

manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include such data with their permit applications.

D. Where floodway delineation is not available in accordance with Section 18.10.130, the floodway will be designated to be one-half the distance of the mapped 100 year floodplain at any point, and the prohibition on floodway development adheres, unless a floodway study indicates otherwise. This provision applies to any floodplain development permit, including those for substantial improvements.

E. Where channel migration zone data are not available in accordance with Section 18.10.140.D, the permit applicant shall either: 1. Designate the entire SFHA as the channel migration zone or 2. Identify the channel migration area 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, 2012.

F. All new hydrologic and hydraulic flood studies conducted pursuant to this Section 18.10.150 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, 2012.

G. The floodplain administrator shall use the most restrictive data available for the channel migration zone, floodways, future conditions, and riparian habitat areas.

Section 4. Administration

18.10.170 Establishment of Floodplain Development Permit

A floodplain development permit shall be obtained before construction or development begins within the Special Flood Hazard Area. The permit shall be for all development as set forth in Section 2.

Definitions.

18.10.180 Floodplain Development Permit Application

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

A. One or more site plans, drawn to scale, showing:

1. The nature, location, dimensions, and elevations of the property in question;
2. Names and location of all lakes, water bodies, waterways and drainage facilities within 300 feet of the site;
3. The elevations of the 10-, 50-, 100-, and 500-year floods, where such data are available;
4. The boundaries of the SFHA, floodway, riparian habitat zone, and channel migration area, delineated in accordance with Section 3;

5. The proposed drainage system including, but not limited to storm sewers, overland flow paths, detention facilities and roads;

6. Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials;

7. All wetlands;

8. Designated fish and wildlife habitat conservation areas, and habitat areas identified for conservation or protection under state or federal or local laws or regulations (e.g: Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, Growth Management Act, Shorelines Management Act, Priority Habitat and Species List; and

9. Existing native vegetation and proposed revegetation.

B. If the proposed project involves grading, excavation, or filling, the site plan shall include proposed post-development terrain at one foot contour intervals.

C. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged structure that will be elevated, the application shall include the Flood Protection Elevation for the building site and the proposed elevations of the following:

1. The top of bottom floor (including basement, crawlspace, or enclosure floor)

2. The top of the next higher floor

3. The bottom of the lowest horizontal structural member (in V Zones only)

4. The top of the slab of an attached garage

5. The lowest elevation of machinery or equipment servicing the structure

6. The lowest adjacent (finished) grade next to structure

7. The highest adjacent (finished) grade next to structure

8. The lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support

D. If the proposed project includes a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure that will be dry floodproofed, the application shall include the FPE for the building site, the elevation in relation to the datum of the effective FIRM to which the structure will be dry floodproofed, and a certification by a registered professional engineer or licensed architect that the dry floodproofing methods meet the floodproofing criteria in Section 18.10.310.

E. The proposed project must be designed and located so that new structural flood protection is not needed

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

1. Bank stabilization measures along salmonid-bearing streams, channel migration zones, and along estuarine and marine shorelines must be minimized to the maximum extent possible. If bank stabilization measures are necessary, bioengineered armoring of streambanks and shorelines must be used.

2. Channel Migration: No activity is allowed that limits the natural meandering pattern of the channel migration zone, however, natural channel migration patterns may be enhanced or restored

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

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

18.10.190 Floodplain Development Permit

Expiration If there has been no start of construction, a floodplain development permit shall expire 180 days after the date of issuance. A new floodplain development application must be submitted and reviewed per the most current FIRM maps or best available data, whichever is more restrictive.

18.10.200 Designation of the Floodplain Administrator

The Town Clerk is hereby appointed to administer and implement this ordinance by granting or denying floodplain development permit applications in accordance with its provisions.

18.10.210 Duties of the Floodplain Administrator

Duties of the Town Clerk shall include, but not be limited to:

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

B. Review all floodplain development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required, including those local, State or Federal permits that may be required to assure compliance with the Endangered Species Act and/or other appropriate State or Federal laws.

C. Review all floodplain development permits to determine if the proposed development is located in the Protected Area. If located in the Protected Area, ensure that the provisions of Section 7 are met.

D. Ensure that all development activities within the Special Flood Hazard Area of the jurisdiction of the the Town of Darrington meet the requirements of this ordinance.

E. Inspect all development projects before, during and after construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.

F. Maintain for public inspection all records pertaining to the provisions of this ordinance.

G. Submit reports to include the projects for which they issue floodplain development permits, including effects to flood storage, fish habitat, and all indirect effects of development and mitigation provided to FEMA as required for the National Flood Insurance Program.

H. Notify FEMA of any proposed amendments to this ordinance.

I. Cooperate with State and Federal agencies to improve flood and other technical data and notify FEMA of any new data that would revise the FIRM.

18.10.220 Records

A. Where base flood elevation data is provided through FIS, FIRM, or required as in (place applicable Darrington citation here), ~~have been obtained and maintain a record pursuant to Sections 3.3 and 3.5, the Town Clerk shall obtain, record, and maintain~~ the actual (as-built) 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. ~~“finished construction” elevations for the locations listed in Section 4.2.C. This information shall be recorded on a current FEMA Elevation Certificate (FEMA Form 81-31), signed and sealed by a professional land surveyor, currently licensed in the State of Washington.~~

B. For all new or substantially improved ~~dry~~-floodproofed nonresidential structures, where base flood elevation data is provided through the FIS, FIRM, or as required in (place applicable Darrington citation here): a) Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was flood proofed. b) Maintain the flood proofing certifications required in (place applicable Darrington citation here). ~~has been obtained pursuant to Sections 3.3 and 3.5, the Town Clerk shall obtain, record and maintain the elevation (in relation to the datum of the effective FIRM) to which the structure was floodproofed. This information shall be recorded on a current FEMA Floodproofing Certificate (FEMA Form 81-65) by a professional engineer currently licensed in the State of Washington.~~

18.10.230 Certificate of Occupancy

A. A certification of use for the property or a certificate of occupancy for a new or substantially improved structure or an addition shall not be issued until:

1. The permit applicant provides a properly completed, signed and sealed Elevation or Floodproofing Certificate showing finished construction data as required by Section 18.10.230;

2. If a mitigation plan is required by Sections 18.10.420 and 18.10.430, all work identified in the plan has been completed according to the plan's schedule;

3. The applicant provides copies of all required Federal, State, and local permits noted in the permit application per Section 18.10.180(F);

4. All other provisions of this ordinance have been met.

B. The Town Clerk may accept a performance bond or other security that will ensure that unfinished portions of the project will be completed after the certification of use or certificate of occupancy has been issued.

18.10.240 Board of Appeals

A. The appeal body as established by Section 17.104.010 pursuant to Section 18.08.130 shall hear and decide appeals and requests for variances from the requirements of this ordinance.

B. The appeal body as established by Section 17.104.010 pursuant to Section 18.08.130 shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Town Clerk in the enforcement or administration of this ordinance.

C. Those aggrieved by the decision of the appeal body as established by Section 17.104.010 pursuant to Section 18.08.130 may be appealed according to, and as part of, the appeal procedure for the permit or approval involved under section 17.104.010.

D. Upon consideration of the factors of Section 18.10.250 and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

E. The Town Clerk shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

18.10.250 Variance Criteria

A. In reviewing applications for a variance , the Town Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

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

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

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

4. 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;

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

6. The availability of alternative locations for the proposed use which are not subject to flooding or channel migration and are not in designated fish and wildlife habitat conservation areas;

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

8. 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;

9. The potential of the proposed development project to destroy or adversely affect a fish and wildlife habitat conservation area or create an adverse effect to federal, state or locally protected species or habitat; and

10. The potential of the proposed development project to affect, or be affected by, channel migration; and

11. Is the minimum necessary to grant relief; and

12. Must be compliant with the ES.

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

1. The development project cannot be located outside the Special Flood Hazard Area;

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

3. The relief requested is the minimum necessary;

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

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

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

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

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

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

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

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

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

D. Variances may be requested for new construction, substantial improvements, and other development necessary for the conduct of functionally dependent uses provided:

1. There is good and sufficient cause for providing relief;

2. The variance is the minimum necessary to provide relief;

3. The variance does not cause a rise in the 100 year flood level within the regulatory floodway;

4. The project will not adversely affect federal, state or locally protected fish, wildlife and their habitat or the functions associated with their habitat.

E. Variances to the provisions of Section 6 of this ordinance may be issued for a structure on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the FPE, providing the other variance criteria are met. The applicant for such a variance shall be notified, in writing, that the structure (i) will be subject to increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the FPE increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

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

Section 5. General Development Standards

The provisions of this Section 5 shall apply in the Special Flood Hazard Area:

18.10.260 Subdivisions

This section applies to all subdivision proposals, short subdivisions, short plats, planned developments, and new and expansions to manufactured housing parks, as well as new development.

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

B. The proposed subdivision must have one or more new lots in the Special Flood Hazard Area set aside for open space use through deed restriction, easement, subdivision covenant, or donation to a public agency.

1. In the Special Flood Hazard Area outside the Protected Area, zoning must maintain a low density of floodplain development.

2. In the Special Flood Hazard Area outside the protected area in which the current zoning is less than 5 acres must maintain the current zoning.

C. If a parcel has a buildable site outside the Special Flood Hazard Area, it shall not be subdivided to create a new lot, tract, or parcel within a binding site plan that does not have a buildable site outside the Special Flood Hazard Area. This provision does not apply to lots set aside from development and preserved as open space.

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

E. All proposals shall ensure that all subdivisions have at least one access road connected to land outside the Special Flood Hazard Area with the surface of the road at or above the FPE wherever possible.

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

G. The final recorded subdivision plat shall include a notice that part of the property is in the SFHA, riparian habitat zone and/or channel migration area, as appropriate.

H. Where base flood elevation data are not available in accordance with Section 18.10.130, applicants for approval of new subdivisions must provide best available data in accordance with Section 18.10.160.C.

18.10.270 Site Design

A. Structures and other development shall be located to avoid flood damage.

1. If a lot has a buildable site out of the Special Flood Hazard Area, all new structures shall be located in that area, when possible.

2. If a lot does not have a buildable site out of the Special Flood Hazard Area, all new structures, pavement, and other development must be sited in the location that has the least impact on habitat by locating the structures as far from the water body as possible or placing the structures on the highest land on the lot

3. A minimum setback of 15 feet from the Protected Area shall be required for all structures

4. If the proposed project does not meet the criteria of Sections 18.10.270(A) and (B), a habitat impact assessment shall be conducted pursuant to Section 18.10.420 and, if necessary, a habitat mitigation plan shall be prepared and implemented pursuant to Section 18.10.430.

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

1. Stormwater and drainage features shall incorporate low impact development techniques, if technically feasible, that mimic pre-development hydrologic conditions, such as stormwater infiltration, rain gardens, grass swales, filter strips, disconnected impervious areas, permeable pavement, and vegetative roof systems.

2. If the proposed project will create new impervious surfaces so that more than 10 percent of the portion of the lot in the Special Flood Hazard Area is covered by impervious surface, the applicant shall

demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff that leaves the site or that the adverse impact is mitigated, as provided by Sections 18.10.420 and 18.10.430.

C. The site plan required in Section 18.10.180 shall account for surface drainage to ensure that

1. Existing and new buildings on the site will be protected from stormwater runoff and

2. The project will not divert or increase surface water runoff onto neighboring properties.

18.10.280 Hazardous Materials

A. No new development shall create a threat to public health, public safety, or water quality. Chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other materials that are hazardous, toxic, or a threat to water quality are prohibited from the Special Flood Hazard Area. This prohibition does not apply to small quantities of these materials kept for normal household use. This prohibition does not apply to the continued operations of existing facilities and structures, reuse of existing facilities and structures, or functionally dependent facilities or structures.

B. If the proposed project will cannot meet section 18.10.280(A) of this ordinance then a habitat assessment must be conducted in accordance with Sections 18.10.420 and 18.10.430.

18.10.290 Critical Facilities

A. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area.

B. Construction of new critical facilities in the Special Flood Hazard Area shall be permissible if no feasible alternative site is available, provided

1. Critical facilities shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines. 2. Access to and from the critical facility shall be protected to the elevation of the 500-year flood.

Section 6. Standards for Protection of Structures

The provisions of this Section shall apply in the Special Flood Hazard Area. All new structures and substantial improvements shall be protected from flood damage below the Flood Protection Elevation.

18.10.300 Applicability This section's protection requirement applies to all new structures and substantial improvements, which include:

A. Construction or placement of a new structure.

B. Reconstruction, rehabilitation, or other improvement that will result in a substantially improved building.

C. Repairs to an existing building that has been substantially damaged.