

CITY OF ORTING
WASHINGTON
ORDINANCE NO. 2017-1009

**AN ORDINANCE OF THE CITY OF ORTING,
WASHINGTON, AMENDING ORTING MUNICIPAL CODE
TITLE 14, CHAPTER 1, RELATING TO FLOOD PLANNING
MANAGEMENT AND FLOOD DAMAGE PREVENTION;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE**

WHEREAS, the City of Orting is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

WHEREAS, in order to ensure the City of Orting's on-going participation in the National Flood Insurance Program (NFIP), the City is required to administer and enforce floodplain management regulations codified at Title 14 of the Orting Municipal Code, and to ensure that those regulations meet the standards set out in the NFIP uniform regulations, 44 CFR 59, *et. seq.*; and

WHEREAS, the Federal Emergency Management Agency (FEMA) recently completed a Flood Insurance Study to re-evaluate the flood hazards present in Orting, and throughout Pierce County, and to provide updated digital floodplain maps depicting the regulatory floodway; and

WHEREAS, as a condition of the City's continued participation in the NFIP, FEMA requires the City to amend its existing floodplain management regulations to ensure they meet the standards set out in 44 CFR 59, *et. seq.*, and to adopt the updated Flood Insurance Rate Map (FIRM) by ordinance, no later than March 7, 2017; and

WHEREAS, the City's Planning Department has determined that changes to the City's current floodplain management regulations (Title 14 OMC) are required to ensure compliance with FEMA's mandatory minimums for participation in the NFIP; and

WHEREAS, the State Environmental Policy Act (SEPA) responsible official has determined that the proposed amendments to Title 14 OMC do not reflect significant changes, and further SEPA analysis is not required for these local code amendments; and

WHEREAS, a draft version of Ordinance 2017-1006 was submitted to the Washington State Department of Commerce for expedited review on February 2, 2017; and

WHEREAS, a duly noticed public hearing was held on February 22, 2017; and

WHEREAS, the City Council adopted Ordinance 2017-1006 on February 22, 2017, which amended the City’s existing floodplain management regulations and adopt the updated Flood Insurance Rate Map (FIRM); and

WHEREAS, FEMA reviewed the adopted Ordinance 2017-1006 and found that additional amendments to the City’s regulations are needed to meet the standards set out in 44 CFR 59, *et. seq*; and

WHEREAS, this ordinance includes the amendments recommended by FEMA and which the City Council has determined fall within the scope of the public hearing held on February 22, 2017; and

WHEREAS, the City Council has considered this ordinance, together with all public comment, and has determined that the proposed regulations are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens of the City; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. OMC Title 14, Chapter 1, Section 5, Amended. Orting Municipal Code Title 14, Chapter 1, Section 5, is hereby amended to read as follows:

14-1-5: 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. Other pertinent definitions are included in titles 12, 13, and 15 of this code.

APPURTENANT STRUCTURE: A structure which is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principle structure.

APPEAL: A request for a review of the city of Orting’s interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING: A designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one foot (1’) to three feet (3’); 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.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year. The area subject to the base flood is the Special Flood Hazard Area designated on Flood Insurance Rate Maps as Zones “A” or “V” including AE, AO, AH, A1-99 and VE.

BASE FLOOD ELEVATION: the elevation of the base flood above the datum of the effective FIRM.

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

CHANNEL MIGRATION AREA: The area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradations, avulsions, and shifts in location of stream channels.

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, 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 or hazardous waste intended for household use).

DEVELOPMENT: Any manmade change to improved or unimproved real estate in the Regulatory Floodplain, including, but not limited to, buildings or other structures, mining, dredging, grading, paving, excavating or drilling operations, or storage of materials or equipment, subdivision of land, removal of more than 5% of the native vegetation on the property, or any other activity which results in the removal of substantial amounts of vegetation or in the alteration of natural site characteristics located within the area of special flood hazard.

DEVELOPMENT PERMIT: Any city permit involving approval of development.

DRY FLOODPROOFING: Any combination of structural and non-structural measures that prevent flood waters from entering a structure.

ELEVATED BUILDING: A nonbasement building built to have the lowest floor elevated above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELEVATION CERTIFICATE: The official form (FEMA Form 086-0-33) used to track development and provide elevation information necessary to ensure compliance with provisions of this ordinance and determine the proper flood insurance premium rate.

EXISTING CONSTRUCTION: For the purposes of determining insurance rates, structures for which the “start of construction” commenced before the effective date of the flood insurance rate map . This term may also be referred to as “existing structures.”

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of the floodplain management regulations adopted by the city of Orting .

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA: The Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FISH AND WILDLIFE HABITAT CONSERVATION AREA: Lands needed to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. These areas are designated by the City of Orting, pursuant to the Washington State Growth Management Act (Ch 36.70A RCW).

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM): The official map of a community, on which the federal emergency management agency (FEMA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD HAZARD BOUNDARY MAP (FHBM): The official map of a community, issued by FEMA, where the boundaries of the special flood hazard area have been identified as zone A.

FLOOD INSURANCE RATE MAP (FIRM): The official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the federal insurance administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

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 of runoff of surface waters from any source.

FLOODPLAIN: Any land area susceptible to being inundated by water from any source.

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOD PROTECTION ELEVATION (FPE): The elevation above the datum of the effective FIRM to which new and substantially improved structures must be protected from flood damage.

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 (1').

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

HISTORIC STRUCTURE: Any structure that is:

A. Listed individually in the national register of historic places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

B. 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;

C. Individually listed on a state inventory of historic places in the states with historic preservation programs which have been approved by the secretary of the interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the secretary of the interior, or
2. Directly by the secretary of the interior in states without approved programs.

HYPORHEIC ZONE: A saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

IMPERVIOUS SURFACE: A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which 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, rooftops, 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 of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

INCREASED COST OF COMPLIANCE: A flood insurance claim payment up to \$30,000 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of “substantial damage” or as a result of a “cumulative substantial damage.”

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 will comply with standards for residential structures at 14-1-9(B)(1).

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. The term “manufactured home” does not include a “recreational vehicle.”

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MEAN SEA LEVEL: For purposes of the national flood insurance program, the national geodetic vertical datum (NGVD) or other datum, to which base flood elevations shown on a community’s flood insurance rate map are referenced.

MITIGATION CONTRIBUTION: A cash donation or other valuable consideration offered by the applicant in lieu of: a) a required dedication of land for public park, recreation, open space, public facilities, or schools; or b) road improvements needed to maintain adopted levels of service or to ameliorate identified impacts and accepted on the public’s behalf as a condition of approval of a subdivision, plat or binding site plan. Voluntary contributions may be accepted by the city.

NATIVE VEGETATION: Plant species that are indigenous to the local geography and that reasonably could be expected to naturally occur on the site.

NATURAL FLOODPLAIN FUNCTIONS: The contribution that a flood-plain makes to support habitat, including, but not limited to providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations, and providing breeding and feeding grounds, shelter, and refugia, for aquatic or riparian species.

NEW CONSTRUCTION: For floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date hereof and includes any subsequent improvements to such structures.

PARTICIPATING COMMUNITY: Also known as an eligible community, means a community in which FEMA has authorized the sale of flood insurance.

PROTECTED AREA: Comprised of those lands that lie within the boundaries of the floodway, the riparian habitat zone, and the channel migration zone. Because of the impact that development can have on flood heights and velocities and habitat, special rules apply in the Protected Area.

RECREATIONAL VEHICLE: A vehicle, which is:

- A. Built on a single chassis;
- B. Four hundred (400) 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 and is road ready.

REGULATORY FLOODPLAIN: The area of the special flood hazard area plus the protected area.

RIPARIAN HABITAT ZONE: The water body and adjacent land areas that are likely to support aquatic and riparian habitat.

SPECIAL FLOOD HAZARD AREA (SFHA): The land subject to inundation by the base flood. Special Flood Hazard Areas are designated on Flood Insurance Rate Maps with the letters “A” or “V” including AE, AO, AH, A1-99 and VE. The Special Flood Hazard Area is also referred to as the area of special flood hazard or SFHA subject to a 1% or greater chance of flooding in a given year.

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 one hundred eighty (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 and grading; 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 the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building including a gas or liquid storage tank that is principally aboveground, 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 (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started, or
2. 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.

B. 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 has been previously identified by the local code enforcement official and which is solely necessary to assure safe living conditions; or

2. Any alteration of a “historic structure” provided that the alteration would not preclude the structure’s continued designation as a “historic structure.”

VARIANCE: A grant of relief from the requirements of this chapter.

VIOLATION: The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required in this chapter is presumed to be a violation until such time as that documentation is provided.

WATER DEPENDENT: A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

WATER TYPING: A system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources’ Forest Practices Water Typing classification system (222-16 WAC) is hereby adopted by reference. The system defines four water types:

A. Type “S” = Shoreline: Streams that are designated “shorelines of the State,” including marine shorelines

B. Type “F” = Fish: Streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.

C. Type “Np” = Non-Fish Perennial streams

D. Type “Ns” = Non-Fish Seasonal streams

ZONE: One or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The Special Flood Hazard Area (SFHA) is comprised of the A and V Zones.

A: SFHA where no base flood elevation is provided.

A#: Numbered A Zones (e.g., A7 or A14), SFHA with a base flood elevation.

AE: SFHA with a base flood elevation.

AO: SFHA subject to inundation by shallow flooding usually resulting from sheet flow on sloping terrain, with average depths between one and three feet. Average flood depths are shown.

AH: SFHA subject to inundation by shallow flooding (usually areas of ponding) with average depths between one and three feet. Base flood elevations are shown.

B: The area between the SFHA and the 500-year flood of the primary source of flooding. It may also be an area with a local, shallow flooding problem or an area protected by a levee.

C: An area of minimal flood hazard, as above the 500- year flood level of the primary source of flooding. B and C Zones may have flooding that does not meet the criteria to be mapped as a Special Flood Hazard Area, especially ponding and local drainage problems.

D: Area of undetermined but possible flood hazard.

V: The SFHA subject to coastal high hazard flooding including waves of 3' or greater in height. There are three types of V Zones: V, V#, and VE, and they correspond to the A Zone designations.

X: The area outside the mapped SFHA.

Shaded X: the same as a Zone B, above.

Section 2. OMC Title 14, Chapter 1, Section 6, Amended. Orting Municipal Code Title 14, Chapter 1, Section 6, is hereby amended to read as follows:

14-1-6: GENERAL PROVISIONS:

A. Lands To Which This Chapter Applies. This chapter shall apply to the Regulatory Floodplain, which is comprised of the Special Flood Hazard Area and all Protected Areas within the City.

B. Basis for Establishing the Special Flood Hazard Area. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Pierce County and incorporated Areas" dated March 7, 2017 and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM) and any revisions thereto are hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and the FIRM Special Flood Hazard Area (SFHA) is the area subject to flooding by the base flood and subject to the provisions of this ordinance. The Flood Insurance Study and the FIRM are on file at City Offices at 110 Train Street SE.

Upon receipt of a floodplain development permit application, 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 ordinance if it is located on land that can be shown to be

1. Outside the Protected Area and
2. Higher than the base flood elevation.

The 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. Flood Hazard Data

1. The base flood elevation for the SFHAs of City of Orting shall be as delineated on the 100-year flood profiles in the adopted Pierce County Flood Insurance Study and FIRM.

2. The base flood elevation for each SFHA delineated as a “Zone AH” or “Zone AO” shall be that elevation (or depth) delineated on the Flood Insurance Rate Map. Where base flood depths are not available in Zone AO, the base flood elevation shall be considered to be two feet above the highest grade adjacent to the structure.

3. The base flood elevation for all other SFHAs shall be as defined in 14-1-5.

4. The Flood Protection Elevation (FPE) shall be the base flood elevation plus one foot.

D. Protected Area

1. The Protected Area is comprised of those lands that lie within the boundaries of the floodway, the riparian habitat zone, and the channel migration area.

2. In riverine areas, where a floodway has not been designated in accordance with this Chapter, the Protected Area is comprised of those lands that lie within the boundaries of the riparian habitat zone, the channel migration area, and the SFHA.

E. Riparian Habitat Zone: The riparian habitat zone includes those watercourses within the SFHA and adjacent land areas that are likely to support aquatic and riparian habitat.

1. The size and location of the riparian habitat zone is dependent on the type of water body. The riparian habitat zone includes the water body and adjacent lands, measured perpendicularly from ordinary high water on both sides of the water body:

(a) Type S streams that are designated “shorelines of the State:” 250 feet

(b) Type F streams (fish bearing) streams greater than 5 feet wide and marine shorelines: 200 feet

(c) Type F streams less than 5 feet wide and lakes: 150 feet

(d) Type N (nonsalmonid-bearing) perennial and seasonal streams with unstable slopes: 225 feet

(e) All other Type N (nonsalmonid-bearing) perennial and seasonal streams: 150 feet.

2. The riparian habitat zone shall be delineated on the site plan by the applicant at the time of application for subdivision approval or floodplain development permit for all development proposals within 300 feet of any stream or shoreline.

F. Channel Migration Area: 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 AI-30 and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing or anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

1. The channel migration area shall be the channel migration zone as delineated on the adopted FIRM.

G. New Regulatory Data

1. 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 Administrator.

(a) The Administrator shall not sign the Community Acknowledgement Form for any requests for development, unless the applicant for the letter documents that such development is in compliance with this ordinance.

(b) The 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.

2. 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 better data in accordance with FEMA mapping guidelines or Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Washington 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.

3. 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 5 acres, whichever is the lesser, shall include such data with their permit applications.

4. Floodway delineation is shown in the 2017 FIRM and the Orting Shoreline Master Program. Therefore, floodway delineation shall be in accordance with this Ordinance. The floodway is one-half the distance of the mapped 100 year floodplain at any point, and the prohibition on floodway development adheres, unless evidence indicates otherwise. This provision applies to any floodplain development permit, including those for substantial improvements.

5. Where channel migration zone data are not available in accordance with this Ordinance, the permit applicant shall either:

(a) Designate the entire SFHA as the channel migration zone or

(b) Identify the channel migration zone for the area one river mile upstream to one river mile downstream of the site in accordance with Regional Guidance for NFIP-ESA Floodplain Mapping, published by FEMA Region X

6. All new hydrologic and hydraulic flood studies conducted pursuant to this Ordinance 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.

H. Floodways:

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

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

(a) Before the repair, or reconstruction is started, or

(b) 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 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.

3. If OMC 14-1-6H Subsection 1 and Subsection 2 are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of OMC 14-1-10.

I. Penalties For Noncompliance:

1. Compliance; Violation A Misdemeanor: 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. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

2. Penalty Imposed: Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code, for each violation, and in addition shall pay all costs and expenses involved in the case.

3. Remedial Action: Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

J. Abrogation Of 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.

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

L. 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 the city, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

M. Severability. The provisions of this Section shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 3. OMC Title 14, Chapter 1, Section 10, Enacted. Orting Municipal Code Title 14, Chapter 1, Section 10 is hereby enacted, to read as follows:

14-1-10: Standards for Protection of Structures

A. Applicability

All permit applications will be reviewed to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air

conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

This section's protection requirement applies to all new structures and substantial improvements, 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.
5. Placing a recreational vehicle or travel trailer on a site for more than 180 days.

B. Flood Protection Standards

1. All new structures and substantial improvements shall have the lowest floor, including basement, elevated above the FPE.
2. The structure shall be aligned parallel with the direction of flood flows where practicable.
3. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
4. The structure shall be aligned parallel with the direction of flood flows where practicable.
5. The structure shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
6. All materials below the FPE shall be resistant to flood damage and firmly anchored to prevent flotation.
7. Materials harmful to aquatic wildlife, such as creosote, are prohibited below the FPE.
8. Electrical, heating, ventilation, duct work, plumbing, and air-conditioning equipment and other service facilities shall be elevated above the FPE. Water, sewage, electrical, and other utility lines below the FPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.
9. 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:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall be elevated in accordance with this Chapter. 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 in A Zones. The project must meet the following:

1. The structure is not located in Zones V, V1-30, or VE; and
2. Below the FPE the structure is watertight with walls substantially impermeable to the passage of water; and
3. The structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
4. 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 this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the floodplain administrator as set forth in this Ordinance.

D. Manufactured Homes. All manufactured homes to be placed or substantially improved on sites shall be:

1. Elevated on a permanent foundation in accordance with this Ordinance, and
2. 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. (For more detailed information, see the FEMA guidebook P-85.)

E. Recreational Vehicles. Recreational vehicles placed on sites shall:

1. Be on the site for fewer than 180 consecutive days, or
2. 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.

F. Appurtenant Structures. A structure which is on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure and is not used for human habitation may be exempt from the elevation requirement of this Ordinance, provided:

1. It is used only for parking or storage;
2. It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
3. It is anchored to prevent flotation which may result in damage to other structures;
4. All portions of the structure below the FPE must be constructed of flood-resistant materials;
5. Service utilities such as electrical and heating equipment meet the standards of this Ordinance;
6. It has openings to allow free flowage of water that meet the criteria in this Ordinance;
7. The project meets all the other requirements of this ordinance.

G. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
2. Water wells shall be located outside the floodway and shall be protected to the FPE;
3. 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;
4. New on-site waste disposal systems are prohibited in the City.

H. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

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

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

4. Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. Codification of Amendments. The City Council authorizes the City Clerk to correct any non-substantive errors herein, codify the amendments, and publish the amended code.

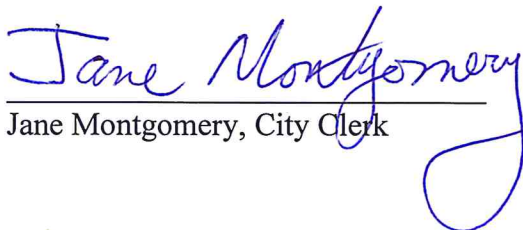
Section 6. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 1st DAY OF MARCH, 2017.

CITY OF ORTING


Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:


Jane Montgomery, City Clerk

Approved as to form:



Kim Adams Pratt
Kenyon Disend PLLC
Acting City Attorney

Filed with the City Clerk: 3.1.17
Passed by the City Council: 3.1.17
Date of Publication: 3.2.17
Effective Date: 3.7.17