

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCCLEARY RELATING TO FLOOD HAZARD AREAS, AMENDING CHAPTER 15.12, ADDING A CHAPTER AND AN APPENDIX TO THE MCCLEARY MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

RECITALS:

WHEREAS, the City Council of the City of McCleary has met and concluded the following amendments to MCC Chapter 15.12 are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: MCC Chapter 15.12.10 is amended to read as follows:

ARTICLE I – GENERAL PRINCIPALS

15.12.010 – Purpose.

The primary purpose and goal of the provisions of this chapter is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed 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 flood waters;

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

E. Preventing or regulating the construction of barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

15.12.015 – Severability.

This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

15.12.020 – Applicability.

No development shall be undertaken or placed in the areas regulated by this chapter without full compliance with the terms of this chapter and other applicable regulations of the City of McCleary. These areas are the following:

A. Special Flood Hazard Area (SFHA):

This chapter applies to the special flood hazard area (SFHA) within the jurisdiction of the City of McCleary. The SFHA is defined as the largest of the following areas:

1. The special flood hazard area identified by the Federal Emergency Management Agency in the scientific and engineering report entitled “Flood Insurance Study for Grays Harbor County, Washington, and Incorporated Areas” which becomes effective February 3, 2017, and any

revisions thereto, with an accompanying Flood Insurance Rate Map which becomes effective as of the same date, and any revisions thereto subsequent to that date. The Flood Insurance Study and the FIRM are on file at the ~~office of the building official~~ City of McCleary City Hall, located at 100 South 3rd Street, McCleary, WA.

2. Lands shown as subject to the one hundred-year flood on the "Chehalis River Basin Inundation Map Series - 100-Year Flood," prepared by Watershed Science & Engineering, 11/25/2015.

3. Lands that are not included in subsections 1 or 2, above, that are flooded by the Chehalis River or Harris Creek after the enactment of this chapter.

4. The building official shall have the authority to compare the elevation of a site for which a permit is sought to the base flood elevation and make interpretations where needed, as to the exact location of the boundaries of the SFHA. The applicant may appeal the building official's interpretation of the location of the boundary to the city council.

B. Base Flood Elevation: To the extent that any of the following zones are currently or hereafter designated as being applicable to property within the city, the following provisions shall apply:

1. In "Zone AE" on the Flood Insurance Rate Map, the base flood elevation shall be the "one percent annual chance flood" elevation as shown in the flood profile for the stream in the Flood Insurance Study.

2. In "Zone A," where the Flood Insurance Rate Map and the Flood Insurance Study do not provide a base flood elevation, the base flood elevation shall be the "one hundred-year base flood elevations" delineated on the "Chehalis River Basin Inundation Map Series - 100-Year Flood," prepared by Watershed Science & Engineering, 11/25/2015.

3. Where a flood rises higher than the base flood elevation as determined above, the base flood elevation shall be the elevation of the highest recorded flood level for that site.

ARTICLE II – DEFINITIONS

15.12.030 – Definitions.

Unless specifically defined below, words, terms or phrases shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application: Provided that, if a word, term, or phrase not defined in this section is defined in another section of Titles 15, 16, 17, or 18 of the Municipal Code, that definition shall be applied to the extent reasonably appropriate.

“Alteration of Watercourse.” Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Area of shallow flooding.” A designated zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evidence. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

"Base flood:" the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "one hundred-year flood"). The area subject to the base flood is the special flood hazard area designated on Flood Insurance Rate Maps as Zones "A" or "AE."

"Base flood elevation:" the elevation of the base flood in relation to the North American Vertical Datum of 1988.

"Basement:" any area of the structure having its floor sub-grade (below ground level) on all sides.

"Critical facility:" a facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, medical facilities, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances intended for household use).

"Development:" any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building:" a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. A building on a slab on grade foundation is not considered an elevated building.

"Elevation certificate:" the official form (FEMA Form 81-31) used to provide elevation information necessary to ensure compliance with provisions of this chapter and determine the proper flood insurance premium rate.

"Flood" or Flooding:"

1. _____ A general and temporary condition of partial or complete inundation of normally dry land areas from:

a. _____ The overflow of inland or tidal waves, and/or

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

c. _____ Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces

of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

“Flood Insurance Rate Map (FIRM):” the official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

“Floodplain administrator.” The community official designated by title administer and enforce the floodplain management regulations.

"Flood Insurance Study:" the official report provided by the Federal Emergency Management Agency that includes the Flood Insurance Rate Map, floodway data, and base flood elevations.

“Flood proofing:” Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

"Floodway:" the channel of a stream 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 at any point.

"Functionally dependent use:" A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade:" The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

~~"Historic structure." A structure that is listed on the National Register of Historic Place, the Washington Heritage Register, or the Washington Heritage Barn Register, or has been certified to contribute to the historical signification of a registered historic district.~~

"Historic structure:" a structure that is:

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

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of 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.

"Lowest floor:" the lowest floor of the lowest enclosed area (including basement or crawlspace). 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 structure's lowest floor, provided that such enclosure is compliant with Sections 15.12.150G. and I.

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

"Mean sea level:" For purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"NAVD88:" the North American Vertical Datum of 1988. Unless otherwise noted, all elevations referred to in this chapter are in relation to NAVD88.

"New construction:" structures and substantial improvements for which the actual start of construction, repair, reconstruction, or other improvement to the structure commences on or after the effective date of this chapter.

"Recreational vehicle:" a vehicle,

1. Built on a single chassis; and
2. Four hundred square feet or less when measured at the largest horizontal projection;

and

3. Designed to be self-propelled or permanently towable by an automobile or light duty truck; and

4. Designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use, not as a permanent dwelling.

"Special flood hazard area (SFHA):" the land subject to inundation by the base flood. Special flood hazard areas are designated on the Flood Insurance Rate Map with the letters "A" or "AE" and may include additional flood prone areas designated in this chapter.

"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 from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure." a walled and roofed building, including a gas or liquid tank that is principally above ground, as well as a manufactured home.

"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 fifty percent of the value of the structure before the damage occurred. For purposes of determining this value, in the discretion of the city it shall be the greater of the assessed value or the value provided by a qualified expert.

"Substantial damage" also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent of the value of the structure, as determined as provided in the prior paragraph, before the damage occurred.

"Substantial improvement:" any repair, reconstruction, rehabilitation, addition, replacement, or other improvement of a structure, taking place during a five-year period, the cumulative cost of which equals or exceeds fifty percent of the value of the structure before the improvement or repair is started. For purposes of determining this value, in the discretion of the city it shall be the greater of the assessed value or the value provided by a qualified expert.

This term includes requested improvements to structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not include:

1. 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 a code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure.

"Variance:" A grant of relief by a community from the terms of a floodplain management regulation.

ARTICLE III - ADMINISTRATION

15.12.040 - Authority of the building official.

The building official or his or her designee is appointed and authorized to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

A. Duties of the building official shall include, but not be limited to:

1. Review all floodplain development permits to determine that the permit requirements of this chapter have been satisfied.

2. Review all floodplain 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.

3. Review all floodplain development permits to determine if the proposed development is located in the SFHA.

4. Ensure that all development activities within the SFHA meet the requirements of this chapter.

5. Inspect all development projects before, during and after construction to ensure compliance with all provisions of this chapter, including proper elevation of all structures.

6. Maintain for public inspection all records pertaining to the provisions of this chapter.

7. The site is reasonably safe from flooding.

8. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of 15.12.070(A)(1) are met.

9. Notify FEMA when annexations occur in the Special Flood Hazard Area.

15.12.050 - Floodplain development permit.

A. A floodplain development permit shall be obtained before construction or development begins within the SFHA. The permit shall be for all development as that term is defined in Section 15.12.030.

B. Activities that do not meet the definition of "development" are allowed in the SFHA 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 "man-made changes to improved or unimproved real estate."

1. Routine maintenance of landscaping that does not involve grading, excavation, or filling;

2. Removal of noxious weeds and hazard trees and replacement of non-native vegetation with native vegetation;

3. Normal maintenance of structures, such as reroofing and replacing siding, provided such work does not qualify as a substantial improvement;

4. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles;

5. Normal street and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, but not including expansion of paved areas.

6. Plowing and other normal farm practices (other than structures or filling) on farms.

C. Permit Extension. If construction has not started, a floodplain development permit shall expire one hundred eighty days after the date of issuance. Where the applicant documents a need for an extension beyond this period due to conditions beyond the applicant's control, the building official may authorize one or more extensions.

D. Certificate of Occupancy. A certification of use for the property or a 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 and/or floodproofing certificate showing finished construction data.

2. The permit applicant provides copies of all required federal, state, and local permits noted in the permit application.

3. All other provisions of this chapter have been met.

The building official 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.

E. Variance Criteria. Upon written application of the applicant, the city council shall have the discretionary authority to grant a variance in relation to the applicability of certain provisions of this chapter.

1. In reviewing applications for a variance, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the following in relation to granting of the variance:

a. The danger to life and property due to flooding or erosion damage;

b. The danger that materials may be swept onto other lands to the injury of others;

c. The safety of access to the property in times of flood for ordinary and emergency vehicles;

d. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

e. The susceptibility of the proposed facility and its contents to flood or erosion damage and the effect of such damage on the individual owner;

f. The availability of alternative locations for the proposed use which are not subject to flooding;

g. The relationship of the proposed use to the comprehensive plan, growth management regulations, critical area regulations, the shoreline management program, and floodplain management program for that area;

h. 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;

i. The potential of the proposed development project to adversely affect federal, state or locally protected species or habitat; and

j. The minimum necessary to grant relief.

F. No variance shall be granted to the requirements of this chapter unless the applicant demonstrates that:

1. The development project cannot be located outside the SFHA;

2. An exceptional hardship would result if the variance were not granted;

3. The relief requested is the minimum necessary;

4. The applicant's circumstances are unique and do not represent a problem faced by other area properties;

5. If the project is within a designated floodway, no increase in flood levels during the base flood discharge would result;

6. The project will not adversely affect features or quality of habitat supporting local, state or federally protected fish or wildlife;

7. There will be no additional threat to public health, safety, beneficial stream or water uses and functions, or creation of a nuisance;

8. There will be no additional public expense for flood protection, lost environmental functions, rescue or relief operations, policing, or repairs to streambeds, shorelines, banks, roads, utilities, or other public facilities; and

9. All requirements of other permitting agencies will still be met.

G. Variances requested in connection with restoration of an historic site, building, or structure may be granted using criteria more permissive than the above requirements, provided:

1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the site, building, or structure; and

2. The repair or rehabilitation will not result in the site, building, or structure losing its historic designation.

3. Variances to the provisions of Section 15.12.140 of this chapter may be issued for a structure on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing the other variance criteria are met. The applicant for such a variance shall be notified, in writing, that the structure (a) will be subject to increased premium rates for flood insurance and (b) such construction increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

4. Variances pertain to a physical piece of property. They are not personal in nature and are not based on the inhabitants or their health, economic, or financial circumstances.

H. Floodplain Development Permit Application.

Application for a floodplain development permit shall be made on forms furnished by the building official and shall include, but are not limited to,

1. One or more site plans, drawn to scale, showing:
 - a. The nature, location, dimensions, and elevations of the property in question;
 - b. Names and location of all lakes, water bodies, waterways and drainage facilities within three hundred feet of the site;
 - c. The elevations of the ten-, fifty-, one hundred-, and five hundred-year floods, where such data are available;
 - d. The boundaries of the SFHA, floodway, wetlands, shoreline buffer, critical areas, and fish and wildlife habitat conservation areas, as defined in this and other chapters of the city;
 - e. The proposed drainage system including, but not limited to storm sewers, overland flow paths, detention facilities and roads; and
 - f. Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials.
2. If the proposed project involves grading, excavation, or filling, the site plan shall include proposed post-development terrain at one foot contour intervals.
3. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged structure, the application shall include the base flood elevation in relation to mean sea level for the building site and the proposed elevations of the following, ~~in related to NAVD~~ to be recorded on a current elevation certificate with Section B completed by the Floodplain Administrator:
 - a. The top of bottom floor (including basement, crawlspace, or enclosure floor);

- b. The top of the next higher floor;
- c. The top of the slab of an attached garage;
- d. The lowest elevation of machinery or equipment servicing the structure;
- e. The lowest adjacent (finished) grade next to structure;
- f. The highest adjacent (finished) grade next to structure; and
- g. The lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support.

4. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure that will be dry floodproofed, the application shall include the base flood elevation for the building site, the elevation to which the structure will be dry floodproofed, and a certification by a registered professional engineer or licensed architect that the dry floodproofing methods meet the floodproofing criteria in Section 15.12.160B.

5. The application shall include a description of the extent to which a stream, lake, or other water body, including its shoreline, will be altered or relocated as a result of the proposed development.

6. The application shall include documentation that the applicant will apply for all necessary permits required by federal, state, or local law. The application shall include written acknowledgment that the applicant understands that the final certification of use or certificate of occupancy will be issued only if the applicant provides copies of the required federal, state, and local permits or letters stating that a permit is not required. A floodplain development permit is not valid if those other permits and approvals are not obtained prior to any ground disturbing work or structural improvements.

7. The application shall include acknowledgment by the applicant that representatives of any federal, state or local unit of government with regulatory authority over the project are authorized to enter upon the property to inspect the development.

8. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation.

9. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

I. When base flood elevation data has not been provided in A zones in accordance with 15.12.020(A)(1), Basis for Establishing The Areas of Special Flood Hazard, 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 Sections VI, Standards for Protection of Structures, and section 15.12.070(A) 5.4 Floodways.

J. Where elevation data is not available, either through the FIS, FIRM, or from another authoritative source (as required by section 15.12.040(1), Use of Other Base Flood Data), applications for floodplain development 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 habitable buildings at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

ARTICLE IV - RECORDS

15.12.060 – Records

A. The building official shall maintain copies of all development permit applications, variances, permits, inspection records, and correspondence with applicants for a floodplain development permit. All records shall be made available for public inspection.

B. The building official shall obtain, record, and maintain the certification referenced in Section 15.12.050H.4.

C. The building official shall obtain, record, and maintain the actual "finished construction" elevations for all new construction and substantial improvements in the SFHA. This information shall be recorded on a current FEMA Elevation Certificate (FEMA Form 81-31), signed and sealed by a professional land surveyor, currently licensed in the State of Washington.

D. For all new or substantially improved dry floodproofed nonresidential structures, the building official shall obtain, record and maintain the elevation to which the structure was floodproofed. This information shall be recorded on a current FEMA Floodproofing Certificate (FEMA Form 81-65) by a professional engineer currently licensed in the State of Washington.

E. Certification required by Section 15.12.070(A)(1), No Rise Standard

F. Records of all variance actions, including justification for their issuance.

G. Improvement and damage calculations.

ARTICLE V - GENERAL DEVELOPMENT STANDARDS

15.12.070 - Floodplain obstructions.

(Section/Subsection Placeholder) AE and A1-30 Zones with Base Flood Elevations but No Floodways.

In areas with BFEs (when 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.

A. Located within areas of special flood hazard established in Section 15.12.020(A)(1) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless certification by a registered professional engineer is provided that the proposed development and all other past or future similar developments would not cumulatively result in any increase of flood levels during the occurrence of the base flood discharge. The certification must be based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice that incorporate the equal degree of encroachment approach that accounts for similar development that could be anticipated in the future.

2. Construction, reconstruction, and improvements of residential structures are prohibited, 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 fifty percent of the market value of the structure either:

(1) Before the repair, reconstruction, or improvement is started; or

(2) If the structure has been damaged, and is being restored, before the

damage occurred. Any project for improvement of a structure to correct existing violations of a

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 shall not be included in the fifty percent.

3. All other Building Standards Apply in the Floodway. If Section 15.12.070(A)(1) is satisfied or construction is allowed pursuant to Section 15.12.070(A)(2), all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV, STANDARDS FOR PROTECTION OF STRUCTURES.

B. Within the Zone A, where no floodway has been designated, the permit applicant shall provide:

1. A certification by a registered professional engineer that the proposed development and all other past or future similar developments would not cumulatively result in an increase of flood levels during the occurrence of the base flood discharge by more than one foot. The certification must be based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice that incorporate the equal degree of encroachment approach that accounts for similar development that could be anticipated in the future.

2. A map that shows the area impacted by any increase in the level of the base flood caused by the development.

3. Notarized statements from the owners of the impacted properties (other than the permit applicant) that they have no objections to the increase in flood heights on their properties.

C. The provisions of subsections A. and B. do not apply to the following:

1. Development projects in the designated flood fringe along Harris Creek;

2. Projects that do not require a development permit as listed in Section 15.12.050B.; or

3. Improvements or repairs to an existing structure that do not change the structure's external dimensions.

D. No filling or grading shall reduce the effective flood storage volume of the SFHA. A development proposal shall provide compensatory storage if filling or grading eliminates any effective flood storage volume. Compensatory storage shall:

1. Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, "equivalent elevation" means having similar relationship to ordinary high water and to the best available ten-year, fifty-year and one hundred-year water surface profiles;

2. Be hydraulically connected to the source of flooding; and

3. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins.

E. All newly created compensatory storage areas shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.

F. Livestock Sanctuary Areas. Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

15.12.080 - Alteration of watercourses.

A. In addition to the other requirements in this section, an applicant for a project that will alter or relocate a watercourse shall also submit a request for a Conditional Letter of Map

Revision (CLOMR). The project will not be approved unless FEMA issues the CLOMR and the provisions of the letter are made part of the permit requirements.

B. The building official shall notify adjacent communities and the state department of ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

C. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. If the maintenance program does not call for cutting of vegetation, the system shall be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.

15.12.090 - Site design.

A. If a lot has a buildable site out of the SFHA, all new structures shall be located in that area, when possible.

B. If a lot does not have a buildable site out of the SFHA, all new structures, pavement, and other development must be sited as far from the water body as possible or on the highest land on the lot.

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

D. The site plan required in Section 15.12.050H.1. shall account for surface drainage to ensure that existing and new buildings on the site will be protected from stormwater runoff and the project will not divert or increase surface water runoff onto neighboring properties.

15.12.100 - Critical facilities.

A. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA.

B. Construction of new critical facilities in the SFHA shall be permissible if no feasible alternative site is available, provided:

1. Critical facilities shall have the lowest floor elevated to or above the base flood elevation plus three feet or to the height of the five hundred-year flood, whichever is higher.

2. Access to and from the critical facility shall be protected to the base flood elevation plus three feet or to the height of the five hundred-year flood.

15.12.110 - Hazardous materials.

No new development shall create a threat to public health, public safety, or water quality. 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 are prohibited from the SFHA. This prohibition does not apply to small quantities of these materials kept for normal household use. This prohibition does not apply to the continued operations of existing facilities and structures or reuse of existing facilities and structures.

15.12.120 - Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

B. Water wells shall be located outside the floodway and shall be protected to the base flood elevation plus three feet.

C. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

D. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

15.12.130 - Subdivisions.

A. This section applies to all subdivision proposals, short subdivisions, short plats, planned developments, and new and expansions to manufactured housing parks that are wholly or in part located in the SFHA.

B. All proposals shall be consistent with the need to minimize flood damage.

C. All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty lots or five acres, whichever is the lesser, shall include within such proposals base flood elevation data.

D. All subdivisions of land that is both in and outside the SFHA shall have all parcels platted with buildable sites on higher ground outside the SFHA. This provision does not apply to lots set aside from development and preserved as open space.

E. All proposals shall have utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

F. All proposals shall ensure that all subdivisions have at least one access road connected to land outside the SFHA with the surface of the road at or above the base flood elevation wherever possible.

G. All proposals shall have adequate drainage provided to avoid exposure to water damage.

H. The final recorded subdivision plat shall include a notice that part of the property is in the SFHA.

ARTICLE VI – STANDARDS FOR PROTECTION OF STRUCTURES

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.12.020(A)(1), or Section 15.12.050(I), Use of Other Base Flood Data. The following provisions are required.

15.12.140 - Applicability.

A. The protection requirements of this section apply to all new structures and substantial improvements in the SFHA, which include:

1. Construction or placement of a new structure;
2. Reconstruction, rehabilitation, or other improvement that will result in a substantially improved building;
3. Repairs to an existing building that has been substantially damaged;
4. Placing a manufactured home on a site; and
5. Placing a recreational vehicle or travel trailer on a site for more than one hundred eighty days.

B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

C. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

D. 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.

E. Anchoring.

1. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

2. All manufactured homes shall 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.

15.12.150 - Residential structures.

A. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the base flood elevation plus three feet.

B. The structure shall be aligned parallel with the direction of flood flows where practicable.

C. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

D. All materials below the base flood elevation plus three feet shall be resistant to flood damage and firmly anchored to prevent flotation.

E. Materials harmful to aquatic wildlife, such as creosote, are prohibited below the base flood elevation plus three feet.

F. Electrical, heating, ventilation, duct work, plumbing, and air conditioning equipment and other service facilities shall be elevated above the base flood elevation plus three feet. Water, sewage, electrical, and other utility lines below the base flood elevation plus three feet shall be

constructed so as to prevent water from entering or accumulating within them during conditions of flooding.

G. Fully enclosed areas below the lowest floor that are subject to flooding shall be used only for parking, storage, or building access and 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 shall either be certified by a registered professional engineer or licensed architect and/or meet or exceed the following minimum 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 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.
4. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade.
5. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point.
6. 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.

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

8. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

H. Upon completion of the construction and before issuance of the certificate of occupancy, the permit applicant shall provide a current "finished construction" FEMA Elevation Certificate (FEMA Form 81-31), signed and sealed by a professional land surveyor, currently licensed in the State of Washington.

I. Upon completion of the construction of an elevated building and before issuance of the certificate of occupancy, the applicant shall provide a signed agreement that acknowledges that the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design is prohibited.

1. The nonconversion agreement shall authorize the building official to conduct inspections of the enclosed area of the building upon reasonable notice.

2. The applicant shall provide a copy that documents the nonconversion agreement has been recorded in the appropriate county office in such a manner that it appears in the chain of title of the affected property.

3. A copy of the recorded nonconversion agreement shall be presented as a condition of issuance of the final certificate of occupancy.

4. The building official may waive this requirement where the enclosed area is less than four feet in height, measured from the floor of the enclosure to the underside of the floor system above.

J. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Appendix A.

K. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

15.12.160 - Nonresidential construction.

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall be elevated in accordance with Section 15.12.150 and meet all the other requirements in that section.

B. As an alternative to elevation, a new or substantial improvement to a nonresidential structure and its attendant utility and sanitary facilities, may be dry floodproofed to the base flood elevation plus three feet. A dry floodproofed building must meet the following:

1. Below the base flood elevation plus three feet, the structure is watertight with walls substantially impermeable to the passage of water.

2. The structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. The plans are certified by a registered professional engineer or licensed architect that the design and methods of construction are in accordance with accepted standards of

practice for meeting provisions of subsection B. based on their development and/or review of the structural design, specifications and plans.

4. Upon completion of the construction and before issuance of the certificate of occupancy, the permit applicant shall provide an "as-built" FEMA Floodproofing Certificate (FEMA Form 81-65) signed by a professional engineer currently licensed in the State of Washington.

15.12.170 - Manufactured homes.

All manufactured homes to be placed or substantially improved on any site in the SFHA shall be:

A. Elevated on a permanent foundation in accordance with Section 15.12.150.

B. Securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to other applicable anchoring requirements for resisting wind forces.

C. No manufactured home shall be located in the floodway designated on the Flood Insurance Rate Map.

15.12.180 - Recreational vehicles.

Recreational vehicles placed on sites shall:

A. Be on the site for fewer than one hundred eighty consecutive days, or

B. Be fully licensed and ready for highway use, on their 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. Meet the requirements of Section 15.12.170 above.

15.12.190 - Appurtenant Structures

A. This section applies to accessory structures of five hundred square feet or less that are used only for parking or storage in relation to the principle structure on the property.

B. An appurtenant structure may be exempt from the elevation requirement of Section 15.12.150A., provided:

1. It meets the requirements of Sections 15.12.150B., C., D., and E.;
2. The walls of the structure meet the requirements of Section 15.12.150F.; and
3. The project meets all the other requirements of this chapter.

ARTICLE VII - PENALTY FOR VIOLATION BY NON-COMPLIANCE

15.12.200 - Penalty.

Violations of any provision of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with the provisions), shall constitute a misdemeanor. Upon conviction for a violation of a provision of this chapter, the person or entity may be fined not more than one thousand dollars for each violation, be subject to a jail sentence of up to ninety days, shall pay all costs and expenses involved in the case, and be subject to such other sanction, including correction of the violation, as may be allowed by law and ordered by the court.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Each violation or each day of continued unlawful activity shall constitute a separate violation.

ARTICLE VIII - GENERAL PROVISIONS

15.12.210 - 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 City of McCleary.
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

15.12.220 - Abrogation and greater restrictions.

Where this chapter and another code, chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.12.230 - Warning and disclaimer of liability.

The degree of property 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 occasion. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the regulated areas, or development permitted within such areas, will be free from flood damage. This chapter shall not create liability on the part of the City of McCleary or any officer or employee thereof for any damage to property or habitat that result from reliance on this chapter or any administrative decision lawfully made hereunder.

APPENDIX A – STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In addition to other provisions in this code, following additional provisions also apply in AO zones.

A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one foot or more above the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. 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 two feet if no depth number is specified);

2. 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 as in section 15.12.160.

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, or

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

Meet the requirements of subsections (1) and (3) above and the anchoring requirements for manufactured homes 15.12.170.

SECTION II: All other existing sections of MCC 15.12 not specifically amended by this Ordinance shall remain intact and in full force and affect. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections; subsections, sentences, clauses, or phrase had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION III: This ordinance shall take effect upon the fifth day following the date of publication.

SECTION IV: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS ____ DAY OF _____, 2023, by the City Council of the City of McCleary, and signed in approval therewith this ____, day of _____, 2023.

CITY OF McCLEARY:

CHRIS MILLER, Mayor

ATTEST:

ANN-MARIE ZUNIGA, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney

