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Chapter 630 FLOOD PLAIN OVERLAY ZONE [FPOZ]

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630.01 Purpose.

The purposes of the Flood Plain Overlay Zone are to implement the Comprehensive Plan Flooding Section; protect the public from the hazards associated with flood plains; conserve important riparian areas along rivers and streams for the maintenance of the fish and wildlife resources; and preserve significant scenic and natural resources while balancing the public interests with those of individual property owners in the designated areas.

630.02 Designated Areas.

A. Special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Baker County, Oregon and Incorporated Areas" [6/3/88], with accompanying Flood Insurance Rate Maps is hereby adopted by reference and incorporated herein by this reference. The Flood

Insurance Study is on file at the Baker County Planning Department.

B. Flood Plain Overlay Zone. The Flood Plain Overlay Zone shall include all areas designated as "Special Flood Hazard Areas" by the Flood Insurance Study for Baker County. When base flood elevation data has not been provided in the Flood Insurance Study, the Planning Department will obtain, review and reasonably utilize any base flood elevation or floodway data available from federal, state or other sources, in determining the location of a flood plain or floodway.

630.03 Uses Permitted Outright.

The following uses and their accessory uses are permitted outright, subject to the applicable development standards of this Ordinance:

- A. Agricultural uses. Agricultural uses conducted without establishing or utilizing a structure. For purposes of this subsection, a "structure" does not include a boundary fence as long as such fence is designed to impede as little as possible the movement of floodwaters and flood-carried material.
- B. Forest uses. Management, propagation and harvesting of a forest product.
- C. Open space.
- D. Non-developed portions of residential sites. Portions of a residential use that do not contain structures, such as lawn, garden, or play areas.
- E. Public rights-of-way.
- F. Irrigation systems. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District.

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630.04 Conditional Uses Permitted.

The following uses may be allowed subject to conditional use review, per the requirements of Chapter 210, as permitted in the underlying zone:

- A. Public improvements. A roadway, bridge or utility structure, except a landfill, that will not impede the waters of a base flood.
- B. Incidental storage. Incidental storage of material or equipment that is either not subject to damage by flood, or is mobile and readily removable from the area within the time available after flood warning. If such material is not readily removable, it shall be anchored to prevent flotation and shall not obstruct water flow. Material or equipment stored shall include only items that will not create a hazard to the health or safety of persons, property, animals or plant life should the storage area be inundated.
- C. Single-family residential dwelling. A conventional or manufactured single family dwelling on an individual lot, as permitted in the underlying zone. This includes dwelling units in resource and non-resource zones (see 630.05 for limitations).
- D. Agricultural accessory buildings (see 630.05 for limitations).
- E. Hydroelectric facilities.
- F. Excavation and related activities. Excavation, grading, and fill and removal within the bed and banks of a stream or river or in a wetland.
- G. Limited recreational uses. Recreational uses requiring only structures having an insignificant effect on flood waters, such as golf courses, tennis courts, driving

ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, wildlife or nature preserves, game farms, fish hatcheries, shooting preserves, and hunting or fishing areas.

- H. Land divisions. The dividing of land, any portion of which is located in a flood plain, subject to the provisions of Chapter 320, Partitions, or Chapter 330, Subdivisions.
- I. Existing structures. Expansion or substantial improvement of an existing dwelling, an agricultural related-structure, a commercial, industrial or other non-residential structure, or an accessory building (see 630.05 for limitations).
- J. Wireless telecommunications facilities (WTF). WTF meeting the requirements of Chapter 740, Wireless Communications Facilities.
- K. Surface mining. Surface mining of mineral and aggregate resources.

630.04 Limitations on Conditional Uses.

The following limitations shall apply to all uses permitted conditionally in Sections 630.04.

- A. Replacement of pre-existing structures. No new construction of a conventional or manufactured dwelling, accessory structure or farm use structure shall be allowed in the floodway of any river or stream except for replacement of a structure lawfully in existence prior to the effective date of this Ordinance, subject to the provisions in Chapter 720, Nonconforming Uses.
- B. New structures. No new construction of a conventional or manufactured dwelling, accessory structure or farm use

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structure shall be located in the flood zone unless it can be demonstrated by the applicant that no alternative exists on the subject property which would allow the structure to be placed outside of the flood plain.

- C. Land divisions. No subdivision or partition shall be allowed which creates the potential for additional residential dwellings in the flood zone.
- D. State and federal permits. The applicant shall obtain all necessary state and federal permits.

630.05 Application for Conditional Use.

Conditional uses in the Flood Plain Overlay Zone will be processed by means of a Type III procedure, as governed by Chapter 205, Decision-Making Procedures, and the special requirements and approval criteria of Chapter 210, Conditional Uses. In addition to, or in lieu of the submission requirements of Chapter 205, an applicant for a conditional use in the Flood Plain Overlay Zone shall provide the following information. At the mandatory Pre-Application Conference, the Director will clarify the list of required information:

- A. Documentation of need. A detailed explanation of why it is necessary to conduct the proposed use in the Flood Plain Overlay Zone. Where base flood elevation data is not available from the Flood Insurance Study or from another authoritative source, it shall be generated and submitted with the application for subdivision proposals and other proposed developments that contain at least 50 lots or five acres, whichever is less.
- B. Site plan. A site plan, drawn to scale and accompanied by drawings, sketches and descriptions which describe and

illustrate the proposed use. This site plan shall include, at a minimum, existing and proposed site contours in relation to the base flood elevation, existing and proposed structures, drainage facilities, and an explanation of how erosion will be dealt with during and after construction of the use.

- C. Relative location of proposed use. The location of the property relative to the channel of the river or stream and the floodway.
- D. Habitable floor elevations.
 1. The elevation of the lowest habitable floor and of any basement floor for any dwelling unit or structure.
 2. The elevation to which the structure is to be flood-proofed, if applicable.
 3. Elevations on the site plan shall be established by a licensed surveyor or engineer, and shall be in relation to mean sea level.
- E. Certification. Certification by a registered professional engineer or architect that the flood-proofing methods for any structure meet the flood-proofing criteria established by the Federal Emergency Management Agency.
- F. Watercourse alteration/relocation. A description of the extent to which a watercourse will be altered or relocated as a result of the proposed development and an explanation of how the flood-carrying capacity within the altered or relocated portion of any watercourse will be maintained.
- G. Additional pertinent information. All other elements or information that will assist in the evaluation of the proposed development and conformance with the

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applicable criteria, at the discretion of the Director.

630.06 Approval Criteria for Conditional Uses.

The criteria for approving a conditional use in the Flood Plain Overlay Zone is contained in Section 210.05 and 210.07(D).

630.07 Development Standards.

All structures in the flood plain shall meet the following standards.

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

B. Construction materials and methods.

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

C. Utilities.

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

D. Land divisions.

1. All subdivision and partition proposals shall be consistent with the need to minimize flood damage.
2. All subdivision and partition proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. All subdivision and partition proposals shall have adequate drainage provided to reduce exposure to flood damage.

- ### **E. Review of building permits.** Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, 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, but is not limited to, use of historical data, high water marks, and photographs of past flooding, where available. Failure to elevate at least 2' above grade in the Flood Plain Overlay

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Zone may result in higher insurance rates.

F. Specific Standards. In the Flood Plain Overlay Zone, the following requirements must be met:

1. Residential Construction.

a. New construction, including replacement, and substantial improvement of any residential structure shall have the lowest floor of the entire structure, including basement, elevated at least 1' above base flood elevation.

b. Fully enclosed areas below the lower floor that are subject to flooding are prohibited unless they are 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 criteria:

(1) 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.

(2) The bottom of all openings shall be no higher than 1' above grade.

(3) Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

2. Non-residential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at

least 1' above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

a. Be flood-proofed so that below the base flood elevation 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.

c. Be certified by a registered professional engineer or architect that the design and methods of construction are subject to accepted standards of practice. Such certification shall be based on the engineer's or architect's development and/or review of the structural design, specifications and plans.

d. Non-residential structures that are elevated, but not flood-proofed, must meet the same standards for space below the lowest floor as described in Subsection (1) above.

e. Applicants for flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are 1' below the flood-proofed level, e.g. a building constructed to the flood level will be rated as 1' below that level.

3. Manufactured Homes. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least 1' above the base flood elevation. Such manufactured homes shall be securely anchored to an adequately anchored foundation system.

4. Parking Facilities. No parking facility shall be located within 20' as measured

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at right angles of the ordinary high water mark.

G. Floodways. In floodways the following provisions shall apply:

1. Encroachments, including fill and removal, replacement of a dwelling lawfully in existence on the effective date of the Ordinance and other development are prohibited unless certification by a registered professional engineer is provided demonstrating that the proposed encroachments will not result in any increase in flood levels during a base flood discharge.
2. The applicant must demonstrate that all necessary state and federal permits have been or can be obtained and that all other applicable sections of the Ordinance have been satisfied.
3. Replacement of a dwelling shall not increase the square footage or footprint of the structure by more than 20% of the square footage or footprint of such dwelling as of the effective date of this Ordinance.
4. No replacement of a dwelling shall be allowed if the use of the pre-existing dwelling has been abandoned or otherwise terminated for a period of over one year.

630.08 Yard and Setback Requirements.

In the Flood Plain Overlay Zone, the following yard and setback requirements shall be maintained:

- A. Front setback. No part of a structure shall be constructed or maintained closer than 60' to the center line of a road or street, or 30' from any right-of-way in excess of 60'.

B. Side yard setback. There shall be a minimum side yard of 10' for all uses.

C. Rear yard setback. The minimum rear yard shall be 10'.

D. No part of a building or other structure requiring a building permit or farm use affidavit or a road to access such development, shall be constructed within 50' of a naturally occurring riparian area, bog, marsh or waterway.

E. Applicability of other setback requirements. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the underlying zoning district shall be met.

630.09 Dimensional Standards.

In a Flood Plain Overlay Zone, the following dimensional standards shall apply:

A. Lot coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of 30% of the total lot area.

B. Building height. No building or structure shall be erected or enlarged to exceed 30' in height.

C. Minimum lot size. Minimum lot size shall be 10 acres for all areas that have received an exception to the Statewide Planning Goals for resource uses. Areas that have not received an exception to the Statewide Planning Goals shall have a minimum lot size of 80 acres.

D. Applicability of other dimensional standards. In addition to the dimensional standards set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State

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of Oregon and/or the underlying zoning district shall be met.

construction, including replacement and substantial improvements.

630.10 Stream Setback.

To permit better light, air, vision, stream, and pollution control, to protect fish and wildlife areas and to preserve the natural scenic amenities along streams and lakes, the following setbacks shall apply:

- A. Sewage disposal systems. All sewage disposal installations such as septic tanks or septic drain-fields shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100', measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100', and the County Sanitarian finds that a closer location will not endanger public health or safety, a setback exception may be permitted to locate these facilities closer to the stream or lake, but in no case closer than 25'.

- B. Structures. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 50' measured at right angles from the ordinary high water mark.

630.13 Warning and Disclaimer of Liability.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. The regulations contained herein shall not create liability on the part of Baker County, any officer, agent or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on the regulations herein or any decision lawfully made hereunder.

630.12 Elevation Certification.

Elevation of all new construction, including replacement and substantial improvements, relative to mean sea level of the lowest floor shall be documented before the framing inspection with a survey certified by a State of Oregon registered professional engineer or land surveyor.

The elevation of the lowest floor, relative to mean sea level, shall be documented before the framing inspection with a survey certified by a State of Oregon registered professional engineer or land surveyor. This requirement shall apply to all new