

ORDINANCE NO. 326/00

AN ORDINANCE AMENDING ORDINANCE NO. 282, CITY OF
WALLOWA ZONING REGULATIONS

THE CITY OF WALLOWA ORDAINS AS FOLLOWS:

Section 1. Article 11. FLOOD HAZARD AREAS, of Ordinance No 265 is hereby amended to read as follows:

Section 11.001 Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 11.002 Methods of Reducing Flood losses. In order to accomplish its purposes, this ordinance include methods and provisions for:

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

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

(3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and

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

Section 11.010 Definitions. As used in this article, the following words and phrases shall mean:

(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 on 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" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

(3) "Base Flood" means the flood having a percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

(4) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

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

(6) "Elevated Building" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

(7) "Existing Manufactured Home Park or Subdivision" means a manufactured home park 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) is completed before the effective date of the adopted floodplain management regulations.

(8) "Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads).

(9) "Flood" or "Flooding" means 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.

(10) "Flood Insurance Rate Map (Firm)" means 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.

(11) "Flood Hazard Zone" means an overlay zone covering the area designated as an area of special flood hazard in Map 41063C0429B of the Flood Insurance Study for the City of Wallowa; the regulations contained in this article apply only to lands within said zone. The flood hazard zone is the same as the area of special flood hazard and is designated on the Flood Insurance Rate Map by the letters A or B.

(12) "Flood Insurance Study" means 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.

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

(14) "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 the render the structure in violation of the applicable design requirements of this

ordinance found at Section 11.090 (1)(b).

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

(16) "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.

(17) "New Construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

(18) "New Manufactured Home Park or Subdivision" means 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) is completed on or after the effective date of adopted floodplain management regulations.

(19) "Recreational Vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 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.

(20) "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 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, footing, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not

occupied as dwelling units or not part of the main structure.

(21) "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

(22) "Substantial Improvement" means 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 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:

(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 identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

Section 11.020 Lands to Which This Ordinance Applies. Article 11 of this ordinance shall apply to all lands within the Flood Hazard Zone and within the jurisdiction of the City of Wallowa, Oregon.

Section 11.030 Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a report entitled "The Flood Insurance Study for the City of Wallowa," dated February 17, 1998, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Wallowa City Hall, 211 E, Second, Wallowa, Oregon. The lands designated as "areas of special flood hazard"; identified in Map 41063C0429B of said study, are hereby designated as the City's Flood Hazard Zone.

Section 11.040 Permit Required. Prior to the commencement of any development, including fill and other activities within a Flood hazard Zone, and including installation of new mobile homes within an existing mobile home park, a permit shall be issued unless (1) compliance with the standards contained herein is first demonstrated and (2) all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.

Section 11.050 Application. Application for a zoning permit in a Flood Hazard Zone shall, in addition to the information required by Section 9.030, contain the following;

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all proposed structures and the elevation in relation to mean sea level of the existing ground at the location of each proposed structure;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 11.090(2); and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

No application shall be deemed complete that does not contain the elevations required in subsections (1) and (2).

Section 11.060 Use of other base flood Data. When base flood elevation data is not available for an area within the Flood Hazard Zone, the City Recorder will obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer the standards contained herein.

Section 11.070 Information to be Maintained. The City Recorder shall maintain the following information with respect to permit applications within the Flood Hazard Zone:

(1) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 11.060, the City Recorder shall maintain records showing actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures records showing the actual elevation of the structure (in relation to mean sea level), and the floodproofing certifications required in Section 11.050 shall be maintained.

(3) All records pertaining to the provisions of this ordinance shall be available for public inspection.

Section 11.080 General Standards. In the Flood Hazard Zone, the following standards shall be met:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement 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 and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge 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.

(4) Alteration of Watercourses. Prior to granting a permit for a development or proposal to alter the location of an existing watercourse, or prior to undertaking such activity itself, the City shall:

(a) Notify adjacent communities and the State of Oregon, Land Conservation and Development, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(b) Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(5) Review of Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 11.070), applications for flood area 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.

Section 11.090 Specific Standards. In areas where base flood elevation data has been provided (i.e., in the Flood Hazard Zones adjacent the Wallowa River), the following provisions shall be met:

(1) Residential Construction.

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

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

1. A minimum of two openings 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 flood waters.

(2) Nonresidential Construction.

(a) New construction and substantial improvements 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 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; and

3. Be certified by a registered professional engineer/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 City Recorder as set forth in Section 11.070(2).

(b) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection 1(b) above.

(c) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

(3) Manufactured Homes.

(a) All manufactured homes to be placed or substantially improved within Zones A1-A30, AH, and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision,
2. In a new manufactured home park or subdivision,
3. In an expansion to an existing manufactured home park or subdivision, or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's Firm that are not subject to the above manufactured home provisions be elevated so that either:

1. The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(4) **Recreational Vehicles.** Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- (a) Be on the site for fewer than 180 consecutive days,
- (b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c) Meet the requirements of subsection (3) above and the elevation and anchoring requirements for manufactured homes.

Section 11.100 Floodways. The following provisions apply to all designated

floodways within the Flood Hazard Zone.

(1) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

Section 11.110 Variance.

(1) The City Council may grant a variance from the provisions of this section if, after a public hearing thereon, the Council finds the applicant has demonstrated compliance with the criteria contained in this section.

(2) In passing upon such applications, the Council shall consider all technical evaluations, all relevant factors, standards specified in other section of this ordinance, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location, where applicable;
- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan

and flood plain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

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

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

(3) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (2) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(4) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the national Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

(5) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

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

(7) Variances shall only be issued upon:

(a) A showing a good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (2) or conflict with existing local laws or ordinances.

(8) Variances as interpreted in the National Flood Insurance Program are

based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(9) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with Sections 11.080(1) and 11.080(2) of the General Standards.

(10) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 11.120 Subdivision Proposals. All subdivisions within a flood hazard area shall comply with the following:

(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 flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) 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).

Section 2. Emergency. An emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately following its passage.

PASSED by the council this 28th day of March, 2000, by the following vote:

YES 4

NO 0

ABSENT 1

Approved by the Mayor _____

Robert Lewis
Mayor

ATTEST:

Bobbi Long
Recorder