

ORDINANCE NO. 4951

AN ORDINANCE RELATING TO THE CITY OF ELLENSBURG LAND DEVELOPMENT CODE, TITLE 15; AMENDING CHAPTER 15.130 "DEFINITIONS"; AMENDING CHAPTER 15.210 "PERMIT REVIEW PROCESS TYPES"; AMENDING CHAPTER 15.220 "PERMIT REVIEW PROCEDURES", AND AMENDING CHAPTER 15.630 "FREQUENTLY FLOODED AREAS".

WHEREAS, in 2023, the Washington State Legislature passed Senate Bill 5290 (SB 5290), as codified in chapters 36.70B, RCW, which amended the required timelines for cities like Ellensburg to issue final decisions on land use applications, requires partial refund of review fees when timelines are not met, and requires annual reporting of permit processing timelines; and

WHEREAS, Washington State Department of Ecology, as the State FEMA National Flood Insurance Program (NFIP) coordinating agency, performed a Community Assistance Visit (CAV) on April 10, 2024, and identified minor necessary revisions to the City's Floodplain Management Ordinance; and

WHEREAS, City staff prepared proposed Land Development Code amendments addressing SB 5290 and revisions to the Floodplain Management Ordinance required by the CAV; and

WHEREAS, proposed amendments to the Ellensburg City Code were issued a State Environmental Policy Act ("SEPA") Determination of Non-Significance on October 10, 2024; and

WHEREAS, pursuant to RCW 36.70A.106, notice of the City's intent to amend the Land Development Code was sent to the Washington State Department of Commerce on October 10, 2024; and

WHEREAS, the required Washington State Department of Commerce 60-day notice period concludes on December 9, 2024; and

WHEREAS, the proposed Land Development Code amendments were reviewed by the Planning Commission in a public hearing on November 14, 2024, and the Planning Commission recommended City Council adoption of the amendments included herein; and

WHEREAS, the City Council held a duly noticed public hearing on the matter of adopting the proposed Land Development Code amendments at a regular meeting on December 2, 2024, and approved the proposed amendments;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington, do hereby ordain as follows:

**Section 1. The recitals set forth above are hereby adopted as the findings of the City Council and are by this reference incorporated herein as if set forth in their entirety.**

**Section 2. Section 15.130.010 of the Ellensburg City Code, as last amended by Ordinance 4878, is hereby amended to read as follows:**

**15.130.010 - A definitions.**

*Accent lighting* means any luminaire that emphasizes a particular object or draws attention to a particular area for aesthetic purposes.

*Accessory building* means a subordinate building that is physically detached from the main building, the use of which is incidental and related to that of the main building use on the same lot. See ECC 15.320.110 for related standards.

*Accessory dwelling unit* means a self-contained residential unit that is accessory to a single-family dwelling on a lot and may be added to, created within, or detached from the primary single-family dwelling unit. An accessory dwelling unit has its own bathroom, kitchen facilities, living and sleeping areas, though it can share other features with the single-family dwelling including the yard, parking, or storage. See ECC 15.540.040 for special ADU design provisions.

*Accessory structure* means a structure which is incidental and subordinate to the principal building and shall not be used as a dwelling or accessory dwelling. Accessory structures must be on the same property as the building or use to which they are accessory. Examples of accessory structures may include fences, enclosed stair landings, storage sheds, and similar structures. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

*Accessory use* means on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. See ECC 15.310.030 for special accessory use provisions.

*Administrative decision* means any decision made by the decision-maker. This includes decisions on code interpretation related to permit applications, and decisions as to whether or not permit applications meet the standards for any project that requires a decision.

*Adult family home* means a residential home in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

*Affordable housing unit* means, for the purpose of ECC 15.330.020, housing reserved for occupancy by eligible households and affordable to households with annual incomes below 80 percent of the regional median income, adjusted for household size, and no more than 30 percent of the monthly household income is paid for monthly housing expenses. Housing expenses for ownership housing include mortgage, property taxes, property insurance, and homeowner dues. Housing expenses for rental housing include rent and appropriate utility allowance.

*Agriculture* means the use of land for farming, dairying, pasturing and grazing, horticulture, floriculture, viticulture, apiaries, animal and poultry husbandry, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, and

accessory activities, including, but not limited to, storage, harvesting, feeding or maintenance of equipment, but excluding stockyards, slaughtering or commercial food processing.

*Airport* means, for the purpose of chapter 15.350 ECC, the Kittitas County Airport (Bowers Field).

*Airport elevation* means, for the purpose of chapter 15.350 ECC, 1,766 feet above mean sea level.

*Airport overlay zone*, as established in chapter 15.350 ECC, shall include the runway protection zone, inner safety zone, inner turning zone, outer safety zone, sideline zone, and the airport operation zone as depicted on Map "B," "Safety Zones" and numbered Zones 1 through 6, respectively, and shall also encompass the area identified within 14 CFR Federal Aviation Regulation (FAR), Part 77, as amended and depicted on Map "A," "Part 77."

*Airport surface* means, for the purpose of chapter 15.350 ECC, a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface along the same slope as the approach zone height limitation slope set forth in ECC 15.350.030. The perimeter of the approach surface coincides with the perimeter of the approach zone.

*Alley* means a thoroughfare which has been dedicated or deeded to the public for public use and which affords a secondary means of access to abutting property in most cases.

*Alter or alteration*, for purposes of the LDC, means any construction or remodeling which modifies all or part of the exterior appearance of a building, structure, or site, including but not limited to addition, removal, or replacement of architectural features; redesign of building components; change or substitution of existing materials; change of paint color; and site improvements. For purposes of chapter 15.240 ECC, nonconformance, "alter" or "alteration" shall be as defined in chapter 15.240 ECC. For purposes of ECC title 3, buildings and fire, "alter" or "alteration" shall be as defined in the International Building Code and International Residential Code.

*Alteration* means any change of copy, sign face, color, size, shape, illumination, position, location, construction, or supporting structure of any sign.

*Alteration of watercourse* means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

*Apartment* means any building containing three or more dwelling units.

*Appeal, closed record*. A "closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing decision on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. The appeal may be granted or granted with modifications if the appellant proves that the decision of the decision-making body is not supported by a preponderance of the evidence or is clearly

erroneous. In all other cases, the appeal shall be denied. In the appeal consideration, substantial weight shall be accorded to the decision-maker's decision.

*Appeal, open record.* An "open record appeal" means an administrative appeal of a Type I or II decision that creates the city's record through testimony and submission of evidence and information under procedures prescribed by the city by ordinance or resolution. An open record appeal hearing may be held only if there has been no open record pre-decision hearing held on the project permit application.

*Applicant* means any person, firm or corporation, other entity or authorized representative undertaking an application for a development proposal, permit, or approval.

*Approach, transitional, horizontal, and conical zones*, for the purpose of chapter 15.350 ECC, are set forth and defined in ECC 15.350.030.

*Area of shallow flooding* means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community's flood insurance rate map (FIRM) with a one percent 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. Also referred to as the sheet flow area.

*Area of special flood hazard* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on flood insurance rate maps always includes the letters A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). Definitions of each zone are established by the Federal Emergency Management Agency (FEMA). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

*Articulation* means the giving of emphasis to architectural elements (like windows, balconies, entries, etc.) that create a complimentary pattern or rhythm, dividing the large buildings into smaller identifiable pieces.

*Arts commission* means the city arts commission created in Chapter 1.33 ECC.

*ASCE 24* means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

*Average gross floor area* means the gross floor area of a building divided by the number of floors.

*Awning* means a covering structure constructed of canvas, cloth, or other flexible material projecting horizontally from and attached to a building.

(Ord. 4878 § 2, 2021; Ord. 4807 § 2, 2018; Ord. 4803 § 1, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 3. Section 15.210.010 of the Ellensburg City Code, as last amended by Ordinance 4769, is hereby amended to read as follows:**

**15.210.010 – Classification of permit review process types.**

- A. Decisions on applications shall be classified as Type I, II, III, IV, or V, based on the amount of discretion exercised by the decision-maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity available. The procedures for the five different permit review process types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether an administrative appeal process is provided. The types of decisions are set forth in ECC 15.210.030 and the requirements for each type are set forth in ECC 15.210.040.
- B. Exclusions. The following permits are excluded from the permit review requirements of this division and from RCW 36.70B.060 through 36.70B.080 and 36.70B.110 through 36.70B.130, and the review processes for these excluded permits are governed instead by the individual permit review process established for each:
  1. Ellensburg landmarks register designations pursuant to chapter 15.280 ECC;
  2. Historic preservation special valuation decisions pursuant to chapter 15.280 ECC;
  3. Sidewalk use permits pursuant to ECC 4.14.170;
  4. Adult entertainment licenses pursuant to chapter 6.72 ECC;
  5. Regional retail commercial master site plan applications pursuant to chapter 15.390 ECC; and
  6. Development agreements pursuant to RCW 36.70B.200 and chapter 15.380 ECC.
  7. Interior alterations that do not result in any of the following:
    - a. Additional sleeping quarters or bedrooms
    - b. Nonconformity with federal emergency management agency substantial improvement thresholds
    - c. Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(Ord. 4769 § 6, 2017; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 4. Section 15.210.040 of the Ellensburg City Code, as last amended by Ordinance 4935, is hereby amended to read as follows:**

**15.210.040 – Permit review process types – Decision making, procedures and notice requirements.**

*A. Decision-making and appeal process.* Table 15.210.040(A) sets out the permit review decision-making and appeal processes for the permit review process types.

Table 15.210.040(A)  
Decision-Making and Appeal Process for Permit Review Process Type

	Type I	Type II	Type III	Type IV	Type V
Final decision made by:	Director or designated decision-maker (see ECC 15.210.050(A))	Director or designated decision-maker (see ECC 15.210.050(B))	Designated decision-maker (see ECC 15.210.050(C))	Designated decision-maker (see ECC 15.210.050(D))	City council
Recommendation made by:	NA	NA	Designated body	Designated body	Planning commission
Open record predecision public hearing	No	No Except that landmarks and design commission holds an open record public hearing (see chapter 15.280 ECC)	Yes	Yes	Yes Multiple open record predecision hearings can be held
Open record appeal public hearing	Yes	Yes, except for landmarks and design commission decisions which have a closed record appeal	No	No	No
Closed record appeal hearing	No	No, except for landmarks and design commission decisions which are appealed to the hearings examiner	Yes	No	No

	Type I	Type II	Type III	Type IV	Type V
Appeal to:	Superior court	Hearing examiner except director decisions on departures are appealed to city council	Hearing examiner or city council	Superior court	Superior court or to the growth management hearings board if GMA action
Judicial appeal (see ECC 15.230.100)	Yes	Yes	Yes	Yes	Yes

B. *Procedures.* Table 15.210.040(B) sets out the permit review procedures for the five permit review process types.

Table 15.210.040(B)  
Procedures for Permit Review Process Types

	Type I	Type II	Type III	Type IV	Type V
Preapplication meeting (see ECC 15.220.010)	No	No <sup>1</sup>	Yes	Yes	No
Notice of complete application (see ECC 15.220.030)	No	Yes	Yes	Yes	No
Notice of application (see ECC 15.220.040)	No	Yes	Yes	Yes	No
SEPA determination (see chapter 15.270 ECC)	No	Yes if applicable	Yes if applicable	Yes	Yes if applicable
Notice of hearing (see ECC 15.230.020)	No	No	Yes	Yes	Yes

	Type I	Type II	Type III	Type IV	Type V
Notice of decision (see ECC 15.220.080)	Yes	Yes	Yes	Yes	Yes
120-day review period (see ECC 15.220.070)	No <sup>2</sup> <u>65</u> days	Yes <u>100</u> days	Yes <u>120</u> days	Yes <u>120</u> days	No

Notes/conditions:

1. A preapplication meeting shall be required for all major design review projects and short subdivisions as set forth in ECC 15.250.030.
2. Short subdivisions have a 60-calendar-day deadline for issuance (after determination of complete application). A final subdivision must issue in 30 calendar days and a preliminary subdivision must issue in 90 calendar days (after determination of complete application). See RCW 58.17.140 and ECC 15.260.060 and 15.260.120.
3. Permit review periods for Type I applications are calculated from the date of application submittal.

C. *Notice requirements.* Table 15.210.040(C) sets out the notice requirements for the five permit review process types.

Table 15.210.040(C)  
Notice Requirements for All permit Application Types, Unless Otherwise Stated.  
See chapter 15.220 ECC.

	Send to property owners within 300'	Public notice (see ECC 15.220.040)	Post property (see ECC 15.220.050)	Send to agencies	Send to applicant
Notice of completeness (see ECC <u>15.220.040</u> )					X
Notice of application (see	X	X, except for Type I permits	X, except for Type I and II permits	X	X

	<b>Send to property owners within 300'</b>	<b>Public notice (see ECC 15.220.0.040)</b>	<b>Post property (see ECC 15.220.0.50)</b>	<b>Send to agencies</b>	<b>Send to applicant</b>
ECC 15.220.0.40)					
SEPA determination (see chapter 15.270 ECC)		X	X	X	X
Notice of open record predecision hearing or meeting, if applicable	X	X	X for site-specific proposals		X
Notice of decision (see ECC 15.220.0.80)		X	X, except for Type I and II permits		X
Notice of appeal hearing, if applicable	X	X			X

(Ord. No. 4935, § 3, 12-18-2023; Ord. 4807 § 16, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 5. Section 15.220.020 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:**

**15.220.020 – Application.**

A. *Who may apply.* An application may be submitted by:

1. The property owner or any agent of the property owner with written authorization of agency to submit the application for the property owner for any Type I, II, III or IV permit. The city council, planning commission, or city staff may initiate a Type V

application except for comprehensive plan amendments which are governed by ECC 15.250.090.

2. Each applicant submitting a project permit to the city shall designate a single person or entity to receive determinations and notices under this title. The applicant shall include the name, current address and current telephone number of the designated person or entity. The applicant shall be responsible for immediately notifying the city of any change of name, address or telephone number of the designated person or entity.

*B. Submittal requirements.*

1. The director shall prepare written submittal requirements for each type of permit application, including type, detail, and number of copies to be submitted for an application to be deemed complete. The director may waive specific submittal requirements determined to be unnecessary for review of an application. The director may require additional material such as maps, studies, or models when the director determines such material is needed to adequately assess the proposed project. Applicants may obtain application materials from the community development department.
2. In addition to the submittal requirements and conditions set forth above, the following project permit applications require specific submittal materials that are set forth in the identified LDC sections:
  - a. Short subdivision, preliminary subdivision, and binding site plan submittal requirements are set forth in chapter 15.260 ECC;
  - b. Certificate of appropriateness application requirements are set forth in chapter 15.280 ECC;
  - c. Regional retail commercial master site plan application requirements are set forth in chapter 15.390 ECC; and
  - d. Critical area determinations are set forth in division VI.
3. Eighty percent of all application fees are due at the time of application submittal. The remaining twenty percent is due prior to permit issuance. In the event the Department does not issue a decision within the time limits established in ECC 15.210.040(B), the remaining twenty percent of the permit fees shall be reduced by the following amounts:
  - a. Ten percent of the full permit fee if the decision was delayed no more than ten percent of the overall processing timeline.
  - b. Twenty percent of the full permit fee if the decision was delayed more than twenty percent of the overall processing timeline.

Example

A Type III process has a maximum processing timeline of 120 days from the date of notice of complete application. If the Department processes a Type III application and issues the decision between 121 and 132 days, the applicant's

complete permit payment will be reduced by ten percent. If the Department issues a determination beyond 144 days, the applicant would receive a twenty percent reduction in the permitting fee.

- c. The timelines established in ECC 15.210.040(B) do not include:
  - i. Circumstances in which an applicant and the Department agree in writing upon an extension to the processing timeline.
  - ii. Any time in which the Department is waiting on the applicant to submit information necessary for application processing, which has been requested by the Department in writing.
  - iii. Any exception noted in ECC 15.220.070 or otherwise expressed in Chapter 15.220.

(Ord. 4807 § 19, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 6. Section 15.220.070 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:**

**15.220.070 – Permit processing time limits.**

A. Decisions on Type I permits should shall be issued within 30 65 calendar days from the date of issuance of a determination that the application is complete submittal and, in the event that the decision will take longer than 30 65 calendar days, the applicant shall be notified and provided with a reason for the delay and an estimate of the time frame in which the decision will be made. Decisions on Type II project permits shall be made within 100 calendar days from the date of issuance of a determination that the application is complete. Decisions on Type II, III, or IV project permits shall be made within 120 calendar days from the date of issuance of a determination that the application is complete. Exceptions to this 120-calendar-day time limit are:

1. Substantial project revisions are made or requested by an applicant, in which case the 120 calendar days will be calculated from the time that the city determines the revised application to be complete;
2. The time required to prepare a critical area report pursuant to division VI (if applicable) and the time required to issue a draft and final environmental impact statement (EIS) in accordance with the State Environmental Policy Act (if applicable);
3. Any period for administrative appeals of project permits;
4. Landmarks and design commission certificates of appropriateness must be issued within 30 calendar days of the application being deemed complete, unless the COA involves another permit application review process, in which case the permit processing time limits are governed by that other permit application review process, or unless the COA is for a demolition in which case the time limits set forth in ECC 15.280.090 shall apply;
5. Amendments to the comprehensive plan or LDC for which the schedule for adoption is established legislatively;

6. Short subdivisions, preliminary and final subdivisions, and binding site plans which are governed by the processing time limits set forth in chapter 15.260 ECC; or
7. Development agreements (see chapter 15.380 ECC and RCW 36.70B.200).
8. Any written notice from the Department requesting additional information shall include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. "Nonresponsiveness" means that the applicant is not making demonstrable progress on providing additional requested information to the Department, or that there is no ongoing communication from the applicant to the Department on the applicant's ability or willingness to provide the additional information.

B. The time limits set for Type I, II, III, or IV projects do not include:

1. Any period of time during which the applicant has been requested in writing by the department to correct plans, perform studies, including critical area reports pursuant to division VI, or provide additional information. This period of time shall be calculated from the date the department notifies the applicant of the need for such additional information, studies or reports, until the date the department determines that the additional information satisfies the request for such information or 14 calendar days after the date the information has been provided to the department, whichever is earlier.
2. If the department determines that the additional information submitted to the department by the applicant under subsection (B)(1) of this section is insufficient, the department shall notify the applicant of the deficiencies in writing within 14 calendar days from the date the information was provided to the department, and the procedures provided in subsection (B)(1) of this section shall apply as if a new request has been made.

C. If the department is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall notify the applicant of that inability to issue the final decision within the prescribed time limits. Such notice shall include a statement of the reasons why the time limit has not been met and an estimated date for issuance of the notice of decision.

(Ord. 4807 § 23, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 7. Chapter 15.220 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to add a new section as follows:**

**15.220.095 Permit processing timeline reporting.**

The city shall prepare annual performance reports consistent with the requirements of RCW 36.70B.080. These reports shall be provided to the Washington State Department of Commerce and published on the City website no later than March 1<sup>st</sup> of each year to reflect the previous year's reporting data. Monitoring of this data for reporting purposes shall begin January 1, 2025.

**Section 8. Section 15.630.020 of the Ellensburg City Code, as last amended by Ordinance 4878, is hereby amended to read as follows:**

15.630.020 – Critical area report requirements – Frequently flooded areas.

- A. *Prepared by a qualified professional.* A frequently flooded areas report shall be prepared for development within floodplains. Such report shall be required to be prepared by a qualified professional who is a hydrologist or engineer, and who is licensed in the state of Washington with experience in preparing flood hazard assessments.
- B. *Areas addressed in critical area report.* The following areas shall be addressed in a critical area report for frequently flooded areas:
  1. The location of the proposed activity;
  2. All areas of a special flood hazard, as indicated on the flood insurance map(s) within 200 feet of the project area; and
  3. All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.
- C. *Flood hazard assessment required.* A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment including the following site- and proposal-related information at a minimum:
  1. *Site and construction plans.* A copy of the site and construction plans for the development proposal showing:
    - a. Floodplain (100-year flood elevation); ten-year and 50-year flood elevations and floodway, if required by the director and, in addition, other critical areas, buffers, and shoreline areas;
    - b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
    - c. Extent and location of proposed clearing and grading activity;
    - d. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
    - e. Elevation in relation to mean sea level to which any structure has been floodproofed.
    - f. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and
    - g. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.
  2. *Floodproofing certificate.* When floodproofing is proposed, a certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the requirements of ECC 15.630.040(H), floodproofing.

3. *Watercourse alteration.* When watercourse alteration is proposed, the critical area report shall include:

- a. *Extent of watercourse alteration.* A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of the proposal; and
- b. *Maintenance program required for watercourse alterations.* A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished.

4. *Information regarding other critical areas.* Potential impacts to wetlands, fish and wildlife habitat and other critical areas shall be addressed in accordance with the applicable sections of this chapter.

(Ord. 4878 § 26, 2021; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 9. Section 15.630.050 of the Ellensburg City Code, as last amended by Ordinance 4878, is hereby amended to read as follows:**

**15.630.050 – Performance standards – Specific uses.**

In all frequently flooded areas where base flood elevation data has been provided as set forth in ECC 15.630.010(A) or 15.630.040(D), the following standards are required:

**A. Residential construction.**

1. In AE or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation for the area. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE.
2. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in ECC 15.630.060.
3. 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 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 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.

Alternatively, a registered engineer or architect may design and certify engineered openings.

- 4. New construction and substantial improvement for 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.

- B. *Manufactured homes must be elevated.* All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- C. *Recreational vehicles.* Recreational vehicles are required to either:
  - 1. Be on the site for fewer than 180 consecutive days;
  - 2. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - 3. Must obtain a development permit and meet the requirements of this section, including elevation and anchoring, for manufactured homes.
- D. *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection (D)(1) or (2) of this section.
  - 1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
    - a. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE, or as required by ASCE 24, whichever is greater.
    - b. If located in an AO zone, the structure shall meet the requirements in ECC 15.630.060.
    - c. If located in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.
    - d. 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 professional engineer or architect or must meet or exceed the following minimum criteria:

- i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwater.
- iv. 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.

Alternatively, a registered engineer or architect may design and certify engineered openings.

2. If the requirements of subsection (D)(1) of this section are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
  - a. Be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater.
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in ECC 15.630.015(B)(2).
  - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section.

(Applicants who are 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 floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums.)

E. *Utilities.*

1. Shall be designed to minimize infiltration of floodwaters. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
2. Sanitary sewage systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

F. *Subdivision & development proposals.*

1. All subdivisions and short subdivisions shall:
  - a. *Minimize flood damage.* Subdivisions, and short subdivisions, as well as new development shall be designed to minimize or eliminate flood damage to proposed structures; and public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize flood damage. Subdivisions should be designed using natural features of the landscape, and should not incorporate flood protection changes;
  - b. *Have adequate drainage.* Subdivisions, and short subdivisions, as well as new development shall have adequate natural surface water drainage in accordance with city's public works development standards to reduce exposure to flood hazards; and
  - c. *Show flood areas on plat maps.* Subdivisions and short subdivisions shall show the 100-year floodplain, floodway, and channel migration zone where designated by the city on the preliminary and final plat and short plat maps.
2. Detailed base flood elevation data shall be generated for subdivisions of at least 50 lots or five acres. Where detailed base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is the lesser.

G. *Alteration of watercourses.*

1. Shall require the submission of a critical area report by the applicant and be in accordance with the habitat regulations set forth in ECC 15.650.020 and 15.650.030 et seq. Watercourse alterations shall only be allowed when no negative impacts occur to critical areas.
2. Shall not result in blockage. Watercourse alteration projects shall not result in blockage of side channels.
3. Notification required. The city shall notify adjacent communities, the Washington State Department of Ecology, the Washington Department of Fish and Wildlife, and the Federal Insurance Administration of the proposed watercourse alteration at least 30 days prior to permit issuance.
4. Maintenance of alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished. The applicant shall furnish the city with a surety bond for

maintenance, which bond shall remain in effect for a period of five years after completion of the alterations and be in accordance with a maintenance program approved by the director for the alteration project. The bond shall be in an amount to be determined by the director as sufficient to ensure that the flood-carrying capacity of the watercourse is not diminished and complies with the terms of the maintenance program. The surety and the form of the bond shall be subject to the approval of the city attorney.

H. *Crawlspaces.* Crawlspaces are commonly used as a method of elevating buildings to or above the base flood elevation or providing area for easier access to utilities and other building facilities. The following requirements apply to all crawlspaces that have enclosed areas or floors below the base flood elevation:

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effect of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required opening standards set forth below in this section. ~~If crawlspace construction is proposed for areas in which the flood velocities exceed five feet per second, the design must be reviewed and approved by a registered architect or engineer.~~
2. The crawlspace is an enclosed area below the base flood elevation, and as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. Openings or vents must meet the following criteria:
  - 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; and
  - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
3. All portions of the building below one foot above the base flood elevation must be constructed with materials resistant to flood damage. The recommended construction practice is to elevate the bottom of the joists and all insulation above the base flood elevation.
4. Any building utility systems within the crawlspace must be elevated one foot above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components. Duct work must either be placed above the base flood elevation or sealed from floodwaters.
5. In addition to the above requirements, the following specific provisions also apply to below grade crawlspaces:
  - a. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade;

- b. The height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point;
- c. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas (refer to FEMA Technical Bulletin 11-01, page 7, Guidance for Pre-Engineered Crawlspaces). This limitation is intended to prevent these crawlspaces from being converted into habitable spaces.
- d.e. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils or drainage systems such as perforated pipes, tiles, gravel or other means; and
- d.e. Below grade crawlspace construction in accordance with the requirements listed above will not be considered basements. The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

I. *Enclosed area below the lowest floor.* If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

J. *Appurtenant structures (detached garages and small storage structures) in A zones (A, AE, AH, AO).*

- 1. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:
  - a. Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
  - b. The portions of the appurtenant structure located below one foot above the BFE must be built using flood-resistant materials;
  - c. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
  - d. Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed ~~to or~~ at least one foot above the BFE;
  - e. The appurtenant structure must comply with floodway encroachment provisions in ECC 15.630.070(B)(1);
  - f. The appurtenant structure must be designed to allow for the automatic entry and exit of floodwaters in accordance with subsection (A)(3) of this section;
  - g. The structure shall have low damage potential;

- h. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use; and
    - i. The structure shall not be used for human habitation.
  2. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in subsection (A) of this section.
  3. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the floodplain administrator for verification.

(Ord. 4878 § 29, 2021; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 10. Section 16.630.060 of the Ellensburg City Code, as last amended by Ordinance 4803, is hereby amended to read as follows:**

**15.630.060 Performance standards – Areas of shallow flooding**

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In addition to other provisions in this code these areas, the following provisions also apply:

- A. *Residential structures.* New construction and substantial improvements of residential structures and manufactured homes within AO zones identified in the flood insurance study and maps referenced in ECC 15.630.010(A) shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade of the building site to one foot above the depth number specified in feet on the flood insurance map or at least two feet if no depth number is specified.
- B. *Nonresidential structures.* New construction and substantial improvements of nonresidential structures within such AO zones shall either:
  1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to an height totaling one foot higher than the depth number specified in feet on the flood insurance map or at least two feet if no depth number is specified; or
  2. Together with attendant utility and sanitary facilities, be completely floodproofed one foot above the depth number specified in the flood insurance map(s) referenced in ECC 15.630.010(A) so that any space below that depth number 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. If this method is used, compliance shall be certified by a registered professional engineer or architect as in ECC 15.630.040(H), Floodproofing.

- C. *Drainage paths.* All development shall include adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- D. *Recreational vehicles.* Recreational vehicles placed on sites within AO zones on the flood insurance map(s) shall either:
  - 1. Be on the site for fewer than 180 consecutive days;
  - 2. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - 3. Must meet the requirements of this section and the anchoring requirements for manufactured homes.

(Ord. 4803 § 7, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 11. Section 15.630.070 of the Ellensburg City Code, as last amended by Ordinance 4878, is hereby amended to read as follows:**

**15.630.070 Prohibited uses and activities.**

- A. *Critical facilities.* Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood) or to the height of the 500-year flood, whichever is higher. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

If not otherwise required by the city, locating of critical facilities within a frequently flooded area shall be subject to SEPA review and action.

- B. *Construction in floodways.* Located within areas of special flood hazard established in ECC 15.630.010(A) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

- 1. New construction requires certification by a licensed professional engineer. Encroachments, including new construction, substantial improvements, fill, and other development, are prohibited within designated floodways unless certified by a registered professional engineer. Such certification shall demonstrate through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge. ~~Small projects that are solely to protect or create fish habitat and designed by a qualified professional may be allowed without certification if the director determines that the project will not obstruct flood flows. Fish protection projects shall be reviewed on behalf of the city by a qualified professional in the field of hydraulics.~~

2. Residential construction and reconstruction prohibited. Construction and reconstruction of residential structures is prohibited within designated floodways, except for:
  - a. Repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and
  - b. Repairs, reconstruction or improvements to a structure, for which the cost does not exceed 50 percent of the market value of the structure either:
    - i. Before the repair or reconstruction is started; or
    - ii. If the structure has been damaged, and is being restored, before the damage occurred.

Improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions or to structures identified as historic places may be excluded from the calculation of the 50 percent.

3. Substantially damaged residences in floodway.
  - a. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the floodplain administrator may make a written request that the department of ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the department of ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the department of ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1); and
  - b. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to chapter 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:
    - i. There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
    - ii. A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
    - iii. Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

- iv. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
- v. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system.
- vi. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters.
- vii. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

4. If the provisions of subsection (B)(1) of this section are satisfied, or construction is allowed pursuant to subsection (B)(2) or (B)(3) of this section, all new construction and substantial improvements shall comply with all applicable requirements of ECC 15.630.040 and 15.630.050.

C. *Livestock sanctuary areas.* Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

(Ord. 4878 § 30, 2021; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 12. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance.

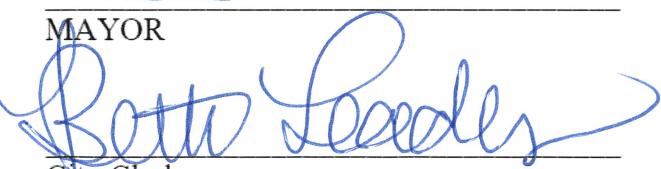
**Section 13. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 14. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 16<sup>th</sup> day of December 2024.

  
MAYOR

ATTEST:

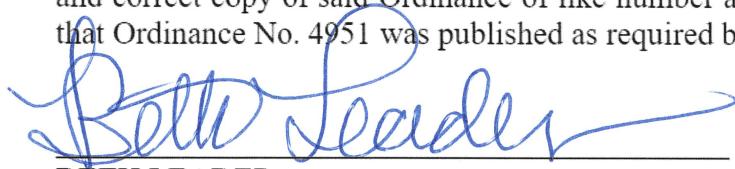
  
City Clerk

Approved as to form:

  
CITY ATTORNEY

Publish: 12-PA-24

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4951 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4951 was published as required by law.

  
BETH LEADER