

**CITY OF DUNES CITY**  
**LANE COUNTY, OREGON**  
**ORDINANCE NO. 253**

**AN ORDINANCE REPEALING PREVIOUS FLOOD PLAIN ORDINANCES,  
ADOPTING FLOOD HAZARD REGULATIONS, AND DECLARING AN  
EMERGENCY.**

The City of Dunes City ordains as follows:

**Section 1 – Statutory Authorization, Findings of Fact, Purpose, and Objectives, and  
General Provisions**

**CHAPTER 153: FLOOD DAMAGE PREVENTION**

Section

*General Provisions*

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### **GENERAL PROVISIONS**

#### **§ 153.01 STATUTORY AUTHORIZATION**

The legislature of the State has in O.R.S. 221.410(1) delegated the responsibility to local government units to take all action necessary or convenient for the government of their local affairs, and in O.R.S. 227.010 *et seq.*, delegated the responsibility to cities to enact zoning ordinances and regulations pertaining to the development of land.

#### **§ 153.02 FINDINGS**

A. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

#### **§ 153.03 PURPOSE**

The purpose of this Chapter 153 is 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 to:

- A. Protect human life and health;
- B. Minimize expenditures of public money and costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally 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, streets, and bridges located in areas of special flood hazard;
- F. 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;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **§ 153.04 METHODS OF REDUCING FLOOD LOSSES**

In Order to accomplish its purposes, this Chapter 153 includes methods and provisions for:

- A. 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;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, 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;
- E. Preventing or regulating the construction of flood barriers which unnaturally divert flood waters or may increase flood hazards in other areas;
- F. Coordinating and supplementing the provisions of the State Building Code and local land use and development codes.

## § 153.05 DEFINITIONS

For the purpose of this Chapter 153, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**APPEAL.** A request for a review of the interpretation of any provision of this Chapter 153 or a request for a variance.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AE, AO, and AH. “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

**ASCE.** American Society of Civil Engineers.

**BASE FLOOD.** The flood having a one percent (1%) 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”.

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

**BELOW-GRADE CRAWL SPACE.** An enclosed area below the base flood elevation in which the interior grade is not more than two (2) feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawl space to the top of the crawl space foundation, does not exceed four (4) feet at any point.

**CRITICAL FACILITY.** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, including evacuation centers, and installations which produce, use or store hazardous materials or hazardous waste.

**DEVELOPMENT.** 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, drilling operations, or storage of equipment or materials.

**ELEVATED BUILDING.** For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

***FLOOD* or *FLOODING*.**

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

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

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph A(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph A(1) of this definition.

***FLOOD ELEVATION STUDY.*** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

***FLOOD INSURANCE RATE MAP (FIRM).*** The official map of a community on which the Federal Insurance Administrator has delineated both special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

***FLOOD INSURANCE STUDY.*** See “Flood Elevation Study”.

***FLOODWAY.*** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Also referred to as “Regulatory Floodway”.

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

***HISTORIC STRUCTURE.*** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved State program as determined by the Secretary of Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter 153 found at §153.21(A)(2).

**MANUFACTURED DWELLING.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED DWELLING** does not include a recreational vehicle.

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

**MEAN SEA LEVEL.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NG29) or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION.** Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation, this Chapter 153 adopted by the City, and includes any subsequent improvements to such structures.

**RECREATIONAL VEHICLE.** A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**SPECIAL FLOOD HAZARD AREA.** See “area of special flood hazard.”

**START OF CONSTRUCTION.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, addition placement or other improvement was within one hundred and eighty (180) days of the permit date. The **ACTUAL START** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a **SUBSTANTIAL IMPROVEMENT**, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** A walled and roofed building including a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure at the **START OF CONSTRUCTION** of the improvement. This term includes structures which have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term does not, however, include either:

1. 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
2. Any alteration of a **HISTORIC STRUCTURE**, provided that the alteration will not preclude the structure’s continued designation as a **HISTORIC STRUCTURE**.

**VARIANCE.** A grant of relief from the requirements of a floodplain management regulation contained within this Chapter 153.

**VIOLATION.** The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter 153 is presumed to be in violation until such time as the documentation is provided.

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

**§ 153.06 APPLICABILITY OF PROVISIONS**

This Chapter 153 shall apply to all areas of special flood hazards within the jurisdiction of Dunes City.

**§ 153.07 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD; FLOOD INSURANCE RATE MAP**

The areas of special flood hazard identified by the Federal Insurance and Mitigation Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Dunes City, dated December 5, 2019, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this Chapter 153. The Flood Insurance Study is on file at the Dunes City Hall. The best available information for flood hazard area identification as outlined in §153.39 shall be the basis for regulation until a new FIRM is issued which incorporated the data utilized under §153.39.

**§ 153.08 ABROGATION AND SEVERABILITY**

This Chapter 153 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter 153 and another Code provision, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

This Chapter 153 and the various parts thereof are hereby declared to be severable. If any section, clause, sentence, or phrase of this Chapter 153 is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Chapter 153.

**§ 153.09 INTERPRETATION.**

In the interpretation and application of this Chapter 153, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

**§ 153.10 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Chapter 153 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 153 does not imply the land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter 153 shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this Chapter 153 or any administrative decision lawfully made hereunder.

### ***PROVISIONS FOR FLOOD HAZARD REDUCTION***

#### **§ 153.20 GENERAL STANDARDS**

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

A. *Anchoring.*

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured dwellings 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 "Protecting Manufactured Homes from Floods and other Hazards" guidebook for additional techniques).

B. *Construction materials and methods.*

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, duct systems, and other equipment and service facilities shall be elevated above the base flood level or shall be designed and installed so as to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyance, during conditions of flooding. In addition electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this Section 153.20(B) when replaced as part of a substantial improvement.

C. *Utilities*

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

2. 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.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

D. *Subdivision proposals.*

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

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize 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 fifty (50) lots or five (5) acres (whichever is less).

E. *Review of building permits.* Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (§153.39), applications for building 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 (2) feet above grade in these zones may result in higher insurance rates.

F. *AH and AO Zone Drainage.* Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

**§ 153.21 SPECIFIC STANDARDS**

In all areas of special flood hazard where base flood elevation data has been provided (Zones A1-A30, AH, and AE) as set forth in §153.07, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or §153.39 USE OF OTHER BASE FLOOD DATA (in A Zones), the following provisions are required:

A. *Residential construction.*

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

2. 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 and shall be used solely for parking, storage, or building access. 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:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters and shall be accounted for in the determination of the net open area.

(d) If a building has more than one (1) enclosed area below the lowest floor, each area shall be equipped with adequate flood openings.

(e) Openings shall not be less than three (3) inches in any direction in the plane of the wall.

**B. *Nonresidential construction.***

1. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated above the Base Flood Elevation or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below the based flood level the structure is watertight with walls substantially impermeable to the passage of water;

(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 §153.21(B) 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 §153.40(B).

2. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in §153.21(A)(2).

3. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one (1) foot below).

4. Applicants shall supply a Maintenance Plan for the entire structure to include, but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

5. Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

#### **§ 153.22 MANUFACTURED DWELLINGS**

A. New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with §153.20 GENERAL STANDARDS of this Chapter 153;

B. The bottom of the longitudinal chassis frame beam in A zones shall be at or above the Base Flood Elevation;

C. New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Protecting Manufactured Homes from Floods and Other Hazards guidebook for additional techniques); and

D. Electrical crossover connections shall be a minimum of twelve inches (12") above Base Flood Elevation.

#### **§ 153.23 RECREATIONAL VEHICLES**

Recreational vehicles placed on sites are required to:

A. Be on the site for fewer than one hundred and eighty (180) consecutive days, and

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 have no permanently attached additions; or

C. Meet the requirements of §153.22 Manufactured Dwellings as found in this Chapter 153 and the elevation and anchoring requirements for manufactured dwellings.

## **§ 153.24 SMALL ACCESSORY STRUCTURES**

Relief from elevation or floodproofing as required in §153.21(A) or §153.21(B) may be granted for small accessory structures that are:

A. In compliance with the State of Oregon Specialty Codes, if located on a property zoned residential the accessory building shall be less than two hundred (200) square feet, or four hundred (400) square feet if the property is greater than two (2) acres in area and the proposed accessory structure will be located a minimum of twenty-five (25) feet from all property lines. If located on a property zoned nonresidential, the accessory structure shall be less than one hundred and twenty (120) square feet. The accessory structure shall not exceed one (1) story;

B. Not temperature controlled;

C. Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;

D. Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality, unless confined in a tank installed in compliance with this Chapter 153 or is stored at least one (1) foot above Base Flood Elevation;

E. Located and constructed to have low damage potential;

F. Constructed with materials resistant to flood damage;

G. Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

H. Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect, or meet the requirements of 153.21(A)(2).

I. Constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

## **§ 153.25 BELOW GRADE CRAWL SPACES**

Below grade crawl spaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:

A. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in §153.25(B) below. Because of hydrodynamic loads, crawl space construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

B. The crawl space is an enclosed area below the Base Flood Elevation and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

C. Portions of the building below the Base Flood Elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the Base Flood Elevation. The recommended construction practice is to elevate the bottom of joists and all insulation above the Base Flood Elevation.

D. Any building utility systems within the crawl space must be elevated above Base Flood Elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the Base Flood Elevation or sealed from floodwaters.

E. The interior grade of a crawl space below the Base Flood Elevation must not be more than two (2) feet below the lowest adjacent exterior grade.

F. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation, must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

G. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone, drainage by gravity or mechanical means.

H. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawl space. For velocities in excess of five (5) feet per second, other foundation types should be used.

For more detailed information, refer to FEMA Technical Bulletin 11-01.

## **§ 153.26 BEFORE REGULATORY FLOODWAY**

In areas where a regulatory floodway has not been designated, and where the Flood Insurance Study indicates that it is possible to calculate a floodway, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on Dunes City'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 (1) foot at any point within Dunes City.

## **§ 153.27 FLOODWAYS**

Located within areas of special flood hazard established in §153.07 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Except as provided in paragraph (C) of this §153.27, encroachments shall be prohibited, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional civil engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in levels within the community during the occurrence of the base flood discharge; or
- B. A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, Section 65.12 are fulfilled.
- C. If division A. of this §153.27 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §153.20 through and including §153.29 of this Chapter 153 or ASCE 24, whichever is more stringent.
- D. Temporary structures placed in the floodway. Relief from no-rise elevation, elevation or dry flood-proofing standards may be granted for a non-residential structure placed during the dry season (June through October) and for a period of less than ninety (90) days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage to all utilities servicing the temporary structure.

## **§ 153.28 STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)**

Shallow flooding areas appear on FIRMS as AO Zones with depth designations. The base flood depths in these zones range from one (1) to three (3) feet above ground where a clearly defined

channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one (1) foot above the depth number specified on the FIRM (at least two (2) feet if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one (1) foot or more above the depth number specified on the FIRM (at least two (2) feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above two [2] feet above the highest adjacent grade so that any space below that level is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in §153.21B(1)(c).

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO Zones on Dunes City's FIRM must either:

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

2. Be fully licensed and ready for highway use, on its 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 this §153.28 and the elevation and anchoring requirements for manufactured homes as set forth in §153.22 of this Chapter 153.

E. In AO zones, new and substantially improved accessory structures must comply with the standards of § 153.24.

F. Enclosed areas beneath elevated structures shall comply with the requirements of §153.21(A)(2).

## ***PERMITS; ADMINISTRATION***

### **§ 153.35 PERMIT FOR DEVELOPMENT REQUIRED.**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in §153.07. The permit shall be for all structures, including manufactured dwellings, as defined in §153.05, and for all development including fill and other activities, also as defined in §153.05.

### **§ 153.36 PERMIT APPLICATION.**

Application for a development permit shall be made on forms furnished by the City Administrator and may include but not be limited to plans in duplicate 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 is required:

- A. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures and all attendant utilities of all new and substantially improved structures;
- B. Elevation, in relation to mean sea level, of floodproofing in any structure;
- C. Certification by a registered professional engineer or architect that the floodproofing methods of any nonresidential structure meet the floodproofing criteria in §153.21(B); and
- D. A description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- E. Base Flood Elevation data for subdivision proposals or other development proposals when required in 153.20(D).
- F. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- G. The amount and location of any fill or excavation activities proposed.

### **§ 153.37 DESIGNATION OF THE LOCAL FLOODPLAIN ADMINISTRATOR**

The City Administrator is hereby appointed to administer, implement and enforce this Chapter 153 by granting or denying development permit applications in accordance with its provisions.

**§ 153.38 DUTIES AND RESPONSIBILITIES OF THE LOCAL FLOODPLAIN ADMINISTRATOR**

***PERMIT REVIEW***

Duties of the Local Floodplain Administrator shall include, but not be limited to:

A. Review all development permits to determine that the permit requirements of this Chapter 153 have been satisfied;

B. Review all 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;

C. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachments provisions of §153.27(A) are met.

D. Identify and note the base flood elevation and freeboard applicable to any building requiring a building permit.

E. Review all development permit applications to determine if the proposed development qualifies as a SUBSTANTIAL IMPROVEMENT.

F. Review all development permits to determine if the proposed development activity is a water course alteration.

G. Review all development permits to determine the location and volume of any proposed fill or excavation.

**§ 153.39 USE OF OTHER BASE FLOOD DATA**

When base flood elevation data has not been provided (A Zones) in accordance with §153.07, the Local Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from other source(s) in order to administer §§ 153.21 and 153.22.

**§ 153.40 INFORMATION TO BE OBTAINED AND MAINTAINED**

The Local Floodplain Administrator shall:

A. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in §153.39, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawl spaces) and all attendant utilities of all new or substantially improved structures, whether or not the structure contains a basement;

B. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in §153.39:

1. Verify and record the actual elevation (in relation to mean sea level); and
2. Maintain the floodproofing certifications required in §153.36(C);

C. Maintain for public inspection all records pertaining to the provisions of this Chapter 153.

D. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain and record the actual elevation (in relation to mean seal level) of the lowest floor (including basement), all attendant utilities in place, and the location and height of all flood openings for the structure.

E. Obtain and record the actual as-built elevation (in relation to mean sea level) of the lowest floor (including basement), all attendant utilities, and the location and height of all flood openings, prior to the final inspection.

F. Obtain and maintain all hydrologic and hydraulic analyses performed as required in Section 153.27 of this Chapter.

G. Record and maintain all SUBSTANTIAL IMPROVEMENT and SUBSTANTIAL DAMAGE calculations and determinations required.

H. Record and maintain all variance actions, including justification for their issuance.

#### **§ 153.41 ALTERATION OF WATERCOURSES**

The Local Floodplain Administrator shall:

A. Notify adjacent communities and the Department of Land Conservation and Development, and other appropriate State and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator as required in §153.42 of this Chapter;

B. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

#### **§ 153.42 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA**

The Local Floodplain Administrator shall:

A. Notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development

altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).

B. The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

C. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirement of the Dunes City Code and all applicable State and federal laws.

D. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area. To ensure that all Flood Insurance Rate Maps accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

#### **§ 153.43 INTERPRETATION OF FIRM BOUNDARIES**

The Floodplain Administrator shall make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards (for example, 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 as provided in §153.50.

#### **§ 153.44 CRITICAL FACILITIES**

Construction of new critical facilities, also known as essential and special occupancy structures, shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above base flood elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation should be provided to all critical facilities to the extent possible.

#### ***VARIANCE PROCEDURE***

**§ 153.50 APPEAL BOARD**

A. The Planning Commission, as established by §32.50 of the Dunes City Code of Ordinances shall hear and decide appeals and requests for variances from the requirements of this Chapter 153.

B. The City Council shall decide appeals when it is alleged there is an error in any requirement, decision or determination by the Planning Commission in the enforcement or administration of this Chapter 153.

C. Those aggrieved by the decision of the Planning Commission, or any taxpayer, may appeal such decision to the City Council as provided in §32.54 of the Dunes City Code.

D. In deliberating upon such applications, the Planning Commission and the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter 153 and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. 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

11. 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.

E. Upon consideration of the factors of §153.50(D) and the purposes of this Chapter 153, the Planning Commission and/or the City Council, may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter 153.

F. The City Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

### **§ 153.51 CONDITIONS FOR VARIANCES**

A. 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 (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1 through 11 in §153.50(D) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

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

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

D. Variances shall only be issued upon:

1. A showing of good and sufficient cause,
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant,
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws or ordinances.

E. 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 finance circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

F. Variances may be issued for nonresidential building 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 all other criteria

except §153.51(A), and otherwise complies with §§ 153.20 through 153.29 of the GENERAL STANDARDS found in this Chapter 153.

G. 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 and that such construction below the base flood elevation increases risks to life and property. Such notification shall be permanently maintained with the floodplain development permit.

## **§ 153.99 PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter 153 and other applicable regulations. Violations of the provisions of this Chapter 153 by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter 153 or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than One Thousand Dollars (\$1,000) for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

### **Section 2 – Emergency Clause**

It is hereby adjudged that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health, and safety; therefore, an emergency is declared to exist and this ordinance shall take effect and be in full force and effect from and after its passage and execution by the Mayor.

### **Section 3 – Severability**

If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, or superseded by State or federal legislation, rules, regulations or decisions, the remainder of this Ordinance shall not be affected thereby but shall be deemed as a separate, distinct and independent provisions, and such holding shall not affect the validity of the remaining portions of this Ordinance, and each remaining section, subsection, sentence, clause, phrase, term, provision, condition, covenant and portion of this Ordinance shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or State laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Ordinance, then the provision shall be read to be preempted only to the extent required by law. In the event such federal or State law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding, without the requirement of further action on the part of the City.

#### **Section 4 – Other Remedies**

Nothing in this Ordinance shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Ordinance. Non-exclusive remedies for enforcement are all those available under State and County laws including seizure of property, civil and criminal penalties.

#### **Section 5 – Captions**

The captions to sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Ordinance.

#### **Section 6 – Scrivener’s Errors**

Any scrivener’s errors in this Ordinance may be corrected by Resolution of the City Council.

#### **Section 7 – Repeal**

Chapter 153, Title XV, of the Dunes City Code of Ordinances, also found as Ordinance No. 118, adopted June 11, 1987, is hereby repealed and replaced by this Ordinance 253. The repeal of Ordinance No. 118 and Chapter 153 shall not affect any action occurring before the repeal takes effect.

#### **Section 8 – Administrative Fees**

The City Council shall, by resolution, establish and amend fees to cover all or a portion of the expense of implementing and administering this Ordinance.

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The first reading of this Ordinance Number 253 was conducted in a regular meeting of the City Council of Dunes City, Oregon, on the 12<sup>th</sup> day of February, 2020.

The second reading of this Ordinance Number 253 was conducted in a regular meeting and adopted by the City Council of Dunes City, Oregon, on this 12<sup>th</sup> day of February, 2020.

Ayes: \_\_3\_\_ Nays: \_\_1\_\_ Abstain: \_\_0\_\_ Absent: \_\_2\_\_ Vacant: \_\_0\_\_

**DATED THIS 12<sup>th</sup> DAY OF FEBRUARY, 2020.**

[Signed copy available at City Hall]  
ROBERT FORSYTHE, MAYOR

ATTEST:

[Signed copy available at City Hall]  
JAMIE MILLS, CITY ADMINISTRATOR