

Title 15
BUILDINGS AND CONSTRUCTION

Chapters:

- 15.05 Moving Buildings**
- 15.10 Dangerous Buildings**
- 15.15 Trailer Coaches and Trailer Houses**
- 15.20 Manufactured and Mobile Homes**
- 15.25 House Numbering**
- 15.30 Flood Plain Management**

**Chapter 15.05
MOVING BUILDINGS**

Sections:

- 15.05.010 Damaged buildings.**
- 15.05.020 Consent of property owners required.**
- 15.05.030 License required.**
- 15.05.040 Revocation of permit.**
- 15.05.050 Lighting required.**
- 15.05.060 Building on streets declared nuisance – Penalty.**
- 15.05.070 Overhead wires and cables.**
- 15.05.080 Violation – Penalty.**

15.05.010 Damaged buildings.

No wooden or metal building which has been damaged to an extent greater than 50 percent of its original value by fire, wear and tear, action of the elements, or otherwise shall be moved across, over, along, or through any of the public streets, alleys, thoroughfares, highways, or upon the sidewalks of the city of Burns; provided, however, that no other ordinance of the city of Burns conflicting, buildings not of the percentage of newness hereinabove stated may be moved from one part of a lot to another part of the same lot, or from one lot to another, when the same is owned by the same person and where said building or buildings are to be removed or moved without crossing any street, alley, thoroughfare, highway, or any sidewalk, or the property of any person or persons, other than the owner of the lot from which the building is to be removed. [Ord. 213 § 1, 1927]

15.05.020 Consent of property owners required.

Any person desiring to move a wooden or metal building or structure shall first obtain the written consent of the owner or owners of a majority of the frontage of lots on the same side of the block in which it is proposed to locate such removed building or structure and, also, a majority of persons owning the frontage opposite the proposed location and within 200 feet of the same. And such person shall, also, file an affidavit, subscribed and sworn to by one or more persons, in the following form, as near as may be, viz:

State of Oregon)
County of Harney) ss.

I, _____ and I, _____, each being duly sworn on oath, depose and say, each for myself: I was present and saw the persons whose names are subscribed to the above petition sign the same and that each and every one of the said persons claimed, at the time of his signature, that he was the owner of the property placed opposite his respective name in the above petition, or the attorney or agent of the owner, with full authority to sign and act for him.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary public for Oregon

My commission expires _____ (Notarial seal)
[Ord. 213 § 2, 1927]

15.05.030 License required.

No person except a licensed house mover shall remove any building or structure within the limits of the city of Burns; and every person shall, annually, before engaging in such occupation, obtain a license therefor from the city; and no such license shall be granted until the party applying therefor shall have given a bond in the sum of \$250.00 with good and sufficient sureties to be approved by the mayor (one

surety sufficient if it be a corporate surety company), conditioned among other things that said party will pay any and all damages which may happen to any pavement, street, alley, thoroughfare or highway, sidewalk, hydrant, or to any telephone, telegraph, electric light, or power pole or wire or cable belonging to the said city or to any person, persons, or corporation, or to any tree or trees, whether said damage or injury shall be inflicted by said party or his agents, employees, or workmen and conditioned, also, that said party will save and indemnify and keep harmless the city of Burns against all judgments, liabilities, costs, and expenses which may in anywise accrue against said city in consequence of the granting of such permit or license and will, in all things, strictly comply with the conditions of the permit.

Upon the execution of said bond and its approval by the mayor, a license shall be issued and the said licensed person shall, in each and every instance, before removing any building or structure obtain a permit so to do from the city marshal and shall deposit with the city treasurer the sum of \$20.00, \$1.00 of which shall be in payment of fee for permit, and the balance of which shall be in guarantee of the cost of assistance given by any public service company or utility in work on poles and wires along the course of the moving, and which balance shall be repaid to the permittee upon his presentation to the city treasurer of receipts showing said work has been paid for in full and, upon the said deposit and payment of fee to the city, said city marshal shall issue a permit, stating specifically all the conditions, describing the route to be taken, and limiting the time of removal; provided, however, that no permit shall carry the right to interfere with any wires whatsoever other than between the hours of 9:00 forenoon and 3:00 afternoon on weekdays; and the city marshal, before outlining the route to be taken; shall seek the advice of the parties owning the wires to be crossed so as to obviate, as much as can be done, interference with service to the public; and it is further provided that the route designated shall not cross or interfere with any cable or cables of any public utility; provided, that such cable or cables are 24 feet clear of the ground. [Ord. 213 § 3, 1927]

15.05.040 Revocation of permit.

If work upon any building or structure shall be conducted in violation of any of the provisions of this chapter or any other ordinance of the city of Burns, either as to occupation of sidewalk, street, alley, thoroughfare, or highway, or the use or application of material or workmanship, it shall be the duty of the city marshal to revoke the permit for the building operations in connection with which such violation has taken place, and it shall be unlawful, after the revocation of such permit, to proceed with such building operations unless such permit shall first have been reinstated or reissued by the city marshal.

Before a permit, revoked for the cause or causes before mentioned, can be lawfully reissued or reinstated, the entire building and building site must be first put into condition corresponding to the condition prior to the time of the commencement of operations, and any work or material applied to the same, either in attempted betterment or in change, shall be first removed from said building. [Ord. 213 § 4, 1927]

15.05.050 Lighting required.

Any person having the use of any portion of any street, alley, thoroughfare, highway, or sidewalk of the city of Burns for the purpose of removing or moving any building or structure shall cause two red lights to be placed in a conspicuous place at each the front and the rear of such obstruction, and at either side of the same, from dusk until sunrise in the morning, each night during the time such obstruction remains. [Ord. 213 § 5, 1927]

15.05.060 Building on streets declared nuisance – Penalty.

The owner of any building or structure or the contractor for its removal, either or both, who shall suffer the same to be or remain in or on any of the streets, alleys, thoroughfares, highways, or sidewalks, or upon any of the public grounds of the city, for any longer than may be specified in the permit of the city marshal, shall be subject to a penalty of \$5.00 and a like penalty for every 24 hours the same shall be continued, and such building or structure shall be deemed a nuisance. [Ord. 213 § 6, 1927]

15.05.070 Overhead wires and cables.

Burns Municipal Code

Upon the granting of any permit as hereinabove stated, the permittee shall forthwith give written notice to any and all owners of overhead wires and cables along the course of the proposed operations of the course of the same and shall further give 24 hours' written notice prior to the time that the building or structure being moved is to cross any of said wires or cables, to the end that such owner may make provision for raising, cutting, or removing said wires so as to clear the way for the removal of any building or structure for which a permit has been issued, and the expense to the owner of such wires shall be paid for by the permittee, at actual cost, within 12 hours after said work has been done by said wire owner. Notices, as above stated, having been given, should the owner of such wires neglect to have workmen present to attend to the cutting, raising, or removal, the permittee may then raise, cut, or remove the same, cables excepted. [Ord. 213 § 7, 1927]

15.05.080 Violation – Penalty.

Any violation of this chapter shall be punishable by a fine of not less than \$10.00 or more than \$25.00, to be recovered in the city clerk's court. [Ord. 213 § 8, 1927]

**Chapter 15.10
DANGEROUS BUILDINGS**

Sections:

- 15.10.010 Definitions.**
- 15.10.020 Nuisance declared.**
- 15.10.030 Initial action.**
- 15.10.040 Mailed notice.**
- 15.10.050 Published and posted notices.**
- 15.10.060 Hearing.**
- 15.10.070 Council orders – Notice.**
- 15.10.080 Abatement by the city.**
- 15.10.090 Assessment.**
- 15.10.100 Summary abatement.**
- 15.10.110 Errors in procedure.**
- 15.10.120 Penalty.**

15.10.010 Definitions.

As used in this chapter, the following mean:

(1) Dangerous building:

(a) A structure that, for lack of proper repairs, or because of age and dilapidated condition or of poorly installed electrical wiring or equipment, defective chimney, gas connection, or heating apparatus, or for any other reason, is liable to cause fire, and which is situated or occupied in a manner that endangers other property or human life.

(b) A structure containing combustible or explosive materials or inflammable substances liable to cause fire or danger to the safety of the building, premises or to human life.

(c) A structure that is in a filthy or unsanitary condition liable to cause the spread of contagious or infectious disease.

(d) A structure in such weak, dilapidated or deteriorated condition that it endangers a person or property because of the probability of partial or entire collapse.

(2) Person: Every natural person, firm, partnership association or corporation. [Ord. 670 § 1, 1989]

15.10.020 Nuisance declared.

Every building found by the council to be a dangerous building is declared to be a public nuisance and may be abated by the procedures specified in this chapter or by a suit for abatement brought by the city. [Ord. 670 § 2, 1989]

15.10.030 Initial action.

When a city official determines that there is a dangerous building, the official shall report it to the council. The council shall, within a reasonable time, fix a time and place for a public hearing. [Ord. 670 § 3, 1989]

15.10.040 Mailed notice.

(1) The city clerk shall notify the person in possession, if any, and the owner of the building, and other persons having a claim or lien against the property of record, and the owner of the property on which the building is situated by notice sent certified mail to such persons or entities at their last known addresses, respectively. Such notice shall be given to any persons or entities claiming right, title or interest in the property by virtue of a mortgage, lien, or forfeiture type notice recorded in the official records of Harney County, Oregon. The notice shall state:

- (a) That a hearing will be held concerning the nuisance character of the property; and

Burns Municipal Code

(b) The time and place of the hearing.

(2) A copy of this notice shall be posted on the property. [Ord. 670 § 4, 1989]

15.10.050 Published and posted notices.

Ten days' notice of the hearing shall be published in a newspaper of general circulation in the city or by posting notices in three public places in the city. [Ord. 670 § 5, 1989]

15.10.060 Hearing.

(1) At the hearing, the owner or other persons interested in the dangerous building shall have a right to be heard.

(2) The council may inspect the building and may consider the facts observed by it in determining if the building is dangerous.

(3) If the council determines that the building is dangerous, the council may by resolution:

(a) Order the building to be abated; or

(b) Order the building to be made safe and prescribe what must be done to make it safe. [Ord. 670 § 6, 1989]

15.10.070 Council orders – Notice.

Five days' notice of the council's findings and any orders made by the council shall be given to the owner of the building, the owner's agent or other person controlling it. If the orders are not obeyed and the building not made safe within the time specified by the order (not less than five days), the council may order the building demolished or made safe at the expense of the property on which it is situated. [Ord. 670 § 7, 1989]

15.10.080 Abatement by the city.

(1) If the council orders are not complied with, the council may:

(a) Specify the work to be done;

(b) File a statement with the clerk; and

(c) Advertise for bids for doing the work in the manner provided for advertising for bids for street improvement work.

(2) Bids shall be received, opened and the contract let. [Ord. 670 § 8, 1989]

15.10.090 Assessment.

(1) The council shall determine the probable cost of the work and assess the cost against the property upon which the building is situated. The assessment shall be declared by resolution, and it shall be entered in the docket of city liens and become a lien against the property.

(2) The creation of the lien and the collection and enforcement of the cost shall be performed in substantially the same manner as assessments for street improvements. [Ord. 670 § 9, 1989]

15.10.100 Summary abatement.

The procedures of this chapter need not be followed if a building is unmistakably dangerous and imminently endangers human life or property. In this instance, the chief of the fire department, the fire marshal or the chief of police may summarily demolish the building. [Ord. 670 § 10, 1989]

15.10.110 Errors in procedure.

Failure to conform to the requirements of this chapter that does not substantially affect a legal right of a person does not invalidate a proceeding under this chapter. [Ord. 670 § 11, 1989]

15.10.120 Penalty.

A person who owns or is in possession or in charge of a dangerous building, and who allows the building to remain dangerous for as long as 10 days after receipt of the notice specified in section BMC 15.10.070, may be fined not more than \$200.00. Each day following the tenth day after receipt of notice that a violation continues shall be considered a separate offense. [Ord. 670 § 13, 1989]

**Chapter 15.15
TRAILER COACHES AND TRAILER HOUSES**

Sections:

- 15.15.010 Definition.**
- 15.15.020 Permitted where – Exemptions.**
- 15.15.030 Wheel removal – Placement on foundation.**
- 15.15.040 Sewer connection or septic tank required.**
- 15.15.050 Preexisting trailer houses.**
- 15.15.060 Violation – Penalty.**

15.15.010 Definition.

A trailer coach or trailer house, as used in this chapter, is hereby defined as any unit for living or sleeping purposes, which is or has been equipped with wheels or similar devices for the purpose of transporting said trailer coach or trailer house from place to place. And further, that said trailer coach or trailer house shall have a width of less than 12 feet and a length, excluding the tongue, of less than 40 feet. The trailer referred to herein shall have less than 480 square feet of floor area, including the area occupied by the outside walls. [Addendum to Ord. 390, 1972; Ord. 390 § 1, 1957]

15.15.020 Permitted where – Exemptions.

No trailer coach shall be occupied for sleeping or living purposes within the city of Burns for any period of time exceeding four hours except in a licensed trailer park, RV park or area otherwise designated for that use, and excepting also the following:

(1) This section shall not apply to occupation for sleeping or living purposes of a trailer coach by nonresidents of Harney County, Oregon, visiting persons in the city of Burns, for not more than 14 days consecutively, provided said trailer coach is parked on private property, not on a city street, alley or right-of-way, and does not obstruct traffic or otherwise constitute a hazard to persons driving in the immediate vicinity.

(2) This section shall not apply to occupation for sleeping or living purposes of a trailer coach located in an area designated for such purpose by a special permit issued by the city of Burns upon application not less than 60 days prior to any special event for which such special permit is sought. Such a special permit may be issued to a sponsoring entity or agency by the city of Burns upon a showing of reasonable necessity and upon the condition that the sponsoring agency or entity shall be responsible for water, sewage and garbage disposal for vehicles and persons using such specially designated area. The city of Burns may require the posting of security by the sponsoring agency or entity to ensure said sponsor's obligations under said permit are discharged. [Ord. 619, § 1, 1983; Ord. 390 § 2, 1957]

15.15.030 Wheel removal – Placement on foundation.

Removal of the wheels or placement of a trailer house on a permanent or temporary foundation shall not change the essential character of any trailer house or trailer coach or change the requirements of BMC 15.15.020. [Ord. 390 § 3, 1957]

15.15.040 Sewer connection or septic tank required.

It shall be unlawful for any person occupying or using any trailer coach or trailer house within the city of Burns to use any toilet, sink, lavatory or similar equipment therein unless and except the same be connected with the public sewer or to an approved septic tank in accordance with the ordinance of the city of Burns relating thereto. All trailer camps within the city of Burns shall comply with the sanitary requirements of the city of Burns. [Ord. 390 § 4, 1957]

15.15.050 Preexisting trailer houses.

Those trailer houses outside trailer camps from which the wheels have been removed, which are

Burns Municipal Code

placed upon permanent foundations, and which comply with the zoning and sanitary requirements of the city of Burns as of the date of passage of the ordinance codified in this chapter, shall be considered to be permanent houses and exempt from the provisions of this chapter; provided, however, that severance of any such trailer house from the realty where presently located at any time hereafter shall cause such trailer to become subject to all the requirements hereof. [Ord. 390 § 5, 1957]

15.15.060 Violation – Penalty.

Violation of this chapter is punishable by a fine not to exceed \$500.00. [Ord. 663, 1988; Ord. 619 § 3, 1983; Ord. 390 § 6, 1957]

Chapter 15.20
MANUFACTURED AND MOBILE HOMES

Sections:

15.20.010 Adoption of state statutes.

15.20.010 Adoption of state statutes.

ORS 197.307(5), which contains certain standards for the placement of mobile homes as a conditional use outside of mobile home parks within the city of Burns, is hereby incorporated herein by reference as if fully set forth. Said statute, as presently constituted and as hereafter amended, is hereby adopted as law by the city of Burns. Said standards as enumerated therein shall not be deemed or construed to exclude the provision of additional reasonable and clearly stated conditions which may in appropriate circumstances be imposed for placement of mobile homes. [Ord. 702 § 1, 1994]

**Chapter 15.25
HOUSE NUMBERING**

Sections:

- 15.25.010 Numbering required – Specifications.**
- 15.25.020 Time frame for compliance.**
- 15.25.030 Violation – Penalty.**

15.25.010 Numbering required – Specifications.

It shall be the duty of each owner or resident of the city of Burns to affix, or cause to be affixed, to the residence or place of business occupied by such owner or resident, a number or numbers to be assigned by the city clerk, such numbers to be of a kind and size specified and readily visible and legible from the street, and approved by the city clerk. [Ord. 641 § 1, 1987]

15.25.020 Time frame for compliance.

Every owner or occupant of residential or business property within the city of Burns shall secure and affix, or cause to be affixed to the residence or place of business occupied by such owner or resident within the city of Burns, numerals as specified and assigned as provided by BMC 15.25.010, 30 days after such dwelling or place of business shall be completed. [Ord. 641 § 2, 1987]

15.25.030 Violation – Penalty.

Any owner or occupant of residential or business property within the city of Burns, Oregon, who fails or neglects to affix and display such numbers assigned to the respective properties in the city by the city clerk within the time specified in BMC 15.25.020 shall be deemed guilty of a violation of this chapter and, upon conviction, shall be fined a sum not to exceed \$50.00. [Ord. 641 § 3, 1987]

**Chapter 15.30
FLOOD PLAIN MANAGEMENT**

Sections:

- 15.30.010 Statement of purpose.**
- 15.30.020 Definitions.**
- 15.30.030 Lands to which this chapter applies.**
- 15.30.040 Basis for establishing the areas of special flood hazard.**
- 15.30.050 Abrogation and greater restrictions.**
- 15.30.060 Interpretation.**
- 15.30.070 Warning and disclaimer of liability.**
- 15.30.080 Establishment of a development permit.**
- 15.30.090 Designation of the Burns planning commission.**
- 15.30.100 Duties and responsibilities of the administrator.**
- 15.30.110 Variances and appeals.**
- 15.30.120 Provisions for flood hazard protection – General standards.**
- 15.30.130 Provisions for flood hazard protection – Specific standards.**
- 15.30.140 Floodways.**
- 15.30.150 Shallow flooding areas with depth designations.**
- 15.30.160 Federal regulations adopted.**

15.30.010 Statement of purpose.

It is the purpose of this chapter to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers; which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other developments which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. [Ord. 645 § 1, 1987]

15.30.020 Definitions.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Area of special flood hazard” means the land in the flood plain within an area subject to a one percent or greater chance of flooding in any given year.

“Base flood” means the flood having a one percent chance of being equalled or exceeded in any given year.

“Development” means any manmade change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special hazard.

“Flood” or “flooding” means a general condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and/or
- (2) The unusual accumulation of runoff of surface waters from any source.

Burns Municipal Code

“Flood insurance rate map” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevations of the base flood.

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

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found in BMC 15.30.130(1).

“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. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land under a single ownership divided into four or more manufactured home lots for rent or sale.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent 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 foundation 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.

“Structure” means a walled and roofed building or manufactured home that is principally above the ground.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. [Ord. 645 § 2, 1987]

15.30.030 Lands to which this chapter applies.

This chapter shall apply to all areas of special hazards within the jurisdiction of the city of Burns. [Ord. 645 § 3.1, 1987]

15.30.040 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration is a scientific and engineering report entitled “The Flood Insurance Study for the City of Burns, Oregon” dated

February 15, 1984, with accompanying Flood Insurance Maps and are hereby adopted by reference and declared a part of this chapter. The flood insurance study and flood insurance maps are on file and available at the Burns City Hall, Burns, Oregon. [Ord. 645 § 3.2, 1987]

15.30.050 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 645 § 3.3, 1987]

15.30.060 Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. [Ord. 645 § 3.4, 1987]

15.30.070 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the city of Burns, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. [Ord. 645 § 3.5, 1987]

15.30.080 Establishment of a development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in BMC 15.30.040. The permit shall be for all structures including manufactured homes, as set forth in BMC 15.30.020, Definitions, and for all other developments including fill and other activities, also as set forth in BMC 15.30.020, Definitions. [Ord. 645 § 4.1, 1987]

15.30.090 Designation of the Burns planning commission.

The city clerk is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with these provisions. [Ord. 645 § 4.2, 1987]

15.30.100 Duties and responsibilities of the administrator.

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

- (1) Permit Review.
 - (a) Review all development permits to determine that the permit requirements of this chapter 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 encroachment provisions of BMC 15.30.140 are met.
- (2) Use of Other Base Flood Data. Where base flood elevation data has not been provided in accordance with BMC 15.30.040, Basis for establishing the areas of special flood hazard, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer BMC 15.30.130, Provisions for flood hazard protection – Specific standards, and BMC 15.30.140, Floodways.
- (3) Information to Be Obtained and Maintained. Where base flood elevation data is provided through the flood insurance study or required as in subsection (2) of this section, obtain and record the actual

Burns Municipal Code

elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

For all new or substantially improved flood proof structures:

- (a) Verify and record the actual elevation (in relation to mean sea level); and
- (b) Maintain the floodproofing certifications required in BMC 15.30.130;
- (c) Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of Watercourses.

(a) Notify adjacent communities and the water resources department prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.

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

(5) Interpretation of FIRM Boundaries. 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 BMC 15.30.110. [Ord. 645 § 4.3, 1987]

15.30.110 Variances and appeals.

(1) Appeal Board.

(a) The Burns planning commission as established by the city of Burns will hear and decide appeals and requests for variances from the requirements of this chapter.

(b) The Burns planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city clerk in the enforcement or administration of this chapter.

(c) Those aggrieved by the decision of the Burns planning commission may appeal such decision to the Burns common council, as provided in the Burns comprehensive plan.

(d) In passing upon such applications the Burns planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (i) The danger that materials may be swept onto other lands to the injury of others;
- (ii) The danger of life and property due to flooding or erosion damage;
- (iii) The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- (iv) The importance of the services provided by the proposed facilities to the community;
- (v) The necessity to the facility of a waterfront location, where applicable;
- (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (ix) 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
- (x) 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, water systems, and street and drainage systems.

(e) Generally, the only condition under which a variance may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (1)(d) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(f) Upon consideration of the factors of subsection (1)(d) of this section and the purposes of this

Burns Municipal Code

chapter, the Burns planning commission may attach conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(g) The city clerk shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon their request.

(2) Conditions for Variances.

(a) 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 section.

(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 determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

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

(iii) A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in subsection (1)(d) of this section, or conflict with existing local laws or ordinances.

(e) 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 lowest floor elevation. [Ord. 645 § 4.4, 1987]

15.30.120 Provisions for flood hazard protection – General standards.

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

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structures.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of the over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional methods and techniques).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

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

(3) Utilities.

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

(b) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals.

Burns Municipal Code

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (d) Where base flood elevations have not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots, or five acres (whichever is less).

(5) Review of Building Permits. Where elevation data is not available either through the flood insurance study, or from another authoritative source, 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 historic data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. [Ord. 645 § 5.1, 1987]

15.30.130 Provisions for flood hazard protection – Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in BMC 15.30.040, Basis for establishing the areas of special flood hazard, or BMC 15.30.100(2), Use of Other Base Flood Data, the following provisions are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated or above the base flood elevation.

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

(a) 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.

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

(c) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below 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; and

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in BMC 15.30.100.

(d) Nonresidential structures that have been elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in BMC 15.30.130.

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

(3) Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1 to A30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored in accordance with the provisions of BMC 15.30.120. [Ord. 645 § 5.2, 1987]

15.30.140 Floodways.

Located within areas of special flood hazard established in BMC 15.30.040 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 shall apply:

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

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of BMC 15.30.120 through 15.30.150, provisions for flood hazard reduction. [ord. 645 § 5.3, 1987]

15.30.150 Shallow flooding areas with depth designations.

Shallow flooding zones appear on FIRM's with depth designations, wherever such flooding occurs on sloping water surfaces such as alluvial fan flow, wave wash after the wave has broken, etc. In these areas, the following provisions apply:

(1) New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM. Where appropriate, such structures shall be elevated above the crown of the nearest road, to or above the depth number specified on the FIRM. Where hazardous velocities are noted on the FIRM, consideration shall be given to mitigating the effects of these velocities through proper construction techniques and methods.

(2) New construction and substantial improvements of nonresidential structures within AO zones shall either:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM. Where appropriate, such structures shall be elevated above the crown of the nearest road, to or above the depth number specified on the FIRM; or

(b) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect;

(c) Where hazardous velocities are noted on the FIRM, consideration shall be given to mitigating the effects of these velocities through proper construction techniques and methods.

(3) New construction and substantial improvements of structures shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. [Ord. 660, 1988; Ord. 645 § 5.4, 1987]

15.30.160 Federal regulations adopted.

(1) This chapter is further amended by replacement of certain base flood elevations shown herein by the revised base flood elevations (BFEs) as published in the Federal Register at 54 FR 10688, on March 1988, and in the Burns Times-Herald on January 18 and January 25, 1989.

(2) The flood insurance rate map (FIRM) of the Federal Emergency Management Agency identified as Community – Panel No. 410084 0001 C, revised November 3, 1989, is hereby adopted at the flood insurance rate map of the city of Burns, Harney County, Oregon.

(3) The standards of 44 CFR Part 60, Section 60.3(d) are by this reference adopted as flood plain management regulations required by law. The standards specified in Section 60.3(d) of the National Flood Insurance Program Regulations, promulgated pursuant to the Flood Disaster Protection Act of 1973, including the effective Flood Insurance Rate Map as of December 22, 1998, and the Flood Insurance Study Report to which the regulations apply, including modifications made by the revision of the

Burns Municipal Code

effective map, are hereby adopted and enacted and by this reference are hereby incorporated herein as if set forth fully in this chapter. [Ord. 729 § 1, 1999; Ord. 672 §§ 1, 2, 3, 1989]