



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/18/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Baker City Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, June 29, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jenny Long, City of Baker City
Gordon Howard, DLCD Urban Planning Specialist
Grant Young, DLCD Regional Representative
Christine Shirley, DLCD Natural Hazards/Floodplain Specialist

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

JUN 11 2012

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Baker City**

Local file number: **12-CP-01**

Date of Adoption: **5/22/2012**

Date Mailed: **6/08/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 12/28/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

To amend Baker City's floodplain ordinance to comply with the State's model ordinance.

Does the Adoption differ from proposal? Yes, Please explain below:

Some of the proposed sections were deemed to be not applicable so they were removed. Some definitions were added or expanded to provide better clarification.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-11 (19120) [17072]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Jenny Long, City Planner**

Phone: (541) 524-2028 Extension:

Address: **P.O. Box 650**

Fax Number: **541-524-2049**

City: **Baker City**

Zip: **97814-**

E-mail Address: **jlong@bakercity.com**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. 3310

**AN ORDINANCE AMENDING BAKER CITY'S MUNICIPAL CODE AND
MODIFYING REGULATION OF FLOOD PLAIN DEVELOPMENT.**

BE IT ORDAINED by the City of Baker City:

Section 1:

Chapter 151 of Baker City's current Municipal Code adopted by Ordinance No. 3297 is hereby repealed.

Section 2:

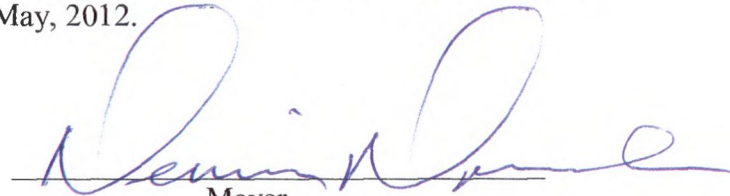
That document entitled "Chapter 151", as attached hereto, is hereby adopted as Chapter 151 of Baker City's Municipal Code by reference as though fully set forth herein.

READ for the first time in full this 24th day of April, 2012.

READ for the second time by title only this 24th day of April, 2012 upon the unanimous vote of the members present, after the text of the Ordinance was offered to the members of the Council and the press and public for their use during the meeting.

READ for the third time by title only this 8th day of May, 2012 upon the unanimous vote of the members present, after the text of the Ordinance was offered to the members of the Council and the press and public for their use during the meeting.

PASSED by the City Council of the City of Baker City, Oregon, and signed by the Mayor of the City of Baker City, Oregon, this 22nd day of May, 2012.


Mayor

ATTEST: 
City Recorder

Ayes: 6 (Dorrah, Button, Calder, Bonebrake, Bass, Coles)
Nays:
Absent: 1 (Pope)
Abstain:



City of Baker City, Oregon

Planning Department

P.O. Box 650 • Baker City, OR 97814

Phone: (541) 524-2028

Fax: (541) 524-2049

www.bakercity.com

June 8, 2012

ATTN: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

DEPT OF

JUN 11 2012

LAND CONSERVATION
AND DEVELOPMENT

Re: NOTICE OF PROPOSED ADOPTION – Local Case No. 12-CP-01

To Whom It May Concern:

The proposed land use regulation amendment previously sent has been adopted. Prior to the first evidentiary hearing it was determined that some sections proposed for the floodplain ordinance amendment were not applicable and others required clarification from FEMA before staff could recommend approval.

Please find enclosed with this letter the following documents:

1. Form 2, DLCD Notice of Adoption
2. Ordinance No. 3310

Please contact me at (541) 524-2028 if you have any questions or need additional information.

Sincerely,

Jenny Long
Baker City Planner

Enclosure

CHAPTER 151: FLOODPLAIN DEVELOPMENT CRITERIA

Section

General Provisions

- 151.01 Statutory authority
- 151.02 Findings of fact
- 151.03 Statement of purpose
- 151.04 Methods of reducing flood losses
- 151.05 Definitions
- 151.06 Lands to which this chapter applies
- 151.07 Basis for areas of special flood hazard
- 151.08 Coordination with specialty codes adopted by the State of Oregon
- 151.09 Establishment of a development permit
- 151.10 Compliance
- 151.11 Abrogation and greater restrictions
- 151.12 Interpretation
- 151.13 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
- 151.23 Alteration of Watercourses
- 151.24 Requirement to Submit New Technical Data
- 151.25 Non-Conversion of Enclosed Areas below the Lowest Floor
- 151.26 Variances
- 151.27 Criteria for Variance
- 151.28 Variance Decision

Provisions for Flood Hazard Reduction

- 151.40 Site Improvements and Subdivisions
- 151.41 Development in Regulatory Floodways
- 151.42 Building Design and Construction
- 151.43 Below Grade Crawlspace
- 151.44 Recreational Vehicles
- 151.45 Temporary Structures and Temporary Storage in AE Zones with a Floodway
- 151.46 Essential Facilities
- 151.47 Tanks
- 151.48 Fencing
- 151.49 Development, including Accessory Structures, in Non-Coastal Special Flood Hazard Areas (all A zones)

GENERAL PROVISIONS

§ 151.01 STATUTORY AUTHORITY

The State of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. 3310, passed 5-22-2012)

§ 151.02 FINDINGS OF FACT

The City Council of the City of Baker City hereby finds:

- (A) The flood hazard areas of the City of Baker City are subject to periodic inundation which may result 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 affect the public health, safety and general welfare; and
- (B) These flood losses are caused by the cumulative effect of obstructions in areas of flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.
- (C) The City of Baker City has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper management of special flood hazard areas.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.03 STATEMENT OF PURPOSE

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

- (A) To protect human life, health and property;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue, emergency services, and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions, unnecessary disruption of commerce, access and public service during times of flood;
- (E) To 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, that are located in areas of special flood hazard;
- (F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (G) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- (H) To ensure that those who occupy within the areas of special flood hazard assume responsibility for their actions; and

- (I) To 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.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.04 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, flood heights or velocities;
- (B) Requiring that uses or development 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;
- (C) Controlling the alteration, preservation, and restoration of natural floodplains, stream channels, and natural protective barriers which carry and store flood waters;
- (D) Controlling filling, grading, dredging and other development which may increase flood damage or erosion;
- (E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas; and
- (F) Coordinating with and supplementing provisions of State of Oregon Specialty Codes enforced by the State of Oregon Building Codes Division.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.05 DEFINITIONS

Unless specifically defined in this Section, words or phrases used in this chapter shall be interpreted according to the meaning they have in common usage. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A structure on the same parcel of property as a principal structure, the use of which is incidental the use of the principal structure.

APPEAL. A request for review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding in any given year. Zone AO has an average base flood depth of 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. Zone AO is characterized as sheet flow and Zone AH indicates ponding and is shown with Base Flood Elevations.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The Area of Special Flood Hazard is synonymous with Special Flood Hazard Area (SFHA). The SFHA is shown on Flood Insurance Rate Maps and includes the letter "A".

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

BASE FLOOD ELEVATION (BFE). 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. BFE includes base flood depth as used for Zone AO.

BASEMENT. Any area of a building having its floor subgrade (below ground level) on all sides.

BELOW-GRADE CRAWLSPACE. An enclosed area below the Base Flood Elevation in which the interior grade does not exceed 2 feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the bottom of the lowest horizontal structural member of the lowest floor does not exceed 4 feet at any point.

COMMUNITY. Any area or political subdivision thereof which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

CONDITIONAL LETTER OF MAP REVISION (CLOMR). A letter from FEMA commenting on whether a proposed project, if built as proposed, would meet the minimum NFIP standards or proposed hydrology changes. If the project, built as proposed, revises the Flood Insurance Rate Map and/or Flood Insurance Study, a LOMR is required to be submitted no later than 6 months after project completion.

CRITICAL FACILITY. See “Essential Facility”.

DATUM. The vertical control datum from which all vertical elevations are determined. Historically, Flood Insurance Rate Maps have used the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

DE MINIMIS DEVELOPMENT. Projects that are too small to warrant an engineering study and the certification. Examples of obviously insignificant projects that will not block flood flows or increase BFE’s include: a sign post or telephone pole, a driveway, road or parking lot at grade (without any filling), agricultural uses, loading and parking areas, recreational uses and uses incidental to residential structures such as lawns, gardens, parking areas and play areas.

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

DIGITAL FIRM (DFIRM). 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. The activities or construction within the Floodway including, fill, excavation, grading, new construction, substantial improvements and other development.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

ELEVATION CERTIFICATE. A document identifying the base flood elevation and building elevation which is certified by a land surveyor, engineer, or architect. A community's permit file must have an official record that shows new buildings and substantial improvements in all identified Special

Flood Hazard Areas (SFHAs) are properly elevated. This elevation information is needed to show compliance with the floodplain management ordinance. FEMA encourages communities to use the Elevation Certificate developed by FEMA to fulfill this requirement since it also can be used by the property owner to obtain flood insurance. The elevation datum used by the surveyor must match the datum used on the FIS and FIRM.

ESSENTIAL FACILITY or “Critical Facility”:

- (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.

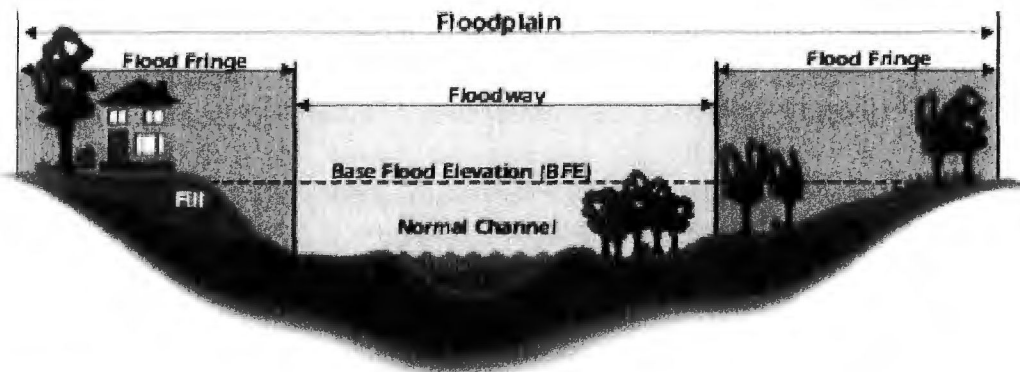
FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

FLOOD INSURANCE STUDY (FIS). The official report provided by the Federal Insurance Administration evaluating flood hazards and includes flood profiles, regulatory Floodway boundaries, the Flood Boundary-Floodway Map and the water surface elevations of the base flood.

FLOOD FRINGE. The shaded area on either side of the floodway, but still within the 100-year floodplain or Special Flood Hazard Area. This area is subject to inundation by the base flood, but conveys little or no velocity flows.



FLOODPLAIN. See definition for Special Flood Hazard Area.

FLOODWAY (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 one foot.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate and instructions, FEMA Form 81-31, Section C, for additional information.

HISTORIC STRUCTURE. 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 which have been approved by the Secretary of the Interior, or;
- (4) individually listed on a local inventory of historic places in 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.

LETTER OF MAP CHANGE (LOMC). 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:

- (1) Letter of Map Amendment (LOMA)
 - (a) 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.
- (2) Letter of Map Revision (LOMR)
 - (a) 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.
 - (b) 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)

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, the enclosure is built and maintained in accordance with the applicable design requirements of the Oregon Specialty Codes and this chapter.

MANUFACTURED HOME (DWELLING). A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home (Dwelling)" 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.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's FIRM are referenced.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of the FIS, and includes any subsequent substantial improvements to the structure.

OREGON SPECIALTY CODES. 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.

RECREATIONAL VEHICLE. A vehicle which 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 towable by a light duty truck, and;
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA (SFHA). Zones on the FIRM that depict the land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. "Special Flood Hazard Area" is synonymous with "Area of Special Flood Hazard." Special Flood Hazard Areas on FIRM's always includes the letter "A".

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.

STRUCTURE. A walled and roofed building, including a manufactured dwelling, a modular or temporary building, or a 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

- (1) Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% 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:
 - (a) the of the structure prior to the initial repair or improvement, or

- (b) in the case of damage, the value of the structure prior to the damage occurring.
- (2) Acceptable estimates of market value can be obtained from these sources:
 - (a) An independent appraisal by a professional appraiser (excluding value of the land).
 - (b) Detailed estimates of the structure's actual cash value – the replacement cost for a building, minus a depreciation percentage based on age and condition.
 - (c) Qualified estimates based on sound professional judgment made by the Building Official or County Assessor.
- (3) For the purpose of this definition, Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of a building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include:
 - (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 “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure.”
 - (c) routine maintenance such as painting, reroofing or replacing siding.

VARIANCE. A grant of relief from any requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

VIOLATION. 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 of this chapter is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. The channel and banks of an identifiable channel, 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. 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.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.06 LANDS TO WHICH THIS CHAPTER APPLIES

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Baker City. Nothing in this Chapter is intended to allow uses or structures that are otherwise prohibited by the Baker City Development Code or State of Oregon Specialty Codes (Oregon Specialty Codes).

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.07 BASIS FOR AREAS OF SPECIAL FLOOD HAZARD

- (A) The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Baker County, Oregon and Incorporated

Areas, dated June 3, 1988, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM) are adopted by reference and declared a part of this Chapter. The FIS and the FIRM are on file at City Hall located at 1655 1st Street in Baker City, Oregon.

- (B) Areas of Special Flood Hazard are depicted on FIRMs and DFIRMs as Special Flood Hazard Areas (SFHA). When the Base Flood Elevation has not been identified, the best available information for flood hazard area identified as outline in § 151.21 shall be the basis for regulation.

(Ord. 3310, passed 5-22-2012)

§ 151.08 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 Baker City administers and enforces the State of Oregon Specialty Codes, the City Council of Baker City does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Special Flood Hazard Areas. Therefore, this chapter is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

(Ord. 3310, passed 5-22-2012)

§ 151.09 ESTABLISHMENT OF A DEVELOPMENT PERMIT

A development permit shall be required prior to initiating development activities in any Special Flood Hazard Area established in §151.07. The permit shall be for all proposed development as set forth in §151.05 Definitions, including the placement of manufactured dwellings.

(Ord. 3310, passed 5-22-2012)

§ 151.10 COMPLIANCE

- (A) No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.
- (B) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be subject to §10.99. Nothing herein contained shall prevent the City of Baker City from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.11 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 ordinance, Oregon Specialty Codes, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.12 INTERPRETATION

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

- (A) considered as minimum requirements;
- (B) liberally construed in favor of the governing body, and;
- (C) deemed neither to limit nor repeal any other powers granted under state statutes, including Oregon State Specialty Codes.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.13 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 human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within the areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Baker City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2824, passed 11-9-1980)

ADMINISTRATION

§ 151.20 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City Manager, or designee, is hereby appointed as the Floodplain Administrator who is responsible to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 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 construction and other development, including the placement of manufactured dwellings, to determine whether such construction or other development will be located in Special Flood Hazard Areas or other flood-prone areas;
- (B) Review all development permits for new development or modifications of any existing development in Special Flood Hazard Areas for compliance with the requirements of this chapter;
- (C) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which approval is required. Copies of such permits shall be maintained on file;

- (D) Review all development permits to determine if proposed development is located in the regulatory Floodway. If located in the Floodway, assure that the encroachments provisions of §151.41 are met;
- (E) When Base Flood Elevation data has not been provided by the Federal Emergency Management Agency in §151.07, 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 chapter;
- (F) When Base Flood Elevations are not available, the Floodplain Administrator shall:
 - (1) review proposed development to determine whether development proposals are reasonably safe from flooding
 - (2) review all development permits for all new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) greater than 5 acres or 50 lots, whichever is the lesser, to ensure a base flood elevation has been established
- (G) Where a determination is needed of the exact location of boundaries of the Special Flood Hazard Areas 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 as provided in Baker City Development Code § 4.1.200.G.
- (H) Issue development permits when the provisions of this chapter have been met, or deny the same in the event of noncompliance;
- (I) Coordinate with the Building Official to ensure that applicable building permits comply with the requirements of this Chapter;
- (J) 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 structures, including manufactured dwellings, that are located in non-coastal special flood hazard areas, and whether or not the structure contains a basement;
- (K) 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 a new or substantially improved non-residential structure located in a non-coastal special flood hazard area has been flood-proofed. When flood-proofing is utilized for a non-residential structure, the Floodplain Administrator shall obtain a Flood-proofing Certificate (FEMA Form 81-65) which has been signed and sealed by a registered professional engineer or architect;
- (L) Ensure that all records and certifications pertaining to the provisions of this chapter are permanently maintained in City Hall and available for public inspection;
- (M) Make periodic inspections of Special Flood Hazard Areas to establish that development activities are being performed in compliance with this chapter, and to verify that existing buildings and structures maintain compliance with this chapter;

- (N) Coordinate with the Building Official to inspect areas where buildings and structures in Special Flood Hazard Areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required to repair, rehabilitate, demolish, relocate, or reconstruct structures;
- (O) Make substantial improvement and/or substantial damage determinations for all structures located in Special Flood Hazard Areas.

(Ord. 2824, passed 11-9-1980; Ord. 3200, passed 8-13-2002; Ord. 3310, passed 5-22-2012)

§ 151.22 DEVELOPMENT PERMIT

- (A) A Development Permit shall be obtained before the construction or development begins within any Special Flood Hazard Area established herein. The permit shall be for all structures including manufactured homes (dwellings), as set forth in §151.05 and for all other development including fill and other activities also as set forth in §151.05. “De minimis development” projects and projects valued at less than \$500 (other than filling, grading or excavating) are exempt from the Development Permit requirement; however, notice of proposed “de minimis development” is required to be submitted to the Floodplain Administrator.
- (B) Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by the Floodplain Administrator or designee prior to starting development activities. Specifically, the following information is required:
 - (1) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities;
 - (2) Delineation of Special Flood Hazard Areas, regulatory Floodway boundaries including Base Flood Elevations, or flood depth in AO zones, where available;
 - (3) Elevation in relation to the highest adjacent grade and the Base Flood Elevation, or flood depth in AO zones, for all proposed structures of the:
 - (a) lowest enclosed area including crawlspace or basement floor;
 - (b) top of the proposed garage slab, if any, and;
 - (c) next highest floor
 - (4) Locations and sizes of all flood openings, if required, in any proposed structure;
 - (5) The proposed elevation to which a non-residential structure will be flood-proofed or elevated;
 - (6) Specifications for any proposed flood-proofing of nonresidential structures and an indication that the proposed flood-proofing will be certified by a professional engineer or architect prior to issuance of the development permit;
 - (7) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development (see §151.23(C)); and
 - (8) Evidence that all necessary permits can be obtained from those governmental agencies from which approval is required by Federal or State law.

- (C) No Development Permit shall be issued until compliance with this chapter and other applicable codes and regulations has been demonstrated. Specifically, the following documentation is required prior to issuance of a floodplain Development Permit:
- (1) Evidence that all necessary permits have been obtained from those governmental agencies from which approval is required by Federal or State law;
 - (2) A FEMA-approved CLOMR if the project will cause a watercourse alteration, modify Base Flood Elevation, or change the boundaries of the floodway or special flood hazard area;
 - (3) A completed pre-construction Elevation Certificate signed and sealed by a registered professional surveyor;
 - (4) 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 Oregon Specialty Codes.
- (D) During construction:
- (1) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator 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;
 - (2) Any deficiencies identified by the Floodplain Administrator 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 to request issuance of a stop-work order for the project.
- (E) Finished Construction:
In addition to the requirements of the Oregon 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:
- (1) For elevated buildings and structures in non-coastal Special Flood Hazard Areas (all A zones), 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;
 - (2) For non-residential buildings and structures that have been flood-proofed, the elevation to which the building or structure was flood-proofed.
- Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to prevent issuance of a certificate of occupancy until such deficiencies are corrected.
- (F) Expiration of Development Permit:
Development permits issued under this chapter shall become invalid unless the work authorized by such permit is commenced within 180 days after issuance or the work 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 and shall be reviewed against the current FIRM and this chapter.

(Ord. 2824, passed 11-9-1980; Ord. 2957, passed 4-28-1987; Ord. 3310, passed 5-22-2012)

§ 151.23 ALTERATION OF WATERCOURSES

- (A) Development shall not diminish the flood carrying capacity of a watercourse. If any watercourse 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 watercourse will not be diminished.
- (B) Applicant will be responsible for obtaining all necessary permits from governmental agencies from which approval is required by Federal, State, or local law, including but not limited to § 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.
- (C) The Floodplain Administrator shall notify adjacent communities and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse and submit evidence of the notification to the Federal Insurance Administration. The applicant shall provide to the Floodplain Administrator the technical information necessary to prepare the notification.
- (D) The Floodplain Administrator shall assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. It shall be the responsibility of the applicant to perform required maintenance.
- (E) The applicant shall submit to the Floodplain Administrator technical data as set forth in §151.24 prior to any watercourse alteration that will result in the expansion, relocation or elimination of the special flood hazard area.

(Ord. 2824, passed 11-9-1980; Ord. 3200, passed 8-13-2002; Ord. 3310, passed 5-22-2012)

§ 151.24 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

- (A) Within six months of project completion, an applicant who obtains a 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 FIS and/or FIRM.
- (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 FEMA Form MT-2 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 from FEMA.
- (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 Chapter.

(Ord. 3310, passed 5-22-2012)

§ 151.25 NON-CONVERSION OF ENCLOSED AREAS BELOW THE LOWEST FLOOR

To ensure that enclosed areas below the lowest floor continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation/recreation/bathrooms, etc., the Floodplain Administrator shall:

- (A) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;
- (B) Enter into a “NON-CONVERSION DEED DECLARATION FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS” or equivalent with the City of Baker City. The deed declaration shall be recorded with the Baker County Clerk. The deed declaration shall be in a form acceptable to the Floodplain Administrator;

(Ord. 3310, passed 5-22-2012)

§ 151.26 VARIANCES

- (A) An application for a variance must be submitted to the City of Baker City on the form provided by the City of Baker City 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 §151.27 Criteria for Variances and the purposes of this chapter, the City of Baker City may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (D) The Floodplain Administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

(Ord. 2824, passed 11-9-1980; Ord. 2901, passed 4-10-1984; Ord. 3310, passed 5-22-2012)

§ 151.27 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.
- (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, in conformance with items 1-10 in §151.27(H) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (C) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (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.
- (E) Variances may be issued for a water dependent use provided that the:
 - (1) criteria of subsections (A) through (D) of §151.26 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.
 - (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.
 - (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.
 - (H) In review of such applications, the City of Baker City shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, 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 on the individual owner;
 - (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;
 - (8) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (9) Safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) 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) 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.

(Ord. 3310, passed 5-22-2012)

§ 151.28 VARIANCE DECISION

If the variance is approved, the City of Baker City shall notify the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the Base Flood Elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(Ord. 3310, passed 5-22-2012)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 151.40 SITE IMPROVEMENTS AND SUBDIVISIONS

- (A) Where Special Flood Hazard Areas have not been defined within the community or a Base Flood Elevation has not been provided, all plans and permits for proposed construction subdivisions, placement of manufactured homes, or other development shall be consistent with the need to ensure that building sites will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes historical data, high water marks, photographs of past flooding and the like, where available.
- (B) Building lots shall have adequate buildable area outside of regulatory Floodways.
- (C) All subdivision proposals, site improvements, and manufactured home parks shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage and infiltration of floodwaters into the systems. 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.
- (D) All subdivision proposals and other proposed new development, including manufactured home parks, shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from proposed structures.
- (E) Where Base Flood Elevation data has not been provided, it shall be generated for subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) which contain at least 50 lots or 5 acres (whichever is less).
- (F) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems. 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. Onsite waste disposal systems shall be located to avoid functional impairment to them or contamination from them during flooding.

(Ord. 2824, passed 11-9-1980; Ord. 3310, passed 5-22-2012)

§ 151.41 DEVELOPMENT IN REGULATORY FLOODWAYS

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

- (A) Except as provided in subsection (D) below, encroachments, including fill, new construction, substantial improvements, fences or other developments, 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 encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- (B) If subsection (A) is met, any fill permitted to be placed in the regulatory Floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
- (C) 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 unless the development causes a temporary encroachment and the conditions in subsection (D) below are satisfied. Upon completion of the project, but not later than six months after the project completion, a Letter of Map Revision shall be submitted to FEMA to reflect the changes on the FIRM and/or FIS.

EXCEPTIONS:

- (D) Temporary encroachments in the regulatory Floodway for the purposes of capital improvement projects (including bridge construction/repair) must have a development permit issued. This includes ensuring that all other required permits and permissions are obtained from federal, state and local agencies. If the temporary encroachment results in an increase in flood levels during the occurrence of the base flood discharge, a CLOMR is not required to be obtained when:
 - (1) The project is limited as to duration with the days and dates that the structure or other development will be on site specified in the development permit. If a longer period is required, a new permit should be issued.
 - (2) All other accessory equipment and temporary structures (i.e. construction trailers) are restricted from the regulatory Floodway;
 - (3) The project limits placement of equipment and material in the regulatory Floodway to that which is absolutely necessary for the purposes of the project;
 - (4) Structures shall be placed on site so the flood damages are minimized.
 - (5) The project includes a flood warning system sufficient to allow equipment to be evacuated from the regulatory Floodway and placed outside the area of special flood hazard in the event of imminent flood;
 - (6) The project applicant identifies insurable structures affected by any increase in Base Flood Elevation. The community should disclose to all owners of insurable structures and all applicants for permits in the affected area that there is an increased risk of flooding for the duration of the temporary encroachment;

- (7) The project applicant is provided with written notification that they may be liable for any flood damages resulting from the temporary encroachment.

(Ord. 2824, passed 11-9-1980; Ord. 2901, passed 4-10-1984; Ord. 3310, passed 5-22-2012)

§ 151.42 BUILDING DESIGN AND CONSTRUCTION

Buildings and structures, including manufactured dwellings, within the scope of the Oregon Specialty Codes, including repair of substantial damage and substantial improvement of 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, the Structural Specialty Code.

- (A) In *ALL* Special Flood Hazard Areas, the following standards are required:
 - (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - (3) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage, and;
 - (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.
- (B) Specific Building Design and Construction Standards for Non-coastal *RESIDENTIAL* Construction (all A Zones), in addition to subsection (A):
 - (1) New construction and substantial improvement of any residential structure 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;
 - (2) New construction and substantial improvement that have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and 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 flood waters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect and 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 flood waters.
- (C) Specific Building Design and Construction Standards for Non-coastal, *NONRESIDENTIAL* Construction, in addition to subsection (A):

- (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 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 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 Floodplain Administrator;
 - (2) Nonresidential structures that are elevated, not flood-proofed, must meet residential standards described in subsection (B);
 - (3) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level will be rated as one foot below that level.)
- (D) Specific Building Design and Construction Standards for Non-coastal, **MANUFACTURED DWELLINGS**, in addition to subsections (A) and (B)(2):

New, replacement, and substantially improved manufactured dwellings are subject to the following standards:

- (1) If the manufactured dwelling is supported on solid foundation walls, the ground area reserved for the placement of a manufactured dwelling shall be a minimum of one foot above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces 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 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.
- (2) The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE
- (3) The manufactured dwelling shall 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;

- (4) Electrical crossover connections shall be a minimum of 12 inches above BFE.
- (E) Standards for Shallow Flooding Areas (AO Zones). Shallow flooding areas appear on FIRMs as AO zones with depth designations that 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 subsection (A) of this section and the following provisions shall apply:
- (1) New construction and substantial improvements of residential structures and manufactured homes within AO 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 above HAG if no depth number is specified).
 - (2) New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least three feet above HAG if no depth number is specified); or
 - (b) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

(Ord. 2824, passed 11-9-1980; Ord. 2957, passed 4-28-1987; Ord. 3200, passed 8-13-2002; Ord. 3310, passed 5-22-2012)

§ 151.43 BELOW GRADE CRAWLSPACES

- (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 subsection (B) below. Because of hydrodynamic loads, crawlspace construction is not recommended 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 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 bottom of the structural support of the next higher floor must not exceed four (4) feet at any point.
- (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.

(Ord. 3310, passed 5-22-2012)

§ 151.44 RECREATIONAL VEHICLES

In all Special Flood Hazard Areas, Recreational Vehicles that are an allowed use or structure under the Baker City Development Code must either:

- (A) Be placed on the site for fewer than 180 consecutive days; or
- (B) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick-disconnect type utilities and security devices, and have no permanently attached additions; or
- (C) Shall:
 - (1) Meet the development permit requirements of §151.22 and Sections 151.40 through 151.49 of this chapter and the manufactured home requirement in the Oregon Manufactured Dwelling Installation Specialty Code and be elevated on a permanent foundation such that the bottom of the vehicle chassis is elevated to or above Base Flood Elevation.
 - (2) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Permanently placed Recreational Vehicles shall, in addition, meet the requirements of §151.49(A).

(Ord. 2824, passed 11-9-1980; Ord. 3200, passed 8-13-2002; Ord. 3310, passed 5-22-2012)

§ 151.45 TEMPORARY STRUCTURES AND TEMPORARY STORAGE IN AE ZONES WITH A FLOODWAY

- (A) Temporary structures placed in the floodway: Relief from no-rise evaluation, elevation or dry flood-proofing standards may be granted for a non-residential structure placed during the dry season (June – October) and for a period of less than 90 days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage all utilities servicing the temporary structure.
- (B) Temporary storage (temporary storage does not include hazardous materials) in the floodway: Temporary storage of goods and materials is allowed in the floodway for a period of less than 90 days within the dry season (June – October).

(Ord. 3310, passed 5-22-2012)

§ 151.46 ESSENTIAL FACILITIES

Construction of new essential facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area. Construction of new essential facilities shall be permissible within the Special Flood Hazard Area if no feasible alternative site is available. Flood-proofing 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. The lowest floor shall be elevated three feet above the Base Flood Elevation or to the height of the 500-year flood, whichever is higher. 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.

(Ord. 3310, passed 5-22-2012)

§ 151.47 TANKS

- (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.
- (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.

(Ord. 3310, passed 5-22-2012)

§ 151.48 FENCING

- (A) 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. Fencing located in the regulatory Floodway shall meet the requirements of §151.41 Development in Regulatory Floodways.

- (B) Fencing and walls in the special flood hazard area require floodplain development permits, unless they are small enough to be considered de minimus development.

Fence or Wall Type	Fencing and Walls Allowed?		
	Floodway Fringe (Riverine)	Regulatory Floodway (Riverine)	Shallow/ Sheetflow/ Ponding Zones
A	Yes		
B	Yes	Yes, with limited cross channel fencing	Yes
C	Design Review Required ⁱ		
D	Yes, if open at base to BFE	No ⁱⁱ	Yes, if open at base to BFE
E	Yes, if open at base to BFE	No ⁱⁱ	Yes, if open at base to BFE
F	Yes, if adequate openings at base to BFE	No ⁱⁱ	Yes, if adequate openings at base to BFE
G	Yes, if adequate openings at base to BFE	No ⁱⁱ	Yes, if adequate openings at base to BFE
H	Yes, if adequate openings at base to BFE	No ⁱⁱ	Yes, if adequate openings at base to BFE

Fence/Wall Types:

- A Open barb or barbless wire. Open means no more than one horizontal strand per foot of height
- B Open pipe or rail fencing (e.g. corrals). Open means rails occupy less than 10% of the fence area and posts are spaced no closer than 8 feet apart.
- C Collapsible fencing
- D Other wire, pipe, or rail fencing (e.g. field fence, chicken wire, etc.) which does not meet open requirements above.
- E Chain link fencing
- F Continuous wood fencing
- G Masonry walls
- H Retaining walls, bulkheads

ⁱ Ensure fence will collapse under anticipated base flood conditions. Debris impact must be considered.

ⁱⁱ Unless shown, using FEMA-approved engineering/modeling standards, to cause no-rise in BFE.

(Ord. 3310, passed 5-22-2012)

§ 151.49 DEVELOPMENT, INCLUDING ACCESSORY STRUCTURES, IN NON-COASTAL SPECIAL FLOOD HAZARD AREAS (ALL A ZONES)

- (A) All development (including substantial improvements) in non-coastal high hazard areas (all A zones) for which provisions are not specified in this chapter or Oregon Specialty Codes shall:
- (1) Be located and constructed to have low damage potential;
 - (2) Be constructed with materials resistant to flood damage;
 - (3) If located in a regulatory Floodway, meet the limitations of §151.41 Development in Regulatory Floodways of this chapter;
 - (4) Be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of

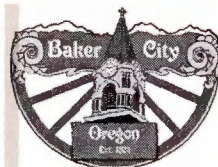
buoyancy, during conditions of the base flood;

- (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;
 - (6) 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;
 - (7) 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;
 - (8) 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.
 - (9) 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.
- (B) Walled and roofed accessory structures, including substantial improvement to existing accessory structures, shall meet the requirements of subsection (A) above and shall:
- (1) Be less than 200 square feet and not exceed one story;
 - (2) Have unfinished interiors and not be temperature controlled;
 - (3) 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;
 - (4) 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.

(Ord. 3310, passed 5-22-2012)

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City of Baker City, Oregon
Planning Department
P.O. Box 650 • 1655 1st Street
Baker City, OR 97814

TO:

ATTN: Plan Amendment Specialist
Dept. of Land Conservation & Dev.
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540