

Chapter 16.18 FREQUENTLY FLOODED AREAS

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16.18.010 Purpose.

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

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

B. Provisions for Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions to:

1. Restrict or prohibit development that is 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. Require that development vulnerable to floods be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Control filling, grading, dredging, and other development, which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

16.18.020 Definitions.

The definitions in Critical Areas Chapter 16.15 MTMC are incorporated by reference when applicable. Where there is a conflict in definitions or their meaning with this chapter or other city regulations, this chapter shall prevail.

- A. Alteration of watercourse: Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.
- B. Appeal: A request for a review of the interpretation of any provision of this chapter or a request for a variance.
- C. Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”
- D. Base flood: The flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”).
- E. Base Flood Elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.
- F. Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.
- G. Building: See "Structure."
- H. Building Code: The currently effective versions of the International Building Code

and the International Residential Code adopted by the State of Washington Building Code Council and as amended by the City of Mountlake Terrace.

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

J. Development: Any human-made change to improved or 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 located within the area of special flood hazard.

K. Elevation Certificate: An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

L. Elevated Building: For insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

M. FEMA or the Federal Emergency Management Agency: An agency within the Department of Homeland Security responsible for coordinating the federal government’s response to natural and manmade disasters and charged with providing both immediate and long-term assistance to local and state governments as well as individuals.

N. Federal Insurance Administrator ~~(FIA)~~: The administrator of Federal Insurance and Mitigation Administration ~~FEMA~~ who is authorized to establish and carry out the National Flood Insurance Program (NFIP).

O. Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried

by a current of water and deposited along the path of the current.

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

P. Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

Q. Flood Insurance Rate Map (FIRM): The official map for Mountlake Terrace, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the city. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

R. Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

S. Floodplain administrator: The Community and Economic Development Director, or designee, responsible for administering and enforcing the floodplain management regulations.

T. Floodplain management regulations: Zoning chapters, subdivision regulations, building codes, health regulations, special purpose chapters (such as floodplain chapter, grading chapter and erosion control chapter) and other application 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.

U. Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

V. Functionally dependent use: A water dependent use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water, or on water. The term includes only docking or fishing facilities, facilities that are necessary for the loading and unloading of non-motorized watercraft and its passengers, and incidental support facilities.

W. Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

X. Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Y. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter (i.e. provided there are adequate flood ventilation openings).

Z. Manufactured Home: For floodplain management purposes, 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 attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

AA. Manufactured Home Park or Subdivision: For floodplain management purposes, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

BB. Mean Sea Level: For purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

CC. New construction: For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map 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.

DD. One-hundred-year flood or 100-year flood: See “Base flood.”

EE. Reasonably Safe from Flooding: Development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community.

FF. Recreational Vehicle: A vehicle that is:

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

GG. Special Flood Hazard Area or SFHA: see “Area of special Flood Hazard.”

HH. Start of construction: 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 from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not 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.

II. Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

KK. Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which cumulatively over a three year period equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

LL. Variance: A grant of relief from the terms of a floodplain management regulation.

MM. Violations: To proceed or act in a manner that is inconsistent with or not permitted by a regulation. For floodplain management purposes, “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 this ordinance is presumed to be in violation until such time as that documentation is provided.

NN. Water Dependent: A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

16.18.030 – General Provisions

A. Lands to Which This Chapter Applies. This chapter shall apply to all special flood hazard areas within the boundaries of the City of Mountlake Terrace.

B. Basis for Establishing the Areas of Special Flood Hazard: The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Snohomish County and Incorporated Areas,” dated June 19, 2020, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated June 19, 2020, and any

revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIS and the FIRM are on file at City of Mountlake Terrace, Mountlake Terrace, WA.

The best available information for flood hazard area identification as outlined in subsection 16.18.040(C)(2) Use of Other Base Flood Data, shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under that subsection of this chapter.

C. Compliance. All development within special flood hazard areas is subject to the terms of this chapter and other applicable regulations.

D. 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 chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. 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.

F. 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 human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Mountlake Terrace, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

16.18.040 - Administration

A. Establishment of Development Permit.

1. Development Permit Required

- a. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in MTMC 16.18.030(B)

Basis for establishing the areas of special flood hazard.

b. The permit shall be for all structures, including manufactured homes, and for all development including fill and other activities, as defined in, MTMC 16.18.020 Definitions.

2. Application for Development Permit: Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

a. Proposed elevation of the lowest floor (including basement) of all structures recorded on a current FEMA Elevation Certificate form (Note: The Floodplain Administrator is to complete Section B of said form);

b. Proposed elevation to which any structure will be flood proofed;

c. Where a structure is to be flood proofed, certification by a State of Washington registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in MTMC 16.18.050(B)(2) Nonresidential Construction;

d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development; and

e. Any other such information that may be reasonably required by the Floodplain Administrator in order to review and process the application at the time of application or subsequent thereto.

3. Permit processing procedures apply per Critical Areas Chapter 16.15 MTMC, unless provided otherwise by this chapter.

B. Designation of the Floodplain Administrator. The Community and Economic Development Director is hereby appointed to administer, implement, and enforce the floodplain management regulations in this chapter by granting or denying development permits in accordance with its provisions.

C. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

1. Permit Review

a. Review all development permits to determine that:

- 1) The permit requirements and standards of this chapter have been satisfied;
 - 2) All other required state and federal permits have been obtained;
 - 3) The site is reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
- b. Issue a written determination, which may be in the form of a building permit or land use entitlement or similar.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with 16.18.030(B), Basis for establishing the areas of special flood hazard, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer 16.18.050 Construction Provisions for Flood Hazard Reduction.
3. Information to be Obtained and Maintained by Flood Administrator:
- a. A record of the actual (as-built) elevation of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved flood proofed nonresidential structures:
 - 1) A record of the elevation to which the structure was flood proofed.
 - 2) Maintain the flood proofing certifications required in 16.18.050(B)(2).
 - c. Records of all variance actions, including justification for their issuance.
 - d. Improvement and damage calculations.
 - e. Maintain for public inspection all records pertaining to the provisions of this chapter.
4. Alteration of Watercourse and Notification. Whenever a watercourse is to be altered or relocated:
- a. Assure that the flood carrying capacity of the altered or relocated portion of

said watercourse is maintained, and

- b. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and
- c. Submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.

5. Changes to Special Flood Hazard Area

- a. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the Floodplain Administrator with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.
- b. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.
- c. The project proponent shall submit to FEMA any new technical information regarding changes to flooding conditions as soon as such information is known.
- d. The city shall, within six months of being made aware of any new technical information regarding flooding conditions (44 CFR 65.3), submit such information to FEMA.

D. Penalties for noncompliance

- 1. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.
- 2. Violations of the provisions of this chapter by failure to comply with any of its requirements, shall constitute a misdemeanor.
- 3. The enforcement and penalty provisions in MTMC 16.15.380 apply to frequently flood areas.
- 4. Nothing herein contained shall prevent the City of Mountlake Terrace from taking

such other lawful action as is necessary to prevent or remedy any violation.

16.18.050 Construction Provisions for Flood Hazard Reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring
 - a. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
 - b. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. For more detailed information, refer to guidebook FEMA-85 “Manufactured Home Installation in Flood Hazard Areas.”
2. Construction Materials and Methods
 - a. All construction as indicated below shall be consistent with the provisions of this chapter or Appendix G of the IBC or IRC, whichever is more restrictive.
 - b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage (as described in FEMA Technical Bulletin 2).
 - c. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - d. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.
3. Storage of Materials and Equipment
 - a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.
 - b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily

removable from the area within the time available after flood warning.

4. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- c. Waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5. Subdivision Proposals and Development Proposals. Any divisions of land, new development, or redevelopment must:

- a. Be consistent with the need to minimize flood damage;
- b. Have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c. Have adequate drainage provided to reduce exposure to flood damage;
- d. Include base flood elevation data as part of the application.

B. Specific Standards. In all areas of special flood hazards, the following provisions are required:

1. Residential Construction.

- a. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade. Mechanical equipment and utilities shall be waterproof or likewise elevated.
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

1) Designs must meet or exceed the following minimum criteria:

- a) Have a minimum of two openings with a total net area of not less than

one square inch for every square foot of enclosed area subject to flooding.

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

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

d) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

2) Alternatively, a registered engineer or architect may design and certify engineered openings and submit such record of certification to the Flood Administrator.

3) All buildings or manufactured homes constructed or substantially improved with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage.

2. Nonresidential Construction. New construction, reconstruction, or substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of -section 1, above, for residential construction, or shall:

~~a. Have the lowest floor (including basement) elevated two feet above the base flood level when established or highest adjacent grade, whichever is greater, or~~

~~b.a.~~ Together with attendant utility and sanitary facilities, be designed so that ~~below~~ two feet ~~below or more above~~ the base flood level when established or at least two feet above highest adjacent grade, whichever is greater, 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 and effects of buoyancy; and

~~c.b.~~ Provided that, where a non-residential structure is intended to be made watertight below the base flood level when established or at least two feet above highest adjacent grade, whichever is greater, shall have:

1) A registered professional engineer or architect 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 for meeting the applicable provisions of the above, and

- 2) Submit such record of such certification to the Floodplain Administrator.
3. **Manufactured Homes:** All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet or more above the base flood elevation or highest adjacent grade, whichever is higher and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
4. **Recreational Vehicles:** Recreational vehicles placed on an approved site are required to:
 - a. Be on the site for not more than two weeks within any 6-month period; and
 - b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - c. Meet the requirements of section 3 above for manufactured homes.
5. **Appurtenant Structures (Detached Garages & Small Storage Structures).**
 - a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the lowest floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:
 - 1) Use of the appurtenant structure must be limited to parking of vehicles or limited storage. The structure must not be used for human habitation; and
 - 2) The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
 - 3) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - 4) Any machinery or equipment servicing the appurtenant structure must be elevated or flood proofed to or above the BFE;
 - 5) The appurtenant structure must be designed to allow for the automatic entry and exit of floodwaters in accordance with subsection 16.18.050(B)(1)(b);

- 6) The structure shall have low damage potential; and
 - 7) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use.
- b. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 16.18.050(B).
 - c. Upon completion of any structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.
 - d. The maximum cumulative footprint of all appurtenant structures on a single development site is 500 square feet. The maximum height of any appurtenant structure is 20 feet to the ridgeline and maximum sidewall height of 14 feet.
- C. Other Development. All development, including human-made changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the state building codes with adopted amendments and any local amendments, shall:
1. Be located and constructed to minimize flood damage;
 2. Meet the encroachment limitations of this chapter if located in a regulatory floodway;
 3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 4. Be constructed of flood damage-resistant materials;
 5. Meet the flood opening requirements of MTMC 16.18.050(B)(1) Residential Construction, and
 6. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- D. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available.

Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the BFE shall be provided to all critical facilities to the extent possible.

16.18.060 Variances.

A. Purpose and Limits.

1. Variances are strictly limited and may only be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners;
2. The characteristics must be unique to the property and not be shared by adjacent parcels; and
3. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

B. Requirements for Variance Criteria.

1. A variance request shall demonstrate consistency with the following:
 - a. 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 chapters;
 - b. For the repair, rehabilitation, or restoration of historic structures, 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;
 - c. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - d. The showing of good and sufficient cause;
 - e. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - f. The use cannot be performed in its intended purpose unless it is located or

carried out in close proximity to water. This includes only facilities defined in this chapter in the definition of “Functionally Dependent Use.”

- g. Any additional variance criteria in general and Chapter 16.15 MTMC apply.
2. In considering variance applications, the City of Mountlake Terrace shall consider all technical evaluations, all relevant factors, all standards and criteria specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
 - k. 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 system, and streets and bridges.

C. Review and Administration.

1. The review and approval process shall be per Critical Areas Chapter 16.15

MTMC variance section.

2. Record keeping. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
3. Decisions.
 - a. The responsible decision maker (Floodplain Administrator or Hearing Examiner) shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
 - b. A notice of decision shall be issued per Chapter 18.05 MTMC.
 - c. Any applicant to whom a variance is granted shall be given written notice by the Floodplain Administrator that:
 - 1) The issuance of a variance to construct a structure below the BFE will result in increased premium rates from NFIP for flood insurance coverage; and
 - 2) Such construction below the BFE increases risks to life and property.

18.16.070 Appeals.

- A. Appeals of administrative interpretations and administrative approvals may be appealed, by the applicant or any party of record, to the Hearing Examiner, pursuant to Chapter 18.05 MTMC.
- B. Appeals from the final decision of the Hearing Examiner, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County Superior Court within 21 days of the date of the notice of action, unless another time period is established by state law or local ordinance.

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