

## Chapter 15.24 FLOODPLAIN MANAGEMENT

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**15.24.010 Statutory authorization.**

The legislature of the state of Washington 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. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006)

**15.24.020 Findings of fact.**

A. The flood hazard areas of Ferndale 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.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006)

**15.24.030 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 and health;

- B. To minimize expenditure of public money and costly flood-control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets; and bridges 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 the areas of special flood hazard assume responsibility for their actions;
- I. To ensure that all new construction is protected from flooding and is designed to avoid or mitigate habitat impacts so that no additional flood protection measures are needed; and
- J. To ensure that expansion of urban growth area boundaries into floodplain areas shall generally be prohibited unless such expansion does not result in increased density above the current zoning of those areas (one dwelling unit per 10 acres unless otherwise stated). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006)

**15.24.040 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. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006)

**15.24.050 Applicability.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of Ferndale. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006)

**15.24.060 Exemptions – Nondevelopment activities.**

Activities that do not meet the definition of “development” are allowed in the regulatory floodplain without the need for a floodplain development permit under this chapter, provided all other federal, state, and local requirements are met. The following are examples of activities not considered development or manmade changes to improved or unimproved real estate:

- A. Routine maintenance of landscaping that does not involve grading, excavation, or filling;
- B. Removal of noxious weeds and hazard trees and replacement of nonnative vegetation with native vegetation;
- C. Normal maintenance of structures, such as re-roofing and replacing siding, improving facades, provided such work does not qualify as a substantial improvement;
- D. Normal maintenance of above-ground public utilities and facilities, such as replacing downed power lines;
- E. Normal street and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, but not including expansion of paved areas;
- F. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility; and
- G. Plowing and other normal farm practices (other than structures or filling) on farms in existence as of the effective date of the ordinance codified in this chapter. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

**15.24.070 Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.060)

**15.24.080 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, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.070)

#### **15.24.090 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 manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Ferndale, any officer, elected or appointed official, or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.080)

#### **15.24.100 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Appeal” means a request for a review of the Floodplain Administrator’s interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

“Assessed value” means the most recent value of a structure as calculated by the Whatcom County Assessor’s Office. The assessed value is intended to provide an objective assessment of the value of the structure, prior to damage or remodel, in order to determine substantial improvement or substantial damage thresholds. The use of assessed value is

authorized by FEMA, pursuant to the Substantial Improvement/Substantial Damage Desk Reference Manual. The City reserves the right to require that the property owner/applicant pay for a market value assessment to be completed by a professional third party in those cases when the assessed value is within 10 percent of requiring a determination of substantial improvement/damage, or when requested by the property owner/applicant.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”). Designated on flood insurance rate maps by the letter A or V.

“Basement” means any area of the building which has its floor subgrade (below ground level) on all sides.

“Best available information” means, in the absence of official flood insurance rate map data, communities can use data from other federal, state or other sources, provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

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

“Designated floodway and flood protection elevation” means the regulatory floodway which has been delineated on the flood insurance rate map (FIRM) or the flood boundary/floodway map (FBFM) of a community’s flood insurance study and is included in this chapter. “Flood protection elevation” means one foot above the base flood elevation.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment and materials, subdivision of land, removal of substantial amounts of vegetation, or alteration of natural site characteristics.

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

A. The overflow of inland or tidal waters; and/or

B. The unusual and rapid accumulation of runoff of surface waters from any source.

C. Mudslide (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study (FIS)” means the official report provided by the Federal Insurance Administrator that includes flood profiles, the flood boundary/floodway map, and the water surface elevation of the base flood.

“Floodplain development permit application” means an application for “development” activity as described herein.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood.

“Impervious surface” means a hard surface area which impedes the natural infiltration of stormwater and causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at FMC [15.24.270\(B\)](#).



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

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“New construction” means structures for which the “start of construction” commenced on or after June 1, 1983.

“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

“Protected area” means the lands that lie within the boundaries of the FEMA floodway and the riparian habitat zone. Because of the impact that development can have on flood heights, velocities, and animal habitat, special rules apply in the protected area. Specifically, all structures must be set back a minimum of 15 feet from the protected area.

“Recreational vehicle” means a vehicle:

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

“Riparian area (riparian habitat zone)” means the portion of habitat extending from the ordinary high-water mark (OHWM) of a stream to that part of the upland influenced by elevated water tables or flooding. It includes the area that directly influences the aquatic ecosystem, provided riparian areas associated with an existing system of dikes and levees shall not extend beyond the toe of the slope on the landward side of the dike or levee structure.

“Special flood hazard area” means an area subject to a base or 100-year flood; areas of special flood hazard are shown on a flood hazard boundary map or flood insurance rate map as Zone A, A1 – 30, AE, A99, AH, VO, V1 – 30, VE or V.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days 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 or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the internal dimensions of the building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground. Manufactured homes are considered structures.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the assessed value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the structure either:

- A. Before the improvement or start of construction; or
- B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

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

B. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places; provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

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

"Wetlands" means transitional lands between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

Wetlands have one or more of the following three attributes:

A. At least periodically, the land supports predominantly hydrophytes;

B. The substrate is predominantly undrained hydric soil; and

C. The substrate is nonsoils and is saturated with water or covered by shallow water at some time during the growing season of each year. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1450 § 1, 2008; Ord. 1397 § 2, 2006. Formerly 15.24.090)

**15.24.110 Report and maps adopted by reference.**

A. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas," dated January 18, 2019, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are adopted by reference and declared to be a part of this chapter. The flood insurance study (FIS) and flood insurance rate map are on file at City Hall, 2095 Main Street, Ferndale, WA 98248.

B. Upon the receipt of a permit application for development within the 100-year floodplain of the Nooksack River, the Floodplain Administrator shall compare the elevation of the site to the base flood elevation. A development project is not subject to the requirements of this chapter if it is located on land that can be shown to be outside the regulatory floodplain of the Nooksack River.

The Floodplain Administrator shall inform the applicant that the project may still be subject to the flood insurance purchase requirements unless the owner receives a letter of map amendment from FEMA.

C. The Floodplain Administrator shall make interpretations where needed, as to the exact location of the boundaries of the regulatory floodplain, the SFHA and the protected area (e.g., where there appears to be a conflict between the mapped SFHA boundary and actual field conditions as determined by the base flood elevation and ground elevations). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1987 § 1 (Exh. 1), 2017; Ord. 1666 § 1, 2011; Ord. 1450 § 1, 2008; Ord. 1397 § 2, 2006. Formerly 15.24.100)

#### **15.24.120 New regulatory data.**

A. All requests to revise or change the flood hazard data, including requests for a letter of map revision and a conditional letter of map revision shall be reviewed by the Floodplain Administrator.

1. The Floodplain Administrator shall not sign the community acknowledgement form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this chapter.

2. The Floodplain Administrator shall not approve a request to revise or change a floodway delineation until FEMA has issued a conditional letter of map revision that approves the change.

B. If an applicant disagrees with the regulatory data prescribed by this chapter, he/she may submit a detailed technical study needed to replace existing data with more accurate data using best available science and in accordance with FEMA mapping guidelines or Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act, FEMA Region X, 2010. If the data in question are shown on the

published FIRM, the submittal must also include a request to FEMA for a conditional letter of map revision.

C. Where base flood elevation data are not available, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include such data with their permit applications, as per FMC [15.24.210](#).

D. All new hydrologic and hydraulic flood studies conducted pursuant to this chapter shall consider future conditions and the cumulative effects from anticipated future land use changes in accordance with Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act, FEMA Region X, 2010. If there is an existing study that meets the rest of this chapter's criteria, it may be used, even if it does not account for future conditions. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

#### **15.24.130 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.110)

#### **15.24.140 Regulatory area.**

The minimum regulatory area for local floodplain management regulations shall be those areas described in FMC [15.24.110](#). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.115)

**15.24.150 Development permit.**

A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in FMC [15.24.110](#). The permit shall be for all structures including manufactured homes, as set forth in FMC [15.24.100](#), and for all other development including fill and other activities, also as set forth in FMC [15.24.100](#). Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include but not be limited to:

1. Site plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question including the elevations of the 10-, 50-, 100-, and 500-year floods, where the data are available;
2. Existing or proposed structures, fill, pavement, and other impervious surfaces, and sites for the storage of materials;
3. Names and locations of all lakes, water bodies, waterways, and drainage facilities and the location of the foregoing;
4. The boundaries of the regulatory floodplain, floodway, and riparian habitat zone, as applicable;
5. The proposed drainage system including, but not limited to, storm sewers, overland flow paths, detention facilities and roads. Regional detention facilities may be named and should be referenced on the site plan;
6. All wetlands;
7. Designated fish and wildlife habitat conservation areas;
8. A biological assessment of wildlife and habitat impacts arising from the project; and
9. Existing native vegetation and proposed revegetation.

B. The following site information shall also be required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures, including the top slab of an attached garage, the lowest elevation of machinery or equipment, and the lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in FMC [15.24.280](#);
4. Description of the extent to which a watercourse will be altered or relocated as a result of a proposed development;
5. If the proposed project involves re-grading, excavation, or filling, the site plan shall include proposed post-development terrain at one-foot contour intervals. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1450 § 1, 2008; Ord. 1397 § 2, 2006. Formerly 15.24.120)

#### **15.24.160 General standards.**

In all areas of special flood hazards, the standards set out in FMC [15.24.150](#) through [15.24.230](#) are required. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.130)

#### **15.24.170 Anchoring.**

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. All manufactured homes must likewise 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 (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.140)

#### **15.24.180 Site design.**

- A. Structures and other development shall be located to avoid flood damage.

1. All structures must be set back at least 15 feet from the protected area. Where possible, structures on lots with area both within and outside of the SFHA should be located outside the SFHA boundary.
2. If a lot has a buildable site out of the regulatory floodplain, new structures shall be located in that area.
3. If a lot does not have a buildable site out of the regulatory floodplain, all new structures, pavement, and other development must be sited in the location that has the least impact on habitat by locating the structures as far from the water body as possible, by placing the structures on the highest land on the lot, or by identifying mitigation measures which reduce or eliminate impacts.

B. All new development shall be designed and located to minimize the impact on flood flows, flood storage, water quality, and habitat.

1. Stormwater in the floodplain must incorporate low impact development techniques per the LID Technical Guidance Manual for Puget Sound, January 2005, revised May 2005, and including future amendments in accord with the Department of Ecology's Stormwater Management Manual for Washington, current edition.
2. If the proposed project will create new impervious surfaces so that more than 10 percent of the portion of the lot in the regulatory floodplain is covered by impervious surface, the applicant shall demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff that leaves the site or that the adverse impact is mitigated, as provided by FMC [15.24.340](#) and [15.24.350](#).

C. The site plan required in FMC [15.24.150](#) shall account for surface drainage to ensure that:

1. Existing and new buildings on the site will be protected from stormwater runoff; and
2. The project will not divert or increase surface water runoff onto neighboring properties. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

**15.24.190 Construction materials and methods.**



- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. New development shall not reduce the effective flood storage volume of the regulatory floodplain and/or shall not create a net increase in flood level. The applicant shall use best available science to determine if the new development will have a net increase in flood level and submit the same to the City, which shall review the data and if necessary consult with other agencies, such as Department of Ecology. If best available science does establish that the development will cause a net increase in flood level and/or results in harm to endangered species, the applicant must undertake the following: Completion of compensatory storage or alternate flood attenuation methods or mitigation measures may be incorporated, provided they do not create a net increase in flood level as determined by a professional engineer or other best available science. The following shall apply to proposed flood attenuation methods:
1. Provide equivalent compensatory flood volume or other flood mitigation features at equivalent elevations to that flood storage capacity being displaced. For this purpose, "equivalent elevation" means having similar relationship to ordinary high water and to the best available of the 10-year, 50-year and 100-year water surface profiles;
  2. Be hydraulically connected to the source of flooding;
  3. Compensatory storage (and all other flood attenuation measures) shall be provided in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins; and
  4. Where applicable, attenuation control areas shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.150)

**15.24.200 Utilities.**

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- B. Water wells shall be located on high ground that is not in the floodway;
- C. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- D. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1987 § 1 (Exh. 1), 2017; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.160)

**15.24.210 Subdivision proposals.**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- D. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).
- E. The final recorded subdivision plat shall include a notice that part of the property is in the special flood hazard area and/or the riparian habitat zone, as appropriate. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.170)

**15.24.220 Critical facilities.**

- A. Critical facilities should be afforded additional flood protection due to their nature. The City therefore imposes minimum standards which are in addition to those used for other types of development.
- B. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the 100-year floodplain as identified on the City's FIRM. Construction of new critical facilities shall be permissible within the 100-year frequency floodplain if no feasible

alternative site is available. Critical facilities constructed within the 100-year frequency floodplain shall have the lowest floor elevated to three or more feet above the level of the 100-year frequency flood. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

C. Access routes elevated to or above the level of the 100-year frequency flood shall be provided to all critical facilities to the extent possible. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.175)

#### **15.24.230 Review of building permits.**

Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (FMC [15.24.400\(D\)](#)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.180)

#### **15.24.240 Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in FMC [15.24.110\(A\)](#) or [15.24.400\(D\)](#), the provisions set out in FMC [15.24.270](#) through [15.24.300](#) are required. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.190)

#### **15.24.250 Activities allowed without habitat impact assessment or floodway analysis.**

The following activities are allowed in the regulatory floodplain without the analysis required in FMC [15.24.340](#) or the habitat impact assessment required under FMC [15.24.350](#), providing all other requirements of this chapter are met, including permits necessary to develop within a floodplain:

- A. Development outside of the riparian habitat zone or the FEMA floodway.
- B. Repairs or remodeling of an existing structure; provided, that the repairs or remodeling are not a substantial improvement or a repair of substantial damage.
- C. Expansion of an existing structure that is no greater than 10 percent greater than the gross floor area of the existing footprint(s) of all structures on the site; provided, that the

repairs or remodeling are not a substantial improvement or a repair of substantial damage. This measurement is counted cumulatively from the effective date of the ordinance codified in this chapter. If the structure is in the floodway, there shall be no change in the dimensions perpendicular to flow.

D. Activities with the sole purpose of creating, restoring, or enhancing natural functions associated with floodplains, estuaries, marine areas, habitat, and riparian areas that meet federal and state standards; provided, that the activities do not include structures, grading, fill, or impervious surfaces.

E. Development of open space and recreational facilities, such as parks, trails, and hunting grounds, that do not include structures, grading, fill, impervious surfaces, or removal of more than five percent of the native vegetation on that portion of the property in the regulatory floodplain. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011)

#### **15.24.260 Other activities.**

All other activities not listed in FMC [15.24.060](#) and [15.24.250](#) that would otherwise be allowed by the applicable zoning within the Ferndale Municipal Code are allowed; provided, that they meet all other requirements of this chapter, including floodway analysis and habitat impact assessment (as applicable), and all other required permits. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

#### **15.24.270 Residential construction.**

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above base flood elevation (BFE).

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings on different sides of each enclosed area, 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 one foot 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. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1450 § 1, 2008; Ord. 1397 § 2, 2006. Formerly 15.24.200)

#### **15.24.280 Nonresidential 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 one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

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 in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in FMC [15.24.400\(E\)\(2\)](#);

D. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in FMC [15.24.270\(B\)](#);

E. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.210)

#### **15.24.290 Manufactured homes.**

All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely

anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1450 § 1, 2008; Ord. 1397 § 2, 2006. Formerly 15.24.220)

#### **15.24.300 Recreational vehicle parks.**

Recreational vehicles placed on sites within the floodplain are required to either:

- A. Be on site for fewer than 180 consecutive days; or
- B. Be fully licensed and ready for highway use, on its wheels or jacking system, and be attached to the site only by quick disconnect type utilities and security devices, with no permanently attached additions; or
- C. Meet the requirements of FMC [15.24.270](#) for residential construction and the requirements of FMC [15.24.290](#) for the elevation and anchoring requirements for manufactured homes. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.222)

#### **15.24.310 Flood protection elevation.**

In order to account for the impacts of future development on flood depths, and in order to ensure the least expensive insurance rates for floodplain occupants, all development within special flood hazard areas which requires elevation or floodproofing shall be:

- A. Elevated to or above the flood protection elevation (base flood elevation plus one foot); or
- B. Floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.225)

#### **15.24.320 AE and A1-30 zones with base flood elevations but no floodways.**

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

**15.24.330 Standards for habitat protection.**

- A. Within the riparian habitat zone, native vegetation shall be left undisturbed, except as provided in FMC [15.24.060](#), Exemptions – Nondevelopment activities, and 15.24.250, Activities allowed without habitat impact assessment or floodway analysis.
  
- B. Outside of the riparian habitat zone, 65 percent of the surface area of the portion of the property in the floodplain must remain in an undeveloped state, unless the site has already been disturbed beyond this threshold. In such cases, no additional loss of vegetation may be permitted unless it is replaced elsewhere on the site. Native vegetation that is within the riparian habitat zone portion of the property can be counted toward this requirement.
  
- C. If the proposed project cannot meet the criteria of subsections (A) and (B) of this section, a habitat impact assessment shall be conducted and, if necessary, a habitat mitigation plan shall be prepared and implemented. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

**15.24.340 Habitat impact assessment.**

Unless allowed under FMC [15.24.060](#) or [15.24.250](#), a permit application to develop in the regulatory floodplain shall include an assessment of the impact of the project on water quality and aquatic and riparian habitat. The assessment shall be:

- A. A biological evaluation or biological assessment that has received concurrence from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act; or
  
- B. Documentation that the activity fits within a habitat conservation plan approved pursuant to Section 10 of the Endangered Species Act; or
  
- C. Documentation that the activity fits within Section 4(d) of the Endangered Species Act; or
  
- D. An assessment prepared in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2010. The assessment shall determine if the project would adversely affect:
  - 1. The primary constituent elements identified when a species is listed as threatened or endangered;
  
  - 2. Essential fish habitat designated by the National Marine Fisheries Service;

3. Fish and wildlife habitat conservation areas;
4. Vegetation communities and habitat structures;
5. Water quality;
6. Water quantity, including flood and low flow depths, volumes and velocities;
7. The channel's natural planform pattern and migration processes;
8. Spawning substrate, if applicable; and/or
9. Floodplain refugia, if applicable. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

**15.24.350 Habitat mitigation plan.**

A. If the assessment conducted under FMC [15.24.340](#) concludes the project is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the applicant shall provide a plan to mitigate those impacts, in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2010.

1. If the project is located outside the protected area, the mitigation plan shall include such avoidance, minimization, restoration, or compensation measures as are appropriate for the situation.
2. If the project is located in the protected area, the mitigation plan shall include such appropriate measures as are needed to ensure that there is no adverse effect due to the project. Minimization measures are not allowed in the protected area, unless they, in combination with other measures, result in no adverse effect.

B. The plan's habitat mitigation activities shall be incorporated into the proposed project. The floodplain development permit shall be based on the redesigned project and its mitigation components.

C. As required in FMC [15.24.400](#), the Floodplain Administrator shall not issue a certification of use or a certificate of occupancy until all work identified in the biological evaluation, biological assessment, or mitigation plan has been completed or the applicant has provided the necessary assurance that unfinished portions of the project will be



completed, in accordance with FMC [15.24.400\(C\)](#). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

#### **15.24.360 Floodways.**

Located within areas of special flood hazard established in FMC [15.24.110](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

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

B. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of FMC [15.24.150](#) through [15.24.230](#). (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1450 § 1, 2008; Ord. 1397 § 2, 2006. Formerly 15.24.230)

#### **15.24.370 Special flood hazard areas with designated floodways.**

In addition to those NFIP requirements for designated floodways, within designated floodways are prohibited construction or reconstruction of residential structures except for:

A. Repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and

B. Repairs, reconstruction or improvements to a structure the cost of which does not exceed 50 percent of the assessed value of the structure either:

1. Before the repair, reconstruction or improvement is started; or
2. If the structure has been damaged, regardless of the actual repair work performed, and is being restored, before the damage occurred.
3. 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 to structures identified as historic places, may be excluded in the 50 percent.

Work done on structures to comply with existing health, sanitary or safety codes or to structures identified as historic places shall not be included in the 50 percent determination. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.235)

**15.24.380 Standards for shallow flooding areas (AO zones).**

*Repealed by Ord. 1450.* (Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.238)

**15.24.390 Floodplain Administrator – Designated.**

The Planning and Building Director is designated Floodplain Administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.240)

**15.24.400 Floodplain Administrator – Duties.**

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

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required, including those local, state or federal permits that may be required to assure compliance with the Endangered Species Act and/or other appropriate state or federal laws;
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of FMC [15.24.360\(A\)](#) are met;
4. Inspect all development projects before, during and after construction to ensure compliance with all provisions of this chapter, including proper elevation of the structure;

5. Be the City's designated individual to undertake and coordinate amongst the various regulatory agencies (i.e., DOE, FEMA and NMFIS) for the review and approval of development permits and permit requirements of this chapter.

B. Certificate of Occupancy. A final certification of use for the property or a final certificate of occupancy for a new or substantially improved structure or an addition shall not be issued until:

1. The permit applicant provides a properly completed, signed and sealed elevation or floodproofing certificate showing finished construction data as required by subsection (E) of this section;
2. If a mitigation plan is required by FMC [15.24.340](#) and [15.24.350](#), all work identified in the plan has been completed according to the plan's schedule;
3. The applicant provides copies of all required federal, state, and local permits noted in the permit application per subsection (A) of this section;
4. All other provisions of this chapter have been met.

C. The Floodplain Administrator may accept a performance bond or other security that will ensure that unfinished portions of the project will be completed after the certification of use or certificate of occupancy has been issued.

D. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with FMC [15.24.100](#) or [15.24.210](#)(D), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer FMC [15.24.150](#) through [15.24.230](#).

E. Information to Be Obtained, Maintained, and Provided.

1. Where base flood elevation data is provided through the flood insurance study or required as in subsection (D) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved nonresidential floodproofed structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection (D) of this section:
  - a. Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and
  - b. Maintain the floodproofing certifications required in FMC [15.24.150\(B\)](#);
3. Maintain for public inspection all records pertaining to the provisions of this chapter;
4. Submit reports as required for the National Flood Insurance Program;
5. Notify FEMA of any proposed amendments to this chapter; and
6. Cooperate with state and federal agencies to improve flood and other technical data and notify FEMA of any new data that would revise the FIRM.

F. Alteration of Watercourses.

1. Notify adjacent communities and the State of Washington Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

G. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in FMC [14.11.070](#). (Appeal data shall be provided by registered engineer or registered surveyor.) (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.250)

**15.24.420 Hearings Examiner.**

A. The Hearings Examiner as established by the City of Ferndale shall hear and decide appeals and request for variances from the requirements of this chapter.

B. The Hearings Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Hearings Examiner, or any taxpayer, may appeal such decision to the superior court, as provided by statute.

D. In passing upon such applications, the Hearings Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

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

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

E. Upon consideration of the factors of subsections (D)(1) through (11) of this section, and the purposes of this chapter, the Hearings Examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.260)

#### **15.24.430 Variances.**

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places; provided, that the alteration will not preclude the structure's continued designation as a "historic structure," without regard to the procedures set forth in the remainder of this section.

B. Variances shall not be issued within a designated floodway.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variance shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance will result in exceptional hardship to the applicant;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in FMC [15.24.420\(D\)](#) or conflict with existing local laws or ordinances.

E. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not

personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

F. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (A) of this section, and otherwise complies with FMC [15.24.170](#) and [15.24.190](#).

G. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Applicant must show that flood insurance has been purchased. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.270)

#### **15.24.440 Wetlands management.**

A. Wetlands are areas of great natural productivity and hydrological utility, providing natural flood control, flood desynchronization, and flow stabilization of rivers and streams. The unrestricted use and development of wetlands will destroy many of these beneficial qualities which directly affect human health and safety during flood events. The piecemeal alterations and destruction of wetlands through draining, dredging, filling and other means have an adverse cumulative impact on their ability to reduce flood damages.

B. The City should, to the maximum extent possible, seek to avoid the short- and long-term adverse impacts associated with destruction or modification of wetlands, especially those activities which limit or disrupt the ability of the wetland to ameliorate flooding impacts. Proposals for development within special flood hazard areas (base floodplains) should be reviewed for their possible impacts on wetlands located within the floodplain. The City should ensure that development activities in or around wetlands do not negatively affect public safety, health and welfare by disrupting the wetlands' ability to reduce flood and storm hazards. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.275)

#### **15.24.450 Hazardous materials.**

No new development shall create a threat to public health, public safety, or water quality. Land uses which include the use of chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other materials that are hazardous, toxic, or a threat to water quality must be properly contained and flood-proofed within the regulatory floodplain. These restrictions do not apply to small quantities of these materials kept for normal household use. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011)

**15.24.460 Permitted uses in the floodway.**

No residential structures are allowed within the floodway except for residential structures existing prior to April 7, 1982. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.280)

**15.24.470 Penalties and enforcement.**

A. In addition to subsection (B) of this section, enforcement procedures and the penalties resulting from violations of this chapter shall be administered pursuant to Chapter [1.12](#) FMC.

B. Any appeal from a penalty jointly imposed by the Department of Ecology and the City shall be appealed to the DOE Pollution Control Hearings Board. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1819 § 21, 2013; Ord. 1817 § 2, 2013; Ord. 1771 § 1, 2013; Ord. 1666 § 1, 2011; Ord. 1397 § 2, 2006. Formerly 15.24.285)

**15.24.480 Severability.**

If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this chapter. (Ord. 2078 § 1 (Exh. 1), 2019; Ord. 1771 § 1, 2013)

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