

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2400

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, REPEALING ORDINANCE 2390; REPEALING AND REPLACING SNOHOMISH MUNICIPAL CODE CHAPTER 14.270, UPDATING REGULATIONS FOR DEVELOPMENT IN FLOOD HAZARD AREAS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has the authority under Title 35A and Chapter 58.17 RCW to adopt regulations related to zoning and land uses and the processing of land use development permits; and

WHEREAS, the City has adopted a Land Use Development Code under Title 14 of the Snohomish Municipal Code (“Development Code”) to implement the Comprehensive Plan and to ensure compatible and rational land development and land use in all portions of the City; and

WHEREAS, Title 14 SMC includes Chapter 14.270 Flood Hazard Areas, but the chapter must be updated in order to ensure continued participation in the National Flood Insurance Program; and

WHEREAS, on March 31, 2020, the proposed amendments contained herein were transmitted to the State Department of Commerce as required by RCW 36.70A.106; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), the City of Snohomish, as the designated lead agency for review of the proposed amendment, issued a Determination of Non-Significance on April 15, 2020, pursuant to WAC 197-11-340(2). No appeal of the determination was filed so the determination stands as issued; and

WHEREAS, pursuant to Ordinance 2390, adopted on May 19, 2020, the City Council established six-month interim zoning controls concerning development in flood hazard areas, to protect the health, safety, and welfare of the citizens of Snohomish; and

WHEREAS, on May 26, 2020, the proposed amendments contained herein were transmitted to the Washington State Department of Ecology and the United States Department of Homeland Security, Federal Emergency Management Agency for their review and the comments submitted have been incorporated into this Ordinance; and

WHEREAS, on July 1, 2020, following notice as required by law, the Planning Commission held a duly-noticed public hearing to receive staff and citizen input concerning the proposed code amendments and all persons who wished to be heard on the matter were heard; and

WHEREAS, the Planning Commission adopted Findings of Facts & Conclusions and recommended City Council approval of the proposed code amendments which are attached hereto as “Exhibit A” and incorporated by this reference; and

WHEREAS, on July 21, 2020, at a duly noticed public meeting, the City Council received staff and citizen input and considered the recommendation of the Planning Commission, and all persons who wished to be heard on the matter were heard; and

WHEREAS, in the event this Ordinance is adopted and becomes effective, it is necessary and appropriate that the six-month interim zoning controls as enacted pursuant to Ordinance 2390 should be repealed and replaced by this Ordinance; and

WHEREAS, the City Council has determined that it is in the public interest, health, safety and welfare to repeal and replace Chapter 14.270 SMC in order to maintain participation in the National Flood Insurance Program and allow citizens within the community to obtain flood insurance and certain types of federal disaster aid;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. **Adoption of recitals as findings.** The City Council hereby adopts each of the recital paragraphs above as findings and hereby incorporates them by reference as though fully stated herein.

Section 2. **Adoption of Planning Commission findings.** The Planning Commission findings as set forth in “Exhibit A,” are hereby adopted and incorporated by reference, including but not limited to the findings that the Development Code regulations and amendments adopted by this Ordinance are:

- a. Internally consistent with the City of Snohomish Comprehensive Plan;
- b. Consistent with the Washington State Growth Management Act;
- c. Consistent with the Washington State Environmental Policy Act (Chapter 43.21C RCW); and
- d. In the interest of the public health, safety, and welfare of Snohomish residents.

Section 3. **Interim zone controls repealed.** The six-month interim zoning controls for flood hazard areas enacted by the adoption of Ordinance 2390 on May 19, 2020, are hereby repealed in their entirety.

Section 4. **Chapter 14.270 SMC repealed.** Chapter 14.270 SMC entitled “Flood Hazard Areas,” is hereby repealed in its entirety.

Section 5. **New Chapter 14.270 SMC adopted.** A new Chapter 14.270 SMC, entitled “Flood Hazard Areas,” is hereby adopted to read as set forth in attached “Exhibit B” which is hereby incorporated herein by this reference as though fully contained herein.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Ordinance.

Section 7. Authority to make necessary corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance and attachments including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective date. This Ordinance shall be effective five days after adoption and publication by summary.

ADOPTED by the City Council and **APPROVED** by the Mayor this 21st day of July 2020.

CITY OF SNOHOMISH

By John T. Kartak
John T. Kartak, Mayor

ATTEST:

By Pat Adams
Pat Adams, City Clerk

APPROVED AS TO FORM:
By Grant K. Weed
Grant K. Weed, City Attorney

Date of Publication: July 25, 2020

Effective Date (5 days after publication): July 30, 2020

EXHIBIT A

Snohomish Planning Commission Findings of Fact & Conclusions

Based on the review of the proposed amendments to Title 14 Snohomish Municipal Code repealing and replacing Chapter 14.270 Flood Hazard Areas, the Planning Commission of the City of Snohomish makes the following Findings of Fact:

1. The City has the authority under RCW Title 35A to adopt regulations related to land use development.
2. Chapter 14.270 Snohomish Municipal Code (SMC) entitled “Flood Hazard Areas” regulates development in the floodplain and floodways.
3. On May 19, 2020, the Snohomish City Council approved Ordinance 2390 which adopted interim regulations pursuant to RCW 35A.63.220, updating Chapter 14,270, Snohomish Municipal Code, in conformance with federal requirements.
4. In order to maintain participation in the National Flood Insurance Program (NFIP) and allow citizens within the community to obtain flood insurance and certain types of federal disaster aid, the City must adopt an updated floodplain ordinance that meets current National Flood Insurance Program standards which includes the new Flood Insurance Study and Flood Insurance Rate Maps as the basis for establishing areas of special flood hazard.
5. Pursuant to RCW 86.16.020, the Washington State Department of Ecology shall establish state minimum floodplain management regulations that meet the minimum federal requirements for the National Flood Insurance Program. Those regulations shall be exercised over the planning, construction, operation and maintenance of any works, structures and improvements, private or public, which might, if improperly planned, constructed, operated and maintained, adversely influence the regimen of a stream or body of water or might adversely affect the security of life, health and property against damage by flood water.
6. Pursuant to RCW 86.16.031, the Washington State Department of Ecology shall review and approve the City of Snohomish’s floodplain management ordinances, which must be submitted to DOE with such ordinance taking effect thirty days from submittal to the department unless the department disapproves such ordinance or amendment within that time period;
7. The proposed amendment implements the following goals and policies contained in the Snohomish Comprehensive Plan:
 - Goal LU 2:** Manage growth and community change in accordance with the values and vision of the Snohomish community of residents, land owners, and business people, and consistent with the Growth Management Act.
 - GOAL EP 2:** Minimize the potential for risk to life, property, and natural and cultural resources due to floods, erosion, landslides, and seismic activity.

EP 2.3: Floodplain development. Approve development within floodplains only where it will not increase flood hazards and will not result in direct or indirect harm to protected species.

GOAL EP 3: Minimize the effects of development on water quality and flooding.

8. Procedural requirements.
 - a. The proposed amendment is consistent with state law.
 - b. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt the proposed amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on March 31, 2020.
 - c. The public process used in the adoption of the proposed amendments has complied with all applicable requirements of the GMA and the SMC.
9. Pursuant to the State Environmental Policy Act (SEPA), the City of Snohomish, as the designated lead agency for review of the proposed amendment, issued a Determination of Non Significance on April 15, 2020 pursuant to WAC 197-11-340(2). No appeal of the determination was filed so the determination stands as issued.
10. The Planning Commission held a public hearing on July 1, 2020, to receive public testimony concerning the proposed amendment.
11. At the conclusion of the public hearing, the Planning Commission voted to recommend City Council approval of the proposed amendment.

Based on the foregoing Findings of Fact, the Snohomish Planning Commission hereby makes the following conclusions.

1. The new Chapter 14.270 meets the minimum requirements for participation in the National Floodplain Insurance Program.
2. The new Chapter 14.270 meets the minimum requirements of the Washington State Department of Ecology.
3. The proposed amendment is consistent with Washington State law and the Snohomish Municipal Code.
4. The proposed amendment implements and is consistent with the goals and policies of the Comprehensive Plan.
5. The proposed amendment protects the public health, safety, and general welfare.
6. The proposed amendment does not result in an unconstitutional taking of private property for public purpose and it does not violate substantive due process guarantees.

Date: July 1st 2020

By: Terry Lippincott
Terry Lippincott, Planning Commission Chair

EXHIBIT B

CHAPTER 14.270 FLOOD HAZARD AREAS

- 14.270.010 Floodplains as Critical Areas
- 14.270.020 Purpose
- 14.270.030 Methods of Reducing Flood Losses
- 14.270.040 Definitions
- 14.270.050 General Provisions
- 14.270.060 Administration
- 14.270.070 General Standards for Flood Hazard Reduction
- 14.270.080 Specific Standards for Flood Hazard Reduction
- 14.270.090 General Requirements for Other Development
- 14.270.100 Variances

14.270.010 Floodplains as Critical Areas

- A. For the purpose of the City's Critical Areas regulations, as set forth in SMC [14.255](#), floodplains are those areas that provide important flood storage, conveyance and attenuation functions and include all land within such areas that are subject to a one percent or greater chance of flooding in any given year.
- B. Floodplains shall be designated by the Floodplain Administrator in accordance with WAC [365-190-080\(3\)](#).
 - 1. The Floodplain Administrator shall use the "areas of special flood hazard" as identified on the Federal Emergency Management Administration's most current Flood Insurance Rate Map for the City as the indicator of where floodplains exist, unless more detailed, current, and convincing evidence indicates otherwise.
 - 2. Floodplains shall include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.
- C. The Floodplain Administrator may waive the critical areas report required by SMC [14.255.060](#) for developments proposed in the floodplain, if the applicable permit application contains sufficient data to verify compliance with the substantive requirements, except for the following developments:
 - 1. Developments in a designated floodway; and
 - 2. Developments that result in watercourse alteration.
 - 3. Developments located adjacent to other critical areas as defined in Chapter 14.255 SMC.
- D. In addition to the requirements of SMC [14.255.040](#) and this Chapter, the following requirements shall apply to floodplains:
 - 1. To the extent possible consistent with the development objective, all improvements shall be located on the non-floodplain portion of the site, if any, or on the highest ground on the site, as far as possible from the flood source.
 - 2. Alteration of natural watercourses, including side channels, tributaries, and channel migration zones, is to be avoided when feasible. If unavoidable, the Floodplain Administrator shall notify adjacent communities, the Department of Ecology, the State

Department of Fish and Wildlife, and FEMA prior to alteration. Any stream-bank stabilization shall consider the use of soft armoring or best available armoring science.

14.270.020 Purpose

It is the purpose of this Chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and often undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- G. Notify potential buyers that the property is in a Special Flood Hazard Area;
- H. Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
- I. Participate in and maintain eligibility for flood insurance and disaster relief.

14.270.030 Methods of Reducing Flood Losses

In order to accomplish its purposes, this Chapter includes methods and provisions for:

- A. Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which results in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development, which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

14.270.040 Definitions

The definitions contained in 44 CFR 59.1 are hereby incorporated by reference as though fully contained herein. Inasmuch as the definitions in Chapter 14.25 SMC conflict with the definitions in 44 CFR 59.1, the definitions in 44 CFR 59.1 shall be controlling, for purposes of this Chapter only.

14.270.050 General Provisions

- A. Lands to which this Chapter applies. This Chapter shall apply to all special flood hazard areas within the boundaries of the City of Snohomish [44 CFR 59.22(a)].
- B. Basis for Establishing the Areas of Special Flood Hazard. The special flood hazard areas are identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Snohomish County, Washington and Incorporated Areas” dated June 19, 2020, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated June 19, 2020, and any revisions thereto, which are hereby adopted by reference and declared to be a part of this Chapter. The FIS and the FIRMs are on file at Snohomish City Hall, 116 Union Ave., Snohomish, WA.

The best available information for flood hazard area identification as outlined in SMC 14.270.040F shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under SMC 14.270.040F.

- C. Compliance. All development within special flood hazard areas is subject to the terms of this Chapter and other applicable regulations.
- D. Enforcement. 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. Violations 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 be subject to Title 14 Snohomish Municipal code enforcement actions, including applicable penalties, as described in Chapter 14.85 SMC, “Enforcement”. Nothing herein contained shall prevent the City of Snohomish from taking such other lawful action as is necessary to prevent or remedy any violation.
- E. Abrogation and 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 provision of Snohomish Municipal Code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. 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.
- G. 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 man-made 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 of Snohomish, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

14.270.060 Administration

- A. Development Permit Required [44 CFR 60.3(b)(1)]. A development permit shall be obtained before construction or development begins within any special flood hazard area established in SMC 14.270.030B. The permit shall be for all structures and development, as defined in Chapter 14.25 SMC, "Definitions" and 44 CFR 59.1, including manufactured homes and fill.
- B. Designation of the Local Floodplain Administrator [44 CFR 59.22(b)(1)]. The Director of Planning & Development Services shall be the designated Floodplain Administrator authorized to administer, implement, and enforce this Chapter by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.
- C. Application for Development Permit. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information shall be required:
1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
 2. Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood proofed;
 3. Where a structure is to be flood proofed, certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure will meet flood proofing criteria in SMC 14.270.060B;
 4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
 5. Where development is proposed in a floodway, an engineering analysis indication that there will be no rise of the Base Flood Elevation (BFE), and
 6. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.
- D. Permit Review. The Floodplain Administrator or designee shall review all development permits to determine that:
1. The permit requirements of this Chapter have been satisfied;
 2. All other required state and federal permits have been obtained;
 3. The site is reasonably safe from flooding; and
 4. The proposed development is not located in the floodway, or if located in the floodway,

assure the encroachment provisions of SMC 14.270.060(G)(1) are met.

- E. The Floodplain Administrator shall notify FEMA when annexations occur in the Special Flood Hazard Area.
- F. Use of Other Base Flood Data [44 CFR 60.3(b)(4)]. When base flood elevation data has not been provided in A zones in accordance with SMC 14.270.030B, “Basis for Establishing the Areas of Special Flood Hazard”, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer SMC 14.270.060, “Specific Standards”, and SMC 14.270.060G, “Floodways”.
- G. Information to be Obtained and Maintained.
 - 1. Where base flood elevation data is provided through the FIS, FIRM, or as required in SMC 14.270.040F, the Floodplain Administrator shall obtain 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. [44 CFR 60.3(b)(5)(i)]
 - 2. For all new or substantially improved flood proofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in SMC 14.270.040F:
 - a. Obtain and maintain the elevation (in relation to mean sea level) to which the structure was flood proofed. [44 CFR 60.3(b)(5)(ii)]
 - b. Maintain the flood proofing certifications required in SMC 14.270.040(B)(3). [44 CFR 60.3(b)(5)(iii)]
 - 3. Certification required by SMC 14.270.060(G)(1).
 - 4. Records of all variance actions, including justification for their issuance.
 - 5. Improvement and damage calculations.
 - 6. All records pertaining to the provisions of this Chapter. [44 CFR 60.3(b)(5)(iii)]
- H. Alteration of Watercourse [44 CFR 60.3(b)(6)]. Whenever a watercourse is proposed to be altered or relocated, the Floodplain Administrator shall:
 - 1. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means [44CFR 60.3(b)(6)]; and
 - 2. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained [44 CFR 60.3(b)(7)].
 - 3. Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
 - 4. Notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

- I. Interpretation of FIRM Boundaries. The Floodplain Administrator may make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards, including but not limited to where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP (44 CFR 59-76).
- J. Review of Building Permits [44 CFR 60.3(a)(3)]. Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (SMC 14.270.040F), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and may include use of historical data, high water marks, photographs of past flooding, and other material as available.

Applicants shall be informed that failure to elevate habitable buildings at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

- K. Changes to Special Flood Hazard Area.
 1. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the Floodplain Administrator with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
 2. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.
- L. Habitat Assessment.
 1. All development permit applications shall include submittal of a habitat assessment done by a qualified professional that includes a full habitat impact analysis of potential effects on Endangered Species Act-listed species and on their critical habitats as required by the NFIP/ESA Biological Opinion dated September 22, 2008, in order to ensure full protection of the critical habitat of ESA-listed salmonids in the flood hazard area.
 2. The Floodplain Administrator may waive or modify the requirement to submit a habitat assessment if the proposed project, in its entirety, is for one of the following activities:
 - a. Normal maintenance, repairs, or remodeling of structures, including but not limited to re-roofing and replacing siding, provided such work is not a substantial improvement or a repair of substantial damage. To comply, such work must be less than 50% of the value of the structure(s).
 - b. Expansion or reconstruction of an existing structure that is no greater than 10% beyond its existing footprint. If the structure is in the floodway, there shall be no change in the structure's dimensions perpendicular to flow. All other federal and state requirements and restrictions relating to floodway development still apply.
 - c. Activities with the sole purpose of creating, restoring, or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and

riparian areas that meet federal and state standards, provided the activities do not include structures, grading, fill, or impervious surfaces.

- d. Development of open space and recreational facilities, such as parks, trails, fences, and hunting grounds, that do not include structures, fill, impervious surfaces, or removal of more than 5% of the native vegetation on that portion of the property in the floodplain.
- e. Repair to onsite septic systems, provided ground disturbance is the minimal necessary and best management practices (BMPs) to prevent stormwater runoff and soil erosion are used.
- f. Projects that have already received concurrence under another permit or other consultation with the Services, either through Section 7, Section 4d, or Section 10 of the Endangered Species Act (ESA) that addresses the entirety of the project in the floodplain.
- g. Repair of an existing, functional bulkhead in the same location and footprint with the same materials when the Ordinary High Water Mark (OHWM) is still outside of the face of the bulkhead and qualifies for a U.S. Army Corps of Engineers' exemption from Section 404 coverage.

14.270.070 General Standards for Flood Hazard Reduction

In all areas of special flood hazards, the following standards are required:

A. Anchoring [44 CFR 60.3(a) and (b)].

1. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy [44 CFR 60.3(a)(3)(i)].
2. All manufactured homes shall 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 [44 CFR 60.3(b)(8)]. For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

B. Construction Materials and Methods [44 CFR 60.3(a)(3)(ii-iv)].

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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.

C. Storage of Materials and Equipment.

1. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.
2. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within

the time available after flood warning.

D. Utilities [44 CFR 60.3(a)(5) and (6)].

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 on high ground that is not in the floodway (WAC 173-160-171);
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. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision and Development Proposals [44 CFR 60.3(a)(4) and (b)(3)]. All subdivisions, including manufactured home parks, as well as any new development or redevelopment shall:

1. Be consistent with the need to minimize flood damage;
2. Have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
3. Have adequate drainage provided to reduce exposure to flood damage.
4. Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is the lesser) base flood elevation data shall be included as part of the application.

14.270.080 Specific Standards for Flood Hazard Reduction [44 CFR 60.3(c)(1)]

In all areas of special flood hazards where base flood elevation data has been provided as set forth in SMC 14.270.030B, "Basis for Establishing the Areas of Special Flood Hazard", or SMC 14.270.040F, "Use of Other Base Flood Data", the following provisions are required:

A. Residential Construction [44 CFR 60.3(c)(2)(5)].

1. In AE or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE.
2. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
3. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if usable solely for parking, access, or storage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must meet or exceed all of the following minimum criteria:
 - a. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or

devices provided that they permit the automatic entry and exit of floodwater.

- d. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.
- e. Alternatively, a registered engineer or architect may design and certify engineered openings.

B. Nonresidential Construction [44 CFR 60.3(c)(3) and (4)]. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection 1 or 2, below.

- 1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
 - a. In AE and other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.
 - b. If located in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
 - c. 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 if used solely for parking, access, or storage. 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:
 - i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - iv. Alternatively, a registered engineer or architect may design and certify engineered openings.
- 2. If the requirements of subsection 1 are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
 - a. Be dry flood proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the

- official as set forth in SMC 14.270.040(F)(2);
- d. Nonresidential structures that are elevated and not flood proofed, must meet the same standards for space below the lowest floor as described in SMC 14.270.060(A)(3).
3. Applicants who are flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level and that flood proofing the building an additional foot will reduce insurance premiums significantly.
- C. Manufactured Homes [44 CFR 60.3(c)(6)(12)]. All manufactured homes to be placed or substantially improved on all sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the BFE and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- D. Recreational Vehicles [44 CFR 60.3(c)(14)]. Recreational vehicles placed on sites are required to either:
1. Be on the site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use, on wheels or jacking system, 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 SMC 14.270.060C above.
- E. Accessory Structures.
1. Accessory structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with all of the following requirements:
 - a. Use of the accessory structure must be limited to parking of vehicles or limited storage;
 - b. The portions of the accessory structure located below the BFE must be built using flood resistant materials;
 - c. The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - d. Any machinery or equipment servicing the accessory structure must be elevated or flood proofed to or above the BFE;
 - e. The accessory structure must comply with floodway encroachment provisions in SMC 14.270.060(G)(1);
 - f. The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with SMC 14.270.060(A)(3);
 - g. The structure shall have low damage potential;
 - h. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use; and
 - i. The structure shall not be used for human habitation.
 2. Detached garages, storage structures, and other accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in SMC 14.270.060A.
 3. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

- F. AE Zones with Base Flood Elevations but No Floodways [44 CFR 60.3(c)(10)]. In areas with BFEs (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- G. Floodways. Floodways are designated areas within a special flood hazard established in SMC 14.270.030B. Floodways are extremely hazardous areas due to the velocity of floodwaters that can carry debris, and increase erosion potential. The following provisions apply to development within a floodway:
1. No Rise Standard. Encroachments, including fill, new construction, substantial improvements, and other development in the floodway are 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. [44 CFR 60.3(d)(3)]
 2. Residential Construction in Floodways. Construction or reconstruction of residential structures and mixed use structures with residential dwelling units is prohibited within designated floodways, except for:
 - a. Repairs, reconstruction, or improvements to an existing structure that do not increase the ground floor area; and
 - b. Repairs, reconstruction, or improvements to an existing structure, the cost of which does not exceed 50% of the market value of the structure either:
 - i. Before the repair or reconstruction is started, or
 - ii. If the structure has been damaged, and is being restored, before the damage occurred.

Any project for improvement of an existing structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded from the 50% calculation.
 3. Replacement of Farmhouses in Floodway. Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted if all of the following requirements are met:
 - a. The new farmhouse is a replacement for an existing farmhouse on the same farm site;
 - b. There is no potential alternative building site for a replacement farmhouse on the same farm outside the designated floodway;
 - c. Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
 - d. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
 - e. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;

- f. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
 - g. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
 - h. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
 - i. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.
4. Substantially Damaged Residences in Floodway.
- a. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the Floodplain Administrator repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the City of Snohomish and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement shall be allowed per WAC 173-158-070(1).
 - b. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, all of the following conditions must be met:
 - i. There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway;
 - ii. A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size;
 - iii. Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment;
 - iv. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE;
 - v. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system;
 - vi. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
 - vii. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.
5. All Other Building Standards Apply in the Floodway. If SMC 14.270.060(G)(1) is satisfied or construction is allowed pursuant to SMC 14.270.060(G)(2), all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of SMC 14.270.050.

14.270.090 General Requirements for Other Development

All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this Chapter or the state building codes with adopted amendments and any City of Snohomish amendments, shall:

- A. Be located and constructed to minimize flood damage;
- B. Meet the encroachment limitations of this Chapter if located in a regulatory floodway;
- C. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- D. Be constructed of flood damage-resistant materials; and
- E. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

14.270.100 Variances

- A. Variances shall only be issued:
 - 1. Upon 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, or conflict with existing local laws or ordinances;
 - 2. For the repair, rehabilitation, or restoration of historic structures, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
 - 3. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - 4. Upon a showing of good and sufficient cause;
 - 5. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant provided that hardship was not created by the applicant; and
 - 6. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined as a "Functionally Dependent Use" in Chapter 14.100 SMC.
- B. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- C. All variances for development within a special flood hazard area shall be processed as a major variance pursuant to SMC 14.70.030 and shall meet all of the criteria for variances pursuant to SMC 14.70.040.
- D. Additional Requirements for the Issuance of a Variance
 - 1. Any applicant to whom a variance is granted shall be given written notice over the

signature of a City of Snohomish official that:

- a. The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance; and
 - b. Such construction below the BFE increases risks to life and property.
2. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
 3. The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this Chapter are met.