cause any increase in the Base Flood Elevation. [44 CFR Part 60.3(d)(4)].

(C) Projects for stream habitat restoration may be allowed without certification by a registered professional civil engineer provided: [Oregon Solutions Regulatory Streamlining Project 2009]

(1) A development permit is obtained prior to initiating development activities

(2) The project qualifies for a Department of the Army Corps, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023) or other State or Federal permit that determines that any rise in 100-year flood levels is as close to zero as practically possible. and,

³ 44 CFR Part 65.2 defines “reasonably safe from flooding” as base flood waters will not inundate the land or damage structures ... and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(3) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,

(4) No structures would be impacted by a potential rise in flood elevation; and,

(5) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

151.32 Zones with Base Flood Elevations but No Regulatory Floodway

(A) Within the AE zone on the community's FIRM where Base Flood Elevation is provided but no regulatory Floodway has been designated, new construction, substantial improvements, or other development (including fill) shall be prohibited, 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.[44 CFR 60.3(c)(10) & ORSC R324.1.3.2]

(A) Applicants of proposed projects that increase the Base Flood Elevation more than one foot shall obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. As soon as possible, but no later than 6 months after project completion, an application for a Letter of Map Revision (LOMR) shall be submitted by the applicant to FEMA. The applicant is responsible for paying any costs associated with the CLOMR and LOMR process. [44 CFR Part 60.3(c)(13)]

151.33 Areas of Special Flood Hazard Without Base Flood Elevations

(A) When Areas of Special Flood Hazard have been provided but Base Flood Elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic Base Flood Elevation and regulatory Floodway data available from a federal, state, or other source, in order to administer this ordinance. [44 CFR 60.3(b)(4)] If Base Flood Elevations are not available, subsection (C)(3) below or section 151.30(C) for subdivisions shall apply.

(B) Where the Floodplain Administrator has obtained Base Flood Elevation data, section 151.32 and sections 151.34 through 151.38 shall apply. [44 CFR Part 60.3(b)(4)]

(C) In Areas of Special Flood Hazard without Base Flood Elevation data,

(1) Encroachments, including structures or fill, shall be located as far as possible and on the highest ground possible from the flood hazard.

(2) No encroachments, including structures or fill, shall be located within 50 feet of a Special Flood Hazard area, measured from the ordinary high water mark, unless a Base Flood Elevation is developed by a licensed professional engineer, and;

(3) The lowest floor of any building or structure, including manufactured dwellings, shall be elevated a minimum of three (3) feet above highest adjacent grade. Below grade crawlspaces are prohibited.

151.34 Specific Building Design and Construction Standards

Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to the Residential Specialty Code, the Manufactured Dwelling Installation Specialty Code, and Structural Specialty Code.

(A) In all Special Flood Hazard Areas, (All "A" zones or 3 feet above highest adjacent grade where no BFE is defined)

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure; [44 CFR 60.3(a)(3)(i)]

(2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage; [44 CFR 60.3(a)(3)(ii)]

(3) New construction and substantial improvements shall be constructed using methods and practices that minimize flood damage, and; [44 CFR 60.3(a)(3)(iii)]

(4) 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. [44 CFR 60.3(a)(3)(iv)]

(B) Specific Building Design and Construction Standards for Non-coastal Residential Construction (all "A" Zones with Base flood elevations).

(1) New construction and substantial improvement of residential structures located in non-coastal flood zones shall have the lowest floor, including basement, elevated a minimum of one foot above the Base Flood Elevation or three feet above highest adjacent grade where no BFE is defined, and; [44 CFR 60.3(c)(2)]

(2) 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 be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(a) A minimum of two 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;

(b) The bottom of all openings shall be no higher than one foot above grade, and;

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. [44 CFR 60.3(c)(5)] Exception: Engineered openings.

(C) Specific Building Design and Construction Standards for Non-coastal, Nonresidential Construction

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated according to Table 1-1 and 2-1 of the American Society of Civil Engineers, Flood Resistant Design and Construction Standard (ASCE 24); or, together with attendant utility and sanitary facilities, shall,

(a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; [44 CFR 60.3(c)(3)]

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; [44 CFR 60.3(c)(3)]

(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 Floodplain Administrator; [44 CFR 60.3(c)(3)]

(d) Nonresidential structures that are elevated, not floodproofed, must meet residential standards described in Section 151.34(B);

(e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below.

(D) Specific Building Design and Construction Standards for Manufactured Dwellings:

New, replacement, and substantially improved manufactured dwellings shall,

(1) Be placed on ground that is a minimum of one foot above BFE unless any solid foundation walls are designed to automatically equalize hydrostatic forces by allowing for the entry and exit of floodwaters. Skirting that is not attached to the frame or foundation of a manufactured dwelling is not considered to be a solid foundation wall. Designs for meeting the requirement to automatically equalize hydrostatic forces must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two 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;

(b) The bottom of all openings shall be no higher than one foot above grade, and;

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. *[Manufactured Dwelling Installation Specialty Code, Definitions and Section 4-3.1(5) and NFIP 60.3(c)(5) and FEMA TB-1]*

(2) Have the bottom of the longitudinal chassis frame beam installed at or above BFE. *[see Manufactured Dwelling Installation Specialty Code Interpretation xx]*

(3) Be anchored to prevent flotation collapse and lateral movement during the base flood. 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), and; *[44 CFR 60.3(c)(6)]*

(4) Have Electrical crossover connections installed a minimum of 12 inches above BFE. *[Manufactured Dwelling Installation Specialty Code 6-4.2(1)]*

(E) Standards for Shallow Flooding Areas (AO or AH Zones)

Shallow flooding areas appear on FIRMs as AO or AH 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 often characterized as sheet flow. In these areas Paragraph (1) and the following provisions shall apply:

(1) New construction and substantial improvements of residential structures and manufactured homes within AO or AH zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least three feet if no depth number is specified). *[Building Code R324.2.1, 44 CFR Part 60.3(c)(7)]*

(2) New construction and substantial improvements of nonresidential structures within AO or AH 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 three feet if no depth number is specified); *[Oregon Structural Specialty Code Section 1612] [44 CFR Part 60.3(c)(7)]*

(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, and; *[44 CFR Part 60.3(c)(8)]*

(c) If not flood-proofed, any enclosed areas below the depth number shall meet the venting requirements of paragraph 5(b). *(Insurance premiums could be significant without venting).*

151.35 Below Grade Crawlspaces

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawl原因 Construction for Buildings Located in Special Flood Hazard Areas:

(A) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(B) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

(C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(D) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(E) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

(F) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(G) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(H) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

NOTE: For more detailed information refer to FEMA Technical Bulletin 11-01.

There are increased insurance costs associated with below-grade crawlspaces. There is a charge added to the basic policy premium for a below-grade crawlspace.

151.36 Recreational Vehicles

In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either: [44 CFR 60.3(e)(9) and 44 CFR 60.3(c)(14)] Note: 44 CFR Part 60.3(c)(14)

(A) Be placed on the site for fewer than 180 consecutive days;

(B) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or additions.

151.37 Essential Facilities

(A) Construction of new essential facilities shall be, to the extent possible, located outside the limits of the Area of Special Flood Hazard. Construction of new essential facilities shall be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Floodproofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the Base Flood Elevation shall be provided to all essential facilities to the maximum extent possible.

151.38 Tanks, Fences and Walls

(A) New and replacement tanks in flood hazard areas either shall be elevated above the Base Flood Elevation on a supporting structure designed to prevent flotation, collapse or lateral movement during conditions of the base flood, or be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood. *[From ASCE 24]*

(B) New and replacement tank inlets, fill openings, outlets and vents shall be placed a minimum of 2 feet above Base Flood Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood. *[From ASCE 24]*

(C) New and replacement fencing shall be designed to collapse under conditions of the base flood or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely.

151.39 Other Development, including Accessory Structures, in Non-Coastal Special Flood Hazard Areas

This section is needed to address development that is not covered by Oregon Specialty codes. Paragraph (2) addressing accessory structures is optional, however if this paragraph is not included in your local ordinance, it will not be possible to permit non-elevated accessory structures in special flood hazard areas. Accessory structures that are less than 200 square feet that satisfy the criteria outlined below are not required to be elevated, and do not require an elevation certificate.

(A) All development (including substantial improvements) in non-coastal high hazard areas (all A zones) for which provisions are not specified in this ordinance or Oregon Specialty Codes shall

(1) Be located and constructed to minimize flood damages; *[44 CFR 60.3(a)(3)]*

(2) Be constructed with materials resistant to flood damage; *[44 CFR 60.3(a)(3)]*

(3) If located in a regulatory Floodway, meet the limitations of, section 151.31 "Regulatory Floodway" of this ordinance; *[44 CFR 60.3(d)(3)]*

(4) Be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood; *[44 CFR 60.3(a)(3)]*

(5) Have all enclosures below the Base Flood Elevation designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or

(a) Provide 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;

(b) The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

(6) Have electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood. [44 CFR 60.3(a)(3)];

(B) Walled and roofed accessory structures, including substantial improvement to existing accessory structures, shall meet the requirements of paragraph (A) above and shall:

(1) Be less than 200 square feet and not exceed one story;

(2) Not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;

(3) Not be used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation;

VARIANCE PROCEDURES AND CRITERIA

151.40 Variance

(A) An application for a variance is subject to a public hearing review by the Planning Commission. An application must be submitted to the City of Prineville on a form provided by the City of Prineville and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.

(B) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

(C) Upon consideration of the criteria in Section B (Criteria for Variances) and the purposes of this ordinance, the Reviewing Authority may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(D) The Floodplain Administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request. [44 CFR 60.6(a)(6)]

151.41 Criteria for Variances

(A) Variances shall not be issued within a designated regulatory Floodway if any increase in flood levels during the base flood discharge would result. [44 CFR 60.6(a)(1)]

(B) 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 items a-j in Section VI.A.8 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases. [44 CFR 60.6(a)(2)]

(C) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. [44 CFR 60.6(a)(4)]

(D) Variances shall only be issued upon a:

(1) Showing of good and sufficient cause;

(2) Determination that failure to grant the variance would result in exceptional hardship to the applicant, and;

(3) 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. [44 CFR 60.6(a)(3)]

(E) Variances may be issued for a water dependent use provided that the

(1) Criteria of paragraphs (A) through (D) of this section are met, and;

(2) Structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. [44 CFR 60.6(a)(7)]

(F) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section. [44 CFR 60.6(a)]

(G) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or 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. [44 CFR 60.6]

(H) In passing upon such applications, the reviewing authority shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger to life and property due to flooding or erosion damage;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) Compatibility of the proposed use with existing and anticipated development;

The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(8) Safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) 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,

(10) 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.

151.42 Variance Decision

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Base Flood Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk. [44 CFR 60.6(a)(5)]

ENFORCEMENT

151.50 Penalties for Violation

Penalties for Violations shall follow section 153.261 (Enforcement and Remedies) of the City of Prineville's Land Use Code Chapter 153 as amended.

151.51 Severability

The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity. [FEMA Region X]

151.52 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, Building Codes, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.