

SECTION 3.200 Environmental Protection Districts

The purpose of the Environmental Protection District is to permit the regulation of environmental hazards, the qualification of lands for floodplain insurance programs and preferential taxation assessment, and the protection of the health, safety and welfare of residents of Wasco County. The specific intent of this district is:

- A.** To combine with present zoning requirements certain restrictions to promote the general health, welfare, and safety of the County.
- B.** To prevent the establishment of certain structures and land uses in areas unfit for human habitation because of the danger of flooding, unsanitary conditions, mass earth movement, unstable soils, or other hazards.
- C.** To minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage.
- D.** To reduce the financial burden imposed on the public and governmental units by frequent and periodic flooding.
- E.** To permit certain uses which can be located on flood plains and which will not impede the flow of flood waters, or otherwise cause danger to life and property at, above, or below their locations within the flood plain.
- F.** To permit uses on lands subject to mass earth movement or unstable soils which will not increase the potential for environmental degradation.
- G.** To require that uses vulnerable to hazards, including public facilities which serve such uses be provided with protection at the time of initial construction.
- H.** To protect individuals, as much as possible through education and information from buying lands which are unsuited for intended purposes.

SECTION 3.210 Divisions

This district consists of several overlay divisions that provide additional development standards or special processes for development in protected areas.

- A.** Division 1 - Flood hazard overlay
- B.** Division 2 - Geologic hazards overlay

SECTION 3.230 Non-Liability Clause

The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind or nature by Wasco County, or the County Court, the Planning Commission, or by any officer or employee thereof, of the practicability or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

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SECTION 3.240 Division 1 – Flood Hazard Overlay

A. Background

1. Findings of Fact

- a.** The Areas of Special Flood Hazard of Wasco County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. All of which adversely affects the public health, safety, and general welfare.
- b.** These flood losses are caused by the cumulative effect of obstructions in the areas of special flood hazard which increase flood heights and velocities, which may damage uses in other areas. Uses that are inadequately protected from flood damage also contribute to the losses associated with the flood.

2. Statement of Purpose: It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by implementing 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 areas of special flood hazard;
- f.** Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g.** Ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- h.** Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

3. Methods of Reducing Flood Losses: In order to accomplish its purposes, this chapter includes methods and provisions for:
 - a. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - c. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - d. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
 - e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

B. Applicability

1. Lands to which this Chapter Applies:
 - a. This chapter shall apply to all Areas of Special Flood Hazards within the jurisdiction of Wasco County.
 - b. Although Wasco County holds and utilizes the official Flood Insurance Rate Maps (FIRMs) supplied by FEMA, there is no Flood Insurance Study (FIS) for the County. This FIS typically provides the detailed information and cross sections necessary to establish the Base Flood Elevation in a given area. For that reason, the Area of Special Flood Hazard as shown on the FEMA FIRMs is only an approximation of the floodplain boundary. Without the FIS, the Director may require additional information to determine that a proposed development, which may appear to be located outside of an Area of Special Flood Hazard based on the FIRMs, is in fact reasonably safe from flooding as required by Section 3.242.B – Duties and Responsibilities of the Planning Director. In a situation where the Director determines that it is unclear if a proposed development lies in or out of the Area of Special Flood Hazard, it shall be the responsibility of the applicant to provide the Base Flood Elevation for the property using FEMA approved methodologies.

2. Basis for Establishing the Areas of Special Flood Hazard: The Areas of Special Flood Hazards identified by the Federal Insurance Administration on its Flood Insurance Rate Map (FIRM), dated September 24, 1984, and any revision thereto, is adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Rate Map is on file at the Wasco County Planning and Development Office.
 3. Abrogation and Greater Restrictions: This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- C. Interpretation: In the interpretation and application of this chapter, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of the governing body; and,
 3. Deemed neither to limit nor repeal any other powers granted under State statutes and rules including state building codes.
- D. Warning And Disclaimer Of Liability: The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Wasco County, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

SECTION 3.241 Special Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The words or phrases found below only apply to this Chapter of the Land Use and Development Ordinance.

Area of Special flood hazard (ASFH) – The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

Appeal – A request for a review of the interpretation of any provision of this ordinance.

Base Flood – The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

Base Flood Elevation (BFE) – The computed elevation to which floodwater is anticipated to rise during the Base Flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles.

The BFE is the regulatory requirement for the elevation or floodproofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

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

Critical Facility – A facility where the potential for even minimal water damage might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire, and emergency response facilities, installations that produce, store or use hazardous materials or hazardous waste. (Approval of any new Critical Facility within the ASFH must be reviewed through the Administrative Variance provisions (Chapter 6) of the Wasco County Land Use and Development Ordinance.)

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.

Development does not include low impact practices using hand based tools to perform habitat restoration activities, which **do not** result in: ...

- the potential destabilization and/or erosion of the designated floodplain by removal of bank stabilizing root systems or other means;
- alteration of the topography of the designated ASFH;
- the accumulation of woody vegetative debris within the ASFH;
- a violation of any prior condition of approval associated with a review on the subject property;
- a violation of any Wasco County or other agency natural resource regulations; or
- the siting of any structure.

Elevated Building (for Insurance Purposes) – A non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Flood or Flooding – A general and temporary condition of partial or complete

inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) – The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study – The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Map, and the water surface elevation of the Base Flood.

Flood-Resistant Material – Any building product capable of withstanding direct and prolonged (at least 72 hours) contact with floodwaters without sustaining significant damage (any damage requiring more than low-cost cosmetic repair such as painting.)

Improvement or Repair Cost – The cost to improve or repair a structure. This is used to determine if the proposed repairs and / or improvements constitute Substantial Damage and / or Substantial Improvement.

Improvement or Repair Costs **include** but are not limited to structural elements, footings, concrete slabs, attached decks and porches, interior partition walls, wall finishes, windows, doors, roofing materials, flooring, sub-flooring, cabinets, utility equipment, and labor.

Improvement or Repair Costs **exclude** plans, surveys, permitting costs, post-emergency debris removal and clean-up, landscaping, sidewalks, fences, yard lights, pools, detached structures, and landscape irrigation systems.

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 found at Section 3.243.D – Specific Standards.

Manufactured Home – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” **does not** include a “recreational vehicle.”

Manufactured Home Park or Subdivision – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Approval of any New or expansion of a manufactured home park or subdivision within the ASFH must be reviewed through the Administrative Variance provisions (Chapter 6) of the Wasco County Land Use and Development Ordinance.)

New Construction – Structures for which the lawful “start of construction” commenced on or after the effective June 1, 2010

Raised Structure – A non-basement structure that has its lowest elevated floor raised a minimum of one foot above the Base Flood Elevation.

Recreational Vehicle (Flood Hazard Overlay Section only) – A vehicle which is:

- a. Built on a single chassis; and
- b. 400 square feet or less when measured at the largest horizontal projection; and
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory 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.

Start of Construction – Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 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 that alteration affects the external dimensions of the building.

Structure (Flood Hazard Overlay Section only) – A walled and roofed building, as

well as any gas or liquid storage tank, that is principally above ground.

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 repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

- a. Before the improvement or repair is started, or
- b. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. any 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. any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance – A grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.”

Water Dependant – A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations, including but not limited to bridges, docks, piers, wharfs, certain fish and wildlife structures, boat launch facilities and marinas. Dwellings, parking lots, spoil and dump sites, restaurants, trailer parks, resorts, and motels are not water dependent.

SECTION 3.242 Planning Director

A. Designation of the Planning Director

The Planning Director is hereby appointed to administer and implement this chapter

by granting or denying development permit applications in accordance with its provisions.

B. Duties and Responsibilities of the Planning Director

Duties of the Planning Director shall include, but not be limited to:

1. Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 3.242.B.4), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

2. Interpretation of ASFH Boundaries

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

3. Development Permit Review

- a. Review all development permits to determine that the permit requirements and conditions of this chapter have been satisfied.
- b. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required. (added 4-87)
- c. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the Special Flood Hazard Area. For the purposes of this chapter, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - i. If it is determined that there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - ii. If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

4. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.240.B.2 – Basis for Establishing the Areas of Special Flood Hazard, the Planning

Director shall require, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 3.243.D – Specific Standards.

5. Alteration of Watercourses

- a.** Notify adjacent communities, Department of State Lands, Department of Land Conservation & Development, and the Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b.** Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

6. Information to be Obtained and Maintained

- a.** Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 3.242.B.4., obtain and record the actual (as-built) elevation (in relation to mean sea level) to the lowest floor (including basements and below grade crawl-spaces) of all new or substantially improved structures, and whether or not the structure contains a basement(Elevation Certificate).
- b.** Maintain for public inspection all records pertaining base flood elevations and flood-proofing certificates required in Section 3.242.B.6.
- c.** Where base flood elevation data is changed via a restudy, limited map maintenance project, map revision amendment, those changes shall be obtained and recorded.
- d.** Submit any new or revised map information that could affect the ASFH to FEMA when it becomes available.
- e.** For all new or substantially improved floodproofed structures:
 - i.** Obtain and record the actual elevation (in relation to mean sea level) to which the structure was flood proofed, and
 - ii.** Maintain the floodproofing certifications required in Section 3.243.B – Application Requirements. (added 4-87)
- f.** Maintain for public inspection all records and data_pertaining to this chapter.

SECTION 3.243 Development Permit

A. Establishment of Development Permit

1. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.240.B – Applicability. 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. If the director determines that it is unclear if a proposed development lies in or out of the Area of Special Flood Hazard, then Establishment of the Development Permit shall be based on the following:
 - a. Within thirty (30) days of receiving an appropriate Land Use Application, the Director or the Director's designee shall conduct a site inspection on the proposed development. If during that site inspection, the Director is able to determine that the proposed development is reasonably safe from flooding based to topography or other pertinent data, then no ASFH Development Permit will be required.
 - b. If during the above mentioned site inspection, the Director cannot determine that the proposed development is reasonably safe from flooding, then the applicant will be required to establish the Base Flood Elevation for the Development using FEMA approved methodologies. Appropriate methodologies may include HEC, SMADA, SWWM, QUICK-2, or other FEMA approved hydraulic or hydrologic modeling programs.
 - c. If the Director determines that the BFE must be established for a development, then the applicant will be required to hire a competent consultant (engineer, surveyor, hydrologist, architect, etc.) with proof of suitable credentials to determine the BFE using appropriate FEMA approved methodologies.

- B. Application Requirements:** Any application for a Development Permit shall be made on forms furnished by the Planning Director 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 structures, proposed structures, fill, storage of materials, utilities, septic facilities, and drainage facilities.

Specifically, the following information is required:

1. General elevation to mean sea level of building site using best information available.

2. Elevation of the lowest floor (including basement) of all structures.
3. Distance between ground elevation and level to which a structure is to be flood-proofed.
4. Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 3.243.D.6 – Specific Standards.
5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
6. Copies of all permits required from any governmental agency, together with a certification under penalties of perjury that all certificates and permits requested have been obtained.

C. General Standards: In all areas of special flood hazards the following standards are required:

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, according to requirements set forth in the Oregon Manufactured Dwelling Specialty Code. (See FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional information).

2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See FEMA 348 (Protecting Building Utilities from Flood Damage) for details.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the North-Central Public Health District.

D. Specific Standards: In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.242.B.4 Use of Other Base Flood Data, the following standards are required:

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot (1') above base flood elevation.
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. 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.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Partition and Property Line Adjustment Proposals

- a. All partition and property line adjustment proposals shall be consistent with the need to minimize flood damage;
- b. Parcels created through these processes shall wherever practical include suitable sites for the construction of buildings, structures, sewage systems, and water supplies outside of the ASFH.
- a. Parcels created through these processes shall wherever practical be designed so that access to the proposed parcel does not traverse the ASFH.

3. Subdivision Proposals

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

4. Manufactured Homes

- a. All manufactured homes to be placed or substantially improved within the ASFH shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam is elevated a minimum of eighteen inches (18") above the base flood elevation and be securely anchored to an adequately designed foundation system to resist floatation, collapse and lateral movement, and shall be in accordance with the provisions of subsection 3.243.C.1 – General Standards.
- b. Fully enclosed areas below the lowest floor that are subject to flooding shall comply with Sections A.2.a – c above. Non-structural metal or vinyl skirting does not constitute a “fully enclosed area”.

5. Recreational Vehicles

Recreational Vehicles placed on sites with an “A” zone (Areas of 100-year flood) as identified on the Flood Insurance Rate Maps (FIRM) must:

- a. Be on the site for fewer than 180 consecutive days; and
- 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 Section 3.243.D – Specific Standards above.

6. Non-residential Construction

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 3.242.B.6.e.
- d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 3.243.D.1 – Specific Standards.
- 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 constructed to the base flood level will be rated as one foot below that level). (added 4-87)

7. Storage of Hazardous or Toxic Materials

The storage of hazardous or toxic materials shall be a minimum of one foot (1') above the BFE of the property. This may require alterations to a structure or development to ensure that the potential storage of such materials can be accommodated. Hazardous or toxic materials include but are not limited to those regulated by the EPA and DOT.

8. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Area Special Flood Hazard (ASFH) (100-year floodplain). Construction of new critical facilities shall be permissible subject to an Administrative Variance within the ASFH if no feasible alternative site is available. Critical facilities constructed within the ASFH shall have the lowest floor elevated three feet above the BFE. 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 base flood elevation shall be provided to all critical facilities to the extent possible.

9. Development Within Riparian Areas

The Wasco County FIRMs do not designate regulatory floodways. No new construction, substantial improvements, or other development (including fill) shall be permitted within the ASFH unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated onsite development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The methodology for conducting this research must conform to the methodologies prescribed in the FEMA Region X Procedures for "No-Rise" Certification for Proposed Development s in the Regulatory Floodway.

10. Fish Habitat Structures

Projects for stream habitat restoration may be allowed provided:

- a. The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023, and
- b. The applicant supplies a feasibility analysis and certification from a qualified professional that the project was designed to keep any rise in the 100-year flood levels as close to zero as practically as possible, and that no structures would be impacted by a potential rise, and
- c. No structures would be impacted by a potential rise in flood elevation, and

- d. An agreement to monitor the project, correct problems, and ensure that the flood carrying capacity remains unchanged is included with the application.
- e. Qualified professionals may include private hydrology or hydraulic consultants, or hydrology or hydraulic professionals from the Soil and Water Conservation District, Natural Resources Conservation Service, Oregon Department of Fish and Wildlife, or similar qualified agency.
- f. Other restrictions set forth in the most recent applicable Policy from FEMA may be required of such projects.

SECTION 3.244 Variances

- A. Variances to any Flood Hazard Overlay regulations shall be reviewed administratively unless the Planning Director elects the matter to be heard before the Planning Commission.
- B. In considering a variance to floodplain standards, the Planning Director or his designee shall consider all technical evaluations, all relevant factors, 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 times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 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, and water systems, and streets and bridges.
- C. Upon consideration of the factors in B., and the purposes of this ordinance, conditions may be attached to the granting of the variance as is deemed necessary to further the purposes of this ordinance.
- D. Records of all appeal actions shall be maintained by Wasco County and any variances shall be reported to the Federal Insurance Administration upon request.
- E. Conditions for Variances:
1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) in Section 3744.A have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
 3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece 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.
7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 3.244.E.1, and otherwise complies with Sections 3.243.C.1 and 3.243.C.2 of the General Standards.
8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 3.245 Appeals

Appeals shall be processed as described in Chapter 2 of this Ordinance.

SECTION 3.246 Compliance Required

- A. No person shall construct, erect, locate, maintain, repair, alter, enlarge, or change the use of a structure located within the ASFH in violation of this Ordinance.
- B. No person shall initiate any development within the ASFH in violation of this Ordinance.
- C. The, construction, erection, location, maintenance, repair, alteration, enlargement or change in use of any structure, or the initiation of any development in violation of this Ordinance or those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and shall be subject to the provisions of the Wasco County Code Compliance and Nuisance Abatement Ordinance.

SECTION 3.247 Revising FIRM Maps

A. Reasons to Revise FIRMs

The Wasco County FIRMs were established in 1984. Advances in technology along with physical changes in a given flood situation may necessitate a FIRM map being updated, revised, corrected, or changed. Common reasons why a FIRM may need to be changed include correcting certain features, including better ground elevation data, reflecting physical changes to the floodplain, submitting new or revised flood data, or to reflect a new flood control project.

Regardless of the reason a FIRM is changed, all changes must be submitted to FEMA and retained by Wasco County.

B. Types of Changes: There are four approaches to changing FIRMs. They include restudies, limited map maintenance projects, amendments, and revisions. Any request for a restudy, amendment or revision must be reviewed by Wasco County for compliance with this chapter.

1. Restudy

- a. A restudy is a new Flood Insurance Study for a part or all of a community.
- b. Restudies are typically large scale projects conducted by FEMA

2. Limited Map Maintenance Project (LMMP)

- a. A LMMP is a small-scale restudy that is limited in size and cost. This type of study is often used for studies of unnumbered A Zones, like those found in Wasco County.
- b. A LMMP may be conducted by FEMA or the community.

3. Revision

- a. A revision is typically used for:
 - i. Scientifically based challenges to flood elevations, or
 - ii. Incorporation of new flood data, or
 - iii. Reflecting fill placed in the floodplain, or
 - iv. Changing floodplain boundaries,
- b. Revisions may be conducted by FEMA, requested by the community, or requested by property owner(s).

4. Amendment

- a. An amendment is only used to remove an area that was inadvertently included in the ASFH. Often the ground is higher than depicted on the base map used for the FIRM.
- b. FEMA will review map amendments based on information submitted by the applicant. An amendment does not challenge the Flood Insurance Study or FIRM; it simply removes certain portions of a property from the ASFH because they are higher than the Base Flood Elevation

C. Requesting Map Changes

FEMA may actually change a FIRM and publish new copies. A restudy or LMMP will generally result in a new map. Additionally, FEMA may issue a Letter of Map Change (LOMC) when a revision can be adequately described in writing or through use of a small annotated map panel.

There are two types of LOMCs; a Letter of Map Revision (LOMR) and a Letter of Map Amendment (LOMA).

1. Letters of Map Revision (LOMRs) address revisions to the FIRM as described in Section B.3 above. A LOMR may be requested of FEMA by the applicant. A copy of the final LOMR must be provided to the County. FEMA typically charges a processing fee for all LOMRs.
2. Letters of Map Amendment (LOMAs) address revisions to the FIRM as described in Section B.4 above. A LOMA may be requested of FEMA by the applicant. A copy of the final LOMA must be provided to the County. FEMA may not charge a processing fee for a LOMA.

SECTION 3.248 Notes on Insurance

The provisions of this section are provided for informational purposes and are subject to change without notice.

- A. Coverage: Flood insurance is available for insurable buildings and their contents to property owners within the ASFH
- B. Waiting Period: Unless a Flood Insurance Policy is purchased at the time of closing, a 30-day waiting period typically follows the purchase of that policy before it goes into effect.
- C. Mandatory Flood Insurance Purchase: If a building is located within the ASFH, a federally regulated lender is required by law to require the recipient of the loan to

purchase a Flood Insurance Policy on the building. This policy is typically equal to the value of the mortgage on the building.

- D. Lender's Choice:** Although a lender may not be required by law to secure a Flood Insurance Policy on a building or structure located outside of the ASFH, it may choose to require coverage as a condition of a loan for any property. Neither Wasco County, nor FEMA control this requirement.
- E. Flood Insurance for Contents:** Mandatory Flood Insurance as described above typically does not cover the contents of the building unless an additional voluntary insurance policy is purchased specifically for the contents.
- F. Further elevation of a structure beyond the required one foot (1') above BFE may significantly reduce the cost of a Flood Insurance Policy.**

SECTION 3.250 Division 2 - Geologic Hazards Overlay

The purpose of the Geologic Hazards Overlay District is to protect the public health, safety and welfare by assuring that development in hazardous or potential hazardous areas is appropriately planned to mitigate the threat to man's life and property.

A. Basis for Establishing the Geologic Hazards Overlay District

The Geologic Hazards Overlay District is intended to be applied to areas identified by the State of Oregon Department of Geology and Mineral Industries, Geologic Hazards of Parts of Northern Hood River, Wasco and Sherman Counties, Oregon, 1977. A complete explanation and maps showing the natural hazards and geologic units can be found in this document; however, this document may be superseded by a more site specific study conducted by a licensed engineer or geologist registered in the State of Oregon.

B. Approval Standards

Prior to development, the following measures shall be utilized:

1. Any proposed developments on slopes greater than twenty-five percent (25%) shall be reviewed to ensure site suitability. Such review shall be conducted in the process for building permit approval and, unless the site has been identified as a geologic hazard area, shall rely on provisions of the Uniform Building Code for the protection of the public health, safety and welfare.
2. Any proposed development in an identified geologic hazard area shall be preceded by a written report by an engineering geologist or an engineer who certifies he is qualified to evaluate soils for suitability. For purposes of this section, development shall include any excavation or change in topography, such as home construction, associated roads, driveways, septic tank disposal fields, wells and water tanks. The written report of the engineering geologist or engineer shall certify that the development proposed may be completed without threat to public safety or welfare and shall be used in ministerially reviewing the development proposal.
3. In approval of a development permit, whether ministerial or through the Administrative Action procedures of Chapter 2 of this Ordinance, the following conditions may be imposed at the time of approval to ensure site and area stability:
 - a. Maintain vegetation and eliminate widespread destruction of vegetation.
 - b. Carefully design new roads and buildings with respect to:

- (1) placement of roads and structures on the surface topography.
 - (2) surface drainage on and around the site.
 - (3) drainage from buildings and road surfaces.
 - (4) placement of septic tank disposal fields.
- c. Careful construction of roads and buildings.
- (1) avoid cutting toeslopes of slump blocks.
 - (2) careful grading around the site, especially avoiding over-steepened cut banks.
 - (3) re-vegetating disturbed areas as soon as possible.
- d. Other conditions may be imposed to reasonably assure that the development is protected from damage by mass movement.