

CITY OF WHEELER, OREGON ZONING ORDINANCE

ARTICLE 9. FHO ZONE - FLOOD HAZARD OVERLAY

Section 9.010. Definitions.

1. Area of Shallow Flooding

Means a designated AO or 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. AO is characterized as sheet flow and AH indicates ponding.

2. Area of Special Flood Hazard

The land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

3. Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year.

4. 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 located within the area of special flood hazard.

5. Flood or Flooding.

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

(a.) The overflow of inland or tidal waters and/or

(b.) The unusual and rapid accumulation or runoff of surface waters from any source.

6. Flood Insurance Rate Map (FIRM)

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

7. Flood Insurance Study

The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

8. Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

9. Lowest Floor.

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 9.050(6)(a).

10. Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

11. Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

12. Mean Sea Level (MSL)

The average height of the sea for all stages of the tide.

13. New Construction

Structures for which the "start of construction" commenced on or after the effective date of this amendment to the zoning ordinance.

14. Recreational Vehicle

A vehicle which is

- (a). Built on a single chassis;
- (b). 400 square feet or less when measured at the largest horizontal projections;
- (c). Designed to be self-propelling 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 recreation, camping, travel, or seasonal use.

15. Start of Construction

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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.

16. Structure

A walled and roofed building including a gas or liquid storage tank that is principally above ground.

17. Substantial Improvement

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

- (a.) before the improvement or repair is started, or
- (b.) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first

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alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either:

- (1) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 9.020. Purpose and Objectives.

It is the purpose of this Flood Hazard Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the City of Wheeler Comprehensive Plan and Zoning Ordinance, the specific objectives of the FHO Zone are:

1. To combine with present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the City;
2. To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;
3. To minimize the need for rescue and relief efforts associated with flooding;
4. To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities located in flood hazard areas;
6. To ensure that potential home and business buyers are notified that property is in a flood area; and
7. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

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Section 9.030. General Provisions

- (1.) Lands to which this Ordinance applies.

This ordinance shall apply to all areas of special flood hazards (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the City of Wheeler.

- (2.) Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Wheeler dated September, 1976, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps and any revision thereto is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Wheeler City Hall.

- (3.) Compliance.

No structure or land shall hereafter be used and no structure shall be located, extended converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

- (4.) Warning and Disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Wheeler or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 9.040. Administration.

- (1.) Establishment of Development Permit.

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 9.030(2). The permit shall be for all structures including manufactured homes as set forth in the "Definitions" and for all development including fill and other activities, also set forth in the "Definitions". Application for a Building/Development Permit shall be

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made on forms furnished by the Building Official and shall specifically include the following information:

- (a.) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- (b.) Elevation in relation to mean sea level to which any structure has been flood-proofed.
- (c.) Certification by a registered professional engineer or architect that the flood-proofing method for any nonresidential structure meets the flood-proofing criteria in Section 9.050(6)(b).
- (d.) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2.) Duties and Responsibilities.

The duties of the Building Official shall include, but not be limited to permit review:

- (a.) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (b.) Review all development permits to require that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (c.) Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.

(3.) Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 9.030(2), Basis For Establishing The Areas Of Special Flood Hazard, the Building Official shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Sections 9.050(6)(a), Specific Standards, Residential Construction, and Section 9.050(6)(b), Specific Standards, Nonresidential Construction.

(4.) Information to be Obtained and Maintained by Building Official.

Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 9.040(3) obtain:

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- (a.) Verify 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.
- (b.) For all new or substantially improved flood-proofed structures:
 - 1. Verify and record the actual elevation (in relation to mean sea level), and
 - 2. Maintain the flood-proofing certifications required in Section 9.040(1)(c).
 - 3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

(5.) Alteration of Watercourses.

The Building Official shall:

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

(6.) Interpretation of FIRM Boundaries.

The Building Official shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in Section 9.040(7).

(7.) Appeals and Variance Procedures.

- (a.) An appeal of a ruling or interpretation regarding a requirement of this ordinance shall be established in Section 18.020.
- (b.) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision or determination in the enforcement or administration of this ordinance.

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- (c.) An action or ruling of the Planning Commission may be appealed pursuant to Section 13.070.
- (d.) Variances shall be issued or denied in accordance with Article 14 and any amendment thereto.
- (e.) When a variance is granted, the City Recorder shall give written notice that the structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lower floor elevation.

Section 9.050. Provisions for Flood Hazard Reduction.

General Standards.

In the Flood Hazard Overlay Zone (FHO Zone) the following provisions are required:

- (1.) Anchoring.
 - (a.) All new construction and substantial improvement 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.)
- (2.) 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 or substantial improvements shall be constructed by 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.

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(3.) Utilities.

- (a.) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (b.) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
- (c.) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (d.) The City will neither install nor extend water service lines to any future development located within the 100 year flood plain areas when practicable alternative, non-flood plain sites are available. Where water service lines already exist within the flood plain areas, service may be provided as long as this action is consistent with the rest of Section 9.050.

(4.) 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 5 acres (whichever is less.)

(5.) Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Study or from another administrative source (Section 9.040(3)), 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.

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(6.) Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 9.030(2), Basis For Establishing The Areas Of Special Flood Hazards or Section 9.040(3), Use Of Other Base Flood Data, the following provisions are required:

(a.) Residential Construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. 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 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.

(b.) Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

- (1) be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of

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the structural design, specification and plans. Such certifications shall be provided to the official as set forth in Section 9.040(4)(b)(2).

- (4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 9.050(6)(a).
- (5) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building constructed to the base flood level will be rated at one foot below that level).

(c.) **Manufactured Homes.**

All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation in order to be consistent with the current Oregon Manufactured Dwelling Standard and shall be securely anchored to an adequately anchored foundation system in accordance with the provision of subsection 9.050(1)(b).

(d.) **Recreational Vehicles.**

Recreational Vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM must either:

- (1) Be on the site for fewer than 180 consecutive days,
- (2) Be fully licensed and ready for highway use, be on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- (3) Meet the requirements of Section 9.050(6)(b)2&3 above and the elevation and anchoring requirements for manufactured homes.

(7.) This Section number intentionally left blank.

(8.) **Floodways.**

Located within areas of special flood hazard 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 restrictions apply:

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- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If Section 9.050(8)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 9.050, Provisions for Flood Hazard Reduction.

Section 9.060. Restrictions and Prohibited Uses.

1. Restrictions.

Restrictions regarding height, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the Flood Hazard Overlay Zone area.

2. Prohibited Uses.

It shall be unlawful to erect, alter, maintain or establish in a Flood Hazard Overlay Zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Article 17.

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ARTICLE 9.2: HISTORIC RESOURCE OVERLAY ZONE

Section 9.210. Purpose.

This article provides incentives to preserve significant historic or cultural resources. The regulations implement the City of Wheeler's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the City of Wheeler. The regulations foster pride in the city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

Section 9.220. Where These Regulations Apply.

Sections 9.210 through 9.240 apply to all local historic landmarks in any zone.

Section 9.230. Designation of a Local Historic Landmark

A local landmark may be designated with the owner's consent by the City of Wheeler Planning Commission under the provisions of Article 15: Conditional Use/Activities. Approval requires proper notice and a public hearing in accordance with procedures described in Article 13 and where it can be shown:

1. The property and/or structures have historic and/or cultural value to the City of Wheeler.
2. The property and/or structures retain sufficient original design characteristics, craft work, or material.
3. The property and/or structures significantly contribute to the character and identity of the City of Wheeler.
4. Plans providing for historic areas shall consider as a major determinant the carrying capacity of the air, land, and water resources of the planning area. Projects proposed shall not exceed the carrying capacity of such resources.
5. An applicant shall utilize the National Register of Historic Places criteria and shall receive written comments from the State Advisory Committee on Historic Preservation when establishing historic sites.

Section 9.240. Incentives Allowed.

1. A local historic landmark may be allowed to reestablish or continue its intensity and character even if the use is destroyed or is vacant for more than two years consistent with Section 9.230.

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2. A local historic landmark may be allowed to intensify its use or establish new uses through a conditional use process with findings that the proposed use complies with the standards of Section 15.090 Basic Conditional Use Standards, and Section 9.230.

Section 9.250. Other Conditions.

At the time a building permit is issued the following will apply:

1. Site specific geologic investigations may be required when appropriate to assure safe development. Site specific investigations shall be conducted when required by the city to assure public safety and welfare. Where a site specific report is required, the investigation shall be conducted by qualified geotechnical expert at the developer's expense. Results of the site investigations shall be made available to the city with the building permit application.
2. Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of an historical building may be made without conforming to all requirements of the Building Code when authorized by the Building Official, provided:
 - a. The building has been officially designated an historic building.
 - b. Unsafe conditions are corrected.
 - c. The restored building will be no more hazardous based on life, fire safety, and sanitation.
 - d. The Building Official seeks the advice of the State of Oregon Historic Preservation Office.
 - e. In case of appeals to historic buildings, the local appeals board or the appropriate state appeals board shall seek the advice of the State Historic Preservation Officer.