

ORDINANCE NO. _____

AN ORDINANCE relating to flood damage prevention; amending the section relating to definitions; amending the section relating to specific standards-construction and development; amending Ordinance 208, Section 4 and BCC 3.26.040 and amending Ordinance 208, Section 8, Ordinance 627, Section 5 and BCC 3.26.080.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 208, Section 4 and BCC 3.26.040 are hereby amended to read as follows:

DEFINITIONS. Whenever the words and phrases in this section appear in this chapter, they shall be given the meanings attributed them by this section. When not inconsistent with the context, words used in the present tense shall include the future, singular shall include the plural, and the plural, singular.

(1) "Accessory Structure" means a subordinate use or building clearly incidental to and located upon the same lot occupied by the main use or building.

(2) "Agricultural Structure" means a structure designed and constructed to store farm implements or hay, grain, poultry, livestock, fruit and other agricultural products.

(3) "Alteration of Watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

(4) "Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

(5) "Area of Shallow Flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map: 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 characterizes sheet flow and AH indicates ponding.

(6) "Area of Special Flood Hazard", which designation on the Flood Insurance Rate Maps always includes the letter A or V, means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

(7) "Base Flood", or "100-year Flood", which designation on the Flood Insurance Rate Maps always includes the letter A or V, means the flood having a one percent chance of being (~~equalled~~) equaled or exceeded in any given year.

(8) "Base Flood Elevation" or "BFE" means the elevation to which floodwater is anticipated to rise during the base flood.

(9) "Basement" means any area of the structure which has its floor subgrade (i.e. below ground level) on all sides.

(10) "Conditional Letter of Map Revision" or "CLOMR" means the Federal Emergency Management Agency's formal review and comment as to whether a proposed project complies with the minimum National Flood Insurance Program requirements for such projects that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective

Base Flood Elevations (BFEs), or the delineation of the Area of Special Flood Hazard (SFHA). The CLOMR does not revise an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) and a Letter of Map Revision (LOMR) is required upon completion of the project to change the FIRM and/or FIS.

(11) "Crawlspace" means an under-floor space with solid walls that has its interior floor area (finished or not) no more than five feet below the top of the next-higher floor.

(12) "Critical Facility" means the following facilities deemed critical because of the significant danger associated with their flooding:

(a) Police stations, fire stations, and emergency operations centers needed for flood response activities before, during, or after a flood;

(b) Medical facilities, including hospitals, nursing homes, blood banks, and health care facilities (including those storing vital medical records);

(c) Schools and day care centers;

(d) Power generating stations and other public and private utility facilities vital to maintaining or restoring normal services to flooded areas before, during, and after a flood;

(e) Drinking water and wastewater treatment plants; and

(f) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials.

(13) "Development" means any man-made change to improved or unimproved real estate, including but not limited to structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

(14) "Elevation Certificate" means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to track development, provide elevation information, to determine the proper insurance premium rate with Section B completed by Floodplain Administrator, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision - Based on Fill (LOMR-F) which are issued by the Federal Emergency Management Agency (FEMA).

(15) "Farmhouse" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

(16) "Federal Insurance Administrator" means the official title under the law of the person that is in charge of the Federal Insurance and Mitigation Administration that is responsible for providing the data upon which flood plain management regulations shall be based and providing a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and, if appropriate, has provided data from which the community shall designate its regulatory floodway.

(17) "Flood" or "Flooding" means any of the following;

(a) a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation of runoff of surface waters from any source; or

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in sub-paragraph (a)(2) 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; or

(b) 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 some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

(18) "Flood Boundary and Floodway Map" means the official map, dated July 19, 1982, on which the Federal Insurance Administrator has delineated flood risk zones, floodways, and base flood elevations applicable to the community.

(19) "Flood Insurance Rate Map" or "FIRM" means the official maps, dated July 19, 1982 and June 15, 1994 on which the Federal Insurance Administrator has delineated both the areas of special flood hazards 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).

(20) "Flood Insurance Study" or "FIS" means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface evaluations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as Flood Elevation Study.

(21) "Floodplain Administrator" means the Benton County Planning Manager, the community official designated to administer and enforce the floodplain management regulations.

(22) "Floodplain or Flood-Prone Area" means any land area susceptible to being inundated by water from any source.

(23) "Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

(24) "Floodproofing" means a combination of structural and non-structural 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. Floodproofed structures are those that have the

structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

(25) "Floodway" means the channels of all rivers or other watercourses 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 a designated height.

(26) "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(27) "Historic Structure" means any structure that is:

(a) Listed individually on 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;

(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 states with historic preservation programs which have been approved by the Secretary of 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.

(28) "Letter of Map Amendment" or "LOMA" means an amendment, requested by the public, based on technical data showing that a property was incorrectly included in a designated area of special flood hazard. A LOMA is approved by the Federal Emergency Management Agency and amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure or portion of property is not located in an area of special flood hazard.

(29) "Letter of Map Revision" or "LOMR" means the Federal Emergency Management Agency's official revision of an effective Flood Insurance Rate Map (FIRM), Flood Insurance Study (FIS), or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the area of Special Flood Hazard.

(30) "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure

is not built so as to render the structure in violation of the applicable non-elevation design requirements set forth herein.

(31) "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

(32) "Manufactured Home Park" or "Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(33) "New Construction" means for floodplain management purposes structures for which the "start of construction" commenced on or after April 6, 1987, which is the date this floodplain management regulation was initially adopted by Benton County, and includes any subsequent improvements to such structures. For insurance purposes, "new construction" means structures for which the "start of construction" commenced on or after July 19, 1982, the effective date of Benton County's initial Flood Insurance Rate Map (FIRM).

(34) "Recreational Vehicle" means 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 as temporary living quarters for recreational, camping, travel, or seasonal use. It is not designed primarily for use as a permanent dwelling.

(35) "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 a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of structures, such as garages or sheds not occupied as dwelling units or not part of the main structure which are on the same parcel of property as the principal structure to be insured and the use of which are incidental to the use of the principal 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 structure, whether or not that alteration affects the external dimensions of the structure.

(36) "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground as well as a manufactured home.

(37) "Substantial Damage" means damage of any origin to a structure whereby the cost of restoring the structure to its before damaged

condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(38) "Substantial Improvement" means any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

The term does not, however, include either:

(a) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by a local code enforcement official and which are solely necessary to assure safe living conditions, or

(b) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

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

(41) "Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

(42) "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands have one or more of the following three attributes: (a) At least periodically, the land supports predominantly hydrophytes; (b) the substrate is predominantly undrained hydric soil; and (c) the substrate is nonsoils and is saturated with water or covered by shallow water at some time during the growing season of each year.

SECTION 2. Ordinance 208, Section 8, Ordinance 627, Section 5 and BCC 3.26.080 are hereby amended to read as follows:

SPECIFIC STANDARDS - CONSTRUCTION AND DEVELOPMENT. The following provisions are required in all areas of special flood hazards where base flood elevation data has been provided as set forth herein:

(a) Residential Construction.

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

(2) Enclosed areas, including crawlspaces, below the lowest floor that are subject to flooding are prohibited unless used solely for parking, access, or storage, and are designed to

automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:

(i) 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.

(ii) The bottom of all openings shall be no higher than ~~((one foot above))~~ one (1) foot above the lowest adjacent exterior grade.

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

(3) Crawlspace must meet the requirements of subsection (c) below.

(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 or more above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

(1) be floodproofed so that one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water (See note in subsection (b)(5) below.);

(2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) be certified by a registered professional engineer 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 official as set forth herein;

(4) nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in BCC 3.26.080(a)(2);

(5) applicants floodproofing nonresidential structures shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a structure constructed to the base flood level will be rated as one foot below that level); and

(6) must meet the criteria set forth in subsection (c) below for crawlspaces.

(c) Structures with Crawlspaces. Structures that are allowed to have below grade crawlspaces may have higher flood insurance premiums than structures that have the interior elevation of the crawlspace soil at or above the Base Flood Elevation. All crawlspaces that have floors below the Base Flood Elevation must:

(1) be designed and adequately anchored to resist flotation, collapse and lateral movement of the structure resulting from

hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) have openings that allow for automatic entry and exit of floodwaters. The bottom of the flood opening can be no more than one (1) foot above the lowest adjacent exterior grade;

(3) use materials resistant to flood damage, including foundation walls, joists, or insulation, if such materials will be below Base Flood Elevation (BFE);

(4) be located in areas where flood velocities do not exceed five (5) feet per second as identified by a registered professional engineer;

(5) have all building utility systems elevated above the BFE or designed so the floodwaters cannot enter or accumulate with the system components during flood conditions;

(6) not have an interior grade more than two (2) feet below the lowest adjacent exterior grade

(7) must not have a height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, of more than four (4) feet at any point; and

(8) have an adequate drainage system to remove floodwaters from the interior area of the crawlspace.

Note: See FEMA Technical Bulletin 11 for further information.

Caution: Buildings that have below grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation of the crawlspace soil at or above the Base Flood Elevation (BFE).

(d) Accessory structures for parking or storage. Notwithstanding subsection (b) above, accessory structures that are 400 square feet or less in size and used solely for parking or storage only need to meet the following criteria in addition to those in BCC 3.26.070:

(1) The structure must be anchored to resist flotation, collapse, and lateral movement;

(2) The portions of the structure located below the BFE must be constructed with flood-resistant materials;

(3) Mechanical and utility equipment for the accessory structure must be elevated and floodproofed to or above the BFE;

(4) The structure shall not be located or encroach into a floodway; and

(5) The structure shall be floodproofed in a manner to protect the structure from hydrostatic pressure by allowing for the entry and exit of floodwaters, including providing 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. The bottom of all openings shall be no higher than one (~~(foot above)~~) (1) foot above the lowest adjacent exterior grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(e) **Manufactured Homes.** All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of BCC 3.26.070(a)(2).

(f) **Recreational Vehicles.** Recreational vehicles must:

(1) be on the site for fewer than one hundred and eighty (180) consecutive days, or

(2) be fully licensed and ready for highway use, on its 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 BCC 3.26.080(e) and the elevation and anchoring requirements for manufactured homes.

(g) **Critical Facilities.** Critical facilities should be afforded additional flood protection due to their nature. Communities therefore shall impose minimum standards which are in addition to those used for other types of development. Construction of new critical facilities shall be located outside the limits of the one hundred year floodplain as identified on the community's FIRM.

SECTION 3. Severability. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. Effective Date. This ordinance shall take effect and be in full force on January 1, 2027.

ADOPTED AND PASSED this _____ day of _____.

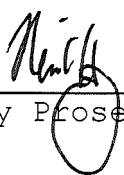
Chairman of the Board.

Chairman Pro-Tem.

Member.

Approved as to Form:

Constituting the Board of
County Commissioners of
Benton County, Washington



Deputy Prosecuting Attorney

Attest: _____
Clerk of the Board