



MEMORANDUM TO MUNICIPAL COUNCIL

DATE: March 21, 2023
FROM: Mike DeSimone, Director
SUBJECT: Ordinance #23-03 (LMC 15.27 Amendments – Flood Damage Prevention)

Logan Municipal Code 15.27 Flood Damage Prevention regulates development in flood hazard areas. The proposed changes are a result of changes to the Land Development Code 17.24 Critical Land Overlay, additional review by the City Engineer, and are relatively minor. The proposed changes are as follows:

- 15.27.060 – updated reference to the May 9, 2023 Flood Insurance Study.
- Article II – updated Definitions as per FEMA and the State.
- 15.27.140 – expanded application and data requirements for projects within a floodplain.
- 15.27.150 – updated the variance and/or appeals process to be conducted by the City's Land Use Appeal Board under LDC 17.50.
- 15.27.160/170/190 – increased the minimum lowest habitable floor requirement from 1' to 2' above base flood elevation. Prohibited the new critical facilities in special flood hazard areas.
- 15.27.180 – updated the requirements contained in this subsection to require additional base flood elevation data and apply to all development proposals (not just subdivisions).
- 15.27.190 – updated construction requirements in areas of shallow flooding.
- 15.27.200 – removed confusing language.
- 15.27.210 – added a new section limiting the construction of critical facilities in a floodplain.
- Article VII – added a Severability Clause.
- There are also a number of minor grammatical edits throughout the document.

Most of these changes were discussed with the Planning Commission during their hearings on the LDC 17.24 amendments. The City Engineer and I met with FEMA and the State's Floodplain Program Manager

to review the proposed edits which in turn led to additional edits, clarifications, and definitions to reflect changes that have been made to the Federal Floodplain Management Program since LMC 15.27 was originally adopted.

If you have any questions about this matter, please let me know.

Attachments

Ordinance #23-03

**CITY OF LOGAN, UTAH
ORDINANCE NO. 23-03**

**AN ORDINANCE AMENDING TITLE 15.27 FLOOD DAMAGE PREVENTION
OF THE LOGAN MUNICIPAL CODE**

WHEREAS, the Legislature of the State of Utah has in Utah Code Ann. §10-3-701 and §10-8-84 delegated the responsibility to local governmental units to adopt regulations assigned to promote the public health, safety, and general welfare of its citizenry; and,

WHEREAS, 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, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and,

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage; and,

WHEREAS, it is hereby found and declared by the City of Logan that severe flooding has occurred in the past within its jurisdiction and will likely occur within the future; that flooding may result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program (NFIP); and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately; and,

WHEREAS, the City has recently updated its Critical Lands Overlay requirements which have resulted in an update of the City's Flood Damage Prevention Ordinance; and

WHEREAS, the City Council has determined that the following amendments to Chapter 15.27 of the Logan Municipal Code are in the City's best interest in furthering the public's health, safety and welfare;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

Chapter 15.27

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I: Purpose and Methods

15.27.010: STATUTORY AUTHORIZATION

The Legislature of the State of Utah has in Utah Code Ann. §~~10~~-3-701 and §10-8-84 delegated the responsibility to local governmental ~~units~~ to adopt regulations assigned to promote the public health, safety, and general welfare of its citizenry.

15.27.020: FINDINGS OF FACT

- A. The flood hazard areas of City of Logan are subject to periodic inundation which ~~results may~~ result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and,
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

15.27.030: STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed 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 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 floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
- ~~F.G. Protect and safeguard the welfare and safety of first responders should an emergency response be needed;~~ and
- ~~G.H. Insure~~ Ensure that potential buyers are notified that the property is in a flood area Assist potential buyers in recognizing when a property is located within a flood area.

15.27.040: METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

~~A. In order to accomplish its purposes, this ordinance uses the following methods:~~

- ~~B.A.~~ Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- ~~C.B.~~ Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- ~~D.C.~~ Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- ~~E.D.~~ Control filling, grading, dredging and other development which may increase flood damage;
- ~~F.E.~~ Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE II: Definitions

For the purpose of Chapter 15.27, the following definitions shall apply. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary:

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION - the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BUILDING – see Structure.

CRITICAL FACILITY means a facility necessary to protect the public health, safety, and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste

(other than consumer products containing hazardous substances or hazardous waste intended for household use.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of 44 C.F.R. § 60.3(e)(5).

ENCLOSURE - enclosed walled-in areas below the lowest floor of an elevated building. Enclosures below the Base Flood Elevation (BFE) may only be used for building access, vehicle parking, and storage.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975~~July, 12-1983~~ for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FILL - Earthen material, concrete, asphalt, or other material placed in a manner to permanently or semi-permanently increase the elevation of an area.

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. ~~the~~ The overflow of inland or tidal waters.
2. ~~the~~ The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudflows which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, or when earth is carried by a current of water and deposited along the path of the current.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas ~~of special flood hazards~~ and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking

facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

HISTORIC STRUCTURE - means 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 the Interior or;
 - b) directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 requirement of 44 C.F.R. § 60.3 [of the National Flood Insurance Program regulations](#).

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

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
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.

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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 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**—means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.~~

STRUCTURE – means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

2. A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBDIVISION - means the division of land into two or more lots, tracts, parcels, sites, condominiums, rights of way, or divisions for the purpose of sale, lease, or transfer or ownership.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This 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 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**—is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see 44 C.F.R. § 60.6).~~

VARIANCE – means a grant of relief by a community from the terms of a flood plain management regulation.

VIOLATION - means 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 44 C.F.R. §§ 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III: General Provisions

15.27.050: LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard [identified by FEMA](#) within the jurisdiction of City of Logan.

15.27.060: BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Cache County, dated [May, 24, 2011, and as updated by the May 9, 2023 effective study](#), with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. City of Logan automatically adopts all FEMA effective Flood Insurance Rate Maps and all FEMA effective Flood Insurance Studies.

15.27.070: ESTABLISHMENT OF DEVELOPMENT PERMIT

A special [floodplain](#) development permit for construction in the special flood hazard area, shall be required to ensure conformance with the provisions of this ordinance.

15.27.080: COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

15.27.090: ABROGATION AND GREATER RESTRICTIONS

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

15.27.100: INTERPRETATION

In the interpretation and application of this ordinance, 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.

15.27.110: WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance 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 ordinance shall not create liability on

the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE IV: Administration

15.27.120: DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

15.27.130: DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- B. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- C. Review, approve or deny all applications for development permits required by adoption of this ordinance.
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- E. Where interpretation is needed as to the 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 Floodplain Administrator shall make the necessary interpretation.
- F. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Utah State Engineer, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- H. When base flood elevation data has not been provided in accordance with LMC §-15.27. 060, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- I. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and 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 at any point within the community.
- J. Under the provisions of 44 C.F.R. § 65.12, ~~a community~~the City Engineer may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the ~~community~~City of

Logan first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

15.27.140: PERMIT PROCEDURES

A. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures, provided by a registered professional land surveyor;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed, provided by a registered professional land surveyor;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of LMC §15.27.170(B);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
- 4.5. Include a site plan showing the delineation of special flood hazard areas, floodway boundaries, flood zones, base flood elevations, ground elevations, proposed fill and excavation, and drainage patterns and facilities as prepared by a registered professional land surveyor or professional engineer;
6. Maintain a record of all such information in accordance with LMC §15.27.130(A); and;
7. The Floodplain Administrator may waive the requirements under Section 15.27.140.A.5 for accessory buildings less than 200 square feet in size.

B. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. 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;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

15.27.150: VARIANCE PROCEDURES

- ~~A. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.~~
- ~~B. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.~~
- ~~C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.~~
- ~~D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.~~
- ~~E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.~~
- ~~F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in LMC §15.27.140(B) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.~~
- ~~G. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (LMC §15.27.030).~~
- ~~H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~
- ~~I. Variances may be issued for the repair or rehabilitation 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.~~
- ~~J. Prerequisites for granting variances:
 - ~~1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
 - ~~2. Variances shall only be issued upon:
 - ~~a. showing a good and sufficient cause;~~
 - ~~b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and~~
 - ~~c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~~~
 - ~~3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.~~~~
- ~~K. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - ~~1. the criteria outlined in LMC §15.27.150(A) (I) are met, and~~
 - ~~2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.~~~~

The Land Use Appeal Board as established in Land Development Code Chapter 17.50 shall hear requests for variances from the requirements of this Ordinance or an appeal of a decision made by the Floodplain Administrator in applying the requirements of this Ordinance.

- A. Any person or persons aggrieved by the decision of the Land Use Appeal Board may appeal such decision to District Court.
- B. The Floodplain Administrator shall maintain a record of all actions involving a variance application or an appeal of a decision, and shall report variances to the Federal Emergency Management Agency upon request.
- C. Variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances may be issued for:
 - 1. New construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in LMC §15.27.140(B) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - 2. The repair, reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places 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.
- E. Upon consideration of the factors noted above and the intent of this ordinance, the Land Use Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (LMC §15.27.030).
- F. Prerequisites for granting variances.
 - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 2. Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - 3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.

ARTICLE V: Provisions For Flood Hazard Reduction

15.27.160: GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities ~~that~~ 2-two feet (2') above the base flood elevation and are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

15.27.170: SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in LMC §§ ~~15.27.060~~, §15.27.130(~~H~~), or §15.27.180(~~E~~), the following provisions are required:

- A. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated ~~1'~~ 2-two feet (2') above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in LMC §15.27.140 A.1(A) ~~1.~~ is satisfied.
- B. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall ~~either~~:
 - 1. Have the lowest floor (including basement) elevated two feet (2') above the base flood level;
 - 2. Be designed so that the structure and attendant utility and sanitary facilities is watertight with walls substantially impermeable to the passage of water for at least two feet (2') above the base flood level, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
- C. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot (1') above grade.
3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Manufactured Homes –

1. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated 2-two feet (2') above the base flood elevation and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet (2') or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. on sites
 - a. ~~outside of a manufactured home park or subdivision;~~
 - b. ~~in a new manufactured home park or subdivision;~~
 - c. ~~in an expansion to an existing manufactured home park or subdivision; or~~
 - d. ~~in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~
3. ~~Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (D) of this section be elevated so that either:~~
 - a. ~~the lowest floor of the manufactured home is at or 2 feet above the base flood elevation; or~~
 - b. ~~the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height 2-feet above gradethe base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~

E. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

1. ~~be~~ Be on the site for fewer than 180 consecutive days;;
2. ~~b~~ B fully licensed and ready for highway use;; or
3. Mmeet the permit requirements of LMC §15.27.140(A); and the elevation and anchoring requirements for "manufactured homes" ~~in paragraph (D) of in~~ this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

15.27.180: STANDARDS FOR SUBDIVISION AND SITE PLAN PROPOSALS

A. All proposed preliminary and final development plans submitted for individual parcel and subdivision developments (including manufactured home parks) shall:

1. Meet floodplain development permit requirements of §15.27.070, §15.27.140, and Article 5.
2. Have adequate drainage provided to reduce exposure to flood hazards.

3. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
4. Identify the base flood elevation and illustrate the floodway and floodplain limits on all relevant documents.
 - a. If unknown or undetermined, a professional engineer registered in the State of Utah shall calculate the base flood elevation and determine the floodplain and floodway limits; said calculations and mapping to be performed by means of a study or best available data.
 - i. Lots and Parcels one acre or smaller in size shall not be required to determine the base flood elevation or floodplain and floodway limits (this exception does not apply to subdivisions, multi-family, commercial or industrial developments, or manufactured home parks).
- B. Residential building lots shall be provided with adequate buildable area outside the floodway; and
- C. Streets, sidewalks, parking areas, hardscape, or similar improvements proposed to be constructed above existing grade shall be designed such that there is no rise in the base flood elevation (BFE) that would affect existing structures, adjoining properties, or expansion of the special flood hazard area outside of the project boundaries.
- ~~A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with LMC §§ 15.27.020, 15.27.030, and 15.27.040 of this ordinance.~~
- ~~B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of LMC §§ 15.27.070; 15.27.140; and the provisions of Article 5.~~
- ~~C. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions, which is greater than 502 lots or 5 acres1 acre, whichever is lesser, if not otherwise provided pursuant to LMC §15.27.060 or §15.27.130 (H) of this ordinance.~~
- ~~D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.~~
- ~~E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.~~

15.27.190: STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in LMC- §15.27.060, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- A. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated two feet (2') above the depth number specified in feet on the community's FIRM, or at least two feet (2') above the highest adjacent grade if no depth number is specified, at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- B. All new construction and substantial improvements of non-residential structures;

1. Shall have the lowest floor (including basement) elevated two feet (2') above the depth number specified in feet on the community's FIRM, or at least two feet (2') above the highest adjacent grade if no depth number is specified; or at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or;
 2. Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy up to at least two feet (2') above the base flood level.
- C. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed required in LMC §15.27.140(A)+, are satisfied.
- D. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

15.27.200: FLOODWAYS

Floodways located within areas of special flood hazard established in LMC §-15.27.-060, 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 shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated 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 within the community during the occurrence of the base flood discharge.
- B. If LMC §-15.27.200.A(A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- ~~C. Under the provisions of 44 C.F.R. § 65.12, , a community the City Engineer may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community City of Logan first applies for a conditional FIRM and floodway revision through FEMA.~~

15.27.210: CRITICAL FACILITIES

- A. Construction of new critical facilities shall, to the extent possible, be located outside the limits of the 500-year floodplain.
- B. Construction of new critical facilities in the regulatory floodplain shall be permissible if no feasible alternative site is available, provided:
1. Critical facilities shall have the lowest floor elevated two feet (2') above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.
 2. Access to and from the critical facility shall be protected to the elevation of the 500-year flood.

ARTICLE VI: Enforcement

15.2~~87.220~~~~400~~: PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and the penalty provisions in LMC Chapter 1.16 shall apply.

15.2~~87.230~~~~410~~: CRIMINAL PROSECUTION RIGHT

The City shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of this chapter. If administrative enforcement action is taken the procedures in LMC Chapter 17.60 shall apply.

ARTICLE VII: Severability

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS _____ DAY OF _____
_____, 2023 BY THE FOLLOWING VOTE:

AYES:

NAYS:

ABSENT:

Ernesto López, Chairman

ATTEST:

Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this _____ day of February, 2023.

Ernesto López, Chairman

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this _____ day of _____, 2023.

Holly H. Daines, Mayor