

**APPENDIX A.2
EMC 19.30
FLOODPLAIN OVERLAY DISTRICTS AND REGULATIONS**

Sections:

- [30.010](#) **User guide.**
- [30.020](#) **Lands to which this chapter applies.**
- [30.030](#) **Floodway overlay zoning district.**
- [30.040](#) **Flood fringe overlay zoning districts.**
- [30.050](#) **Standards for flood hazard reduction.**
- [30.060](#) **Administration.**
- [30.070](#) **Nonconforming uses.**
- [30.080](#) **Variances.**
- [30.090](#) **Appeals.**

30.010 User guide.

Certain areas within the city are subject to periodic flooding of the Snohomish River and are also subject to regulations of the Federal Flood Insurance Program. These areas are indicated on the Everett zone map using overlay zones with the symbol “FFD” for flood fringe district and “FWD” for floodway district. If you have property located within the FFD or FWD overlay zones or want to know what the regulations for buildings and land uses are within these overlay zones, you should read this chapter. (Ord. 1671-89 (part), 1989.)

30.020 Lands to which this chapter applies.

A. Basis for Establishing the Areas of Special Flood Hazard. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city as identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Everett” dated October, 1977, or as of a date it may be revised, with accompanying Flood Insurance Maps is adopted by reference and declared to be part of this title. The Flood Insurance Study is on file at the city planning department.

B. Specifically, there will be three overlay zones:

1. Floodway district (FWD)
2. Rural flood fringe district (RFFD)
3. Urban flood fringe district (UFFD)

Floodway district, urban flood fringe district, and rural flood fringe district shall be shown and defined on maps which shall become a part of this chapter by adoption by the city council. Copies of the maps shall be maintained for inspection by the public in the planning department office.

C. The three overlay zone boundaries are:

1. Rural floodway district (RFWD) shall consist of that portion of the special flood hazard area lying east of the fifteen foot contour, south of Ravenna Street extended easterly to the Burlington Northern railroad tracks, thence northwesterly along the Burlington Northern tracks to the west line of Government Lot 5 extended southerly, thence north along the west line of Government Lot 5 to the Snohomish River.

2. Rural flood fringe district (RFFD) shall consist of those portions of the special flood hazard area described as follows:

- a. The area lying west of the fifteen foot contour south of Ravenna Street extended easterly to the Burlington Northern tracks;
- b. The area known as Maulsby Swamp north of 64th Street, east of the Burlington Northern right-of-way and to the top of the bluff;
- c. Jetty Island from the training dike to the line of extreme low tide;

e. The city sewer treatment facility on Smith Island located south of 12th Street N.E. and east of I-5.

3. Urban flood fringe district (UFFD) shall consist of all other special flood hazard areas. (Ord. 1671-89 (part), 1989.)

30.030 Floodway overlay zoning district.

The floodway overlay district shall apply to the area zoned A-1 FWD agricultural use floodway district.

A. Permitted Uses. The following uses have a low flood danger potential and, if not obstructing flood flows, shall be permitted within the floodway district; provided they are not prohibited by any other ordinance; and provided they do not require permanent structures, fill or storage of materials or equipment, and meet the requirements of Federal Regulations, 44 CFR, Part 60.3 and Section [30.050](#) of this title:

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild-crop harvesting;

2. Residential uses such as lawn, gardens, parking areas and play areas;

3. Private and public recreational uses including, but not limited to, ball fields, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat-launching ramps, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hiking and riding trails; and

4. Municipal facilities.

B. Prohibited Uses.

1. No structures (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses, shall be allowed which, acting alone or in combination with existing or future uses, shall unduly affect the capacity of the floodway as determined by the city.

2. Residential structures are prohibited in the floodway except for:

a. Repairs, reconstruction or improvements to an existing structure which does not increase the ground floor area.

b. Repairs, reconstruction or improvements to an existing structure, the cost of which does not exceed fifty percent of the market value of the structure either:

(1) Before the repair, reconstruction or improvement is started, or

(2) If the structure has been damaged and is being restored, before the damage occurred.

c. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty percent determination.

C. Conditional Uses. The following uses which involve structures (temporary or permanent), or fill in the floodway may be permitted if approved along with the shoreline permit or floodplain development permit when in compliance with subsection D of this section.

1. Uses or structures accessory to uses permitted in the floodway district;

2. Extraction of sand, gravel and other material;

3. Railroads, streets, bridges, utility transmission lines and pipelines; and

4. Kennels, stables and barns.

D. Conditional Use Standards.

1. Fills.

a. Any fill permitted must have a beneficial purpose, and the size of the fill must relate to achieving said purpose. A plan shall be submitted illustrating the uses proposed for the fill and its dimensions.

b. Such fill or other materials shall be protected against erosion by rip rap, vegetation cover or bulkheading.

2. Structures temporary or permanent, provided:
 - a. Structures shall have a low flood-damage potential.
 - b. When permitted, structures shall offer minimum obstruction to the flow of floodwaters:
 - i. By being parallel to the direction of the flood flow; and
 - ii. By locating on the same flood flow lines as adjoining structures.
 - c. Structures shall be firmly anchored to prevent flotation.
 - d. Electrical and hearing equipment shall be constructed two feet above the regulatory flood protection elevation.
3. As a minimum, special property uses shall satisfy the requirements of Federal Regulations Title 44 CFR, Part 60.3 and Section [30.050](#) of this title. (Ord. 2205-97 § 2, 1997; Ord. 1671-89 (part), 1989.)

30.040 Flood fringe overlay zoning districts.

- A. There shall be two flood fringe districts:
 1. The UFFD urban flood fringe district in areas designated urban in the shoreline master program and zoned M-2 UFFD heavy manufacturing, M-1 UFFD office and industrial park, M-S maritime services, and W-C waterfront commercial zone. The urban flood fringe district controls in conjunction with the shoreline master plan and the underlying zoning;
 2. The RFFD rural flood fringe district shall apply to floodplain fringe areas zoned A-1 RFFD agricultural use. The rural flood fringe district controls in conjunction with the shoreline master program and the underlying zoning.

B. Permitted Uses:

1. Urban Flood Fringe District. Any use consistent with the controlling shoreline master program, permitted in the underlying zones, and meeting the requirements of Federal Regulations 44 CFR, Part 60.3 and Section [30.050](#) of this title. Notwithstanding any language found in the city's billboard ordinance (Ord. No. 1258-86, as amended) as well as any other ordinance, policy or regulation, outdoor advertising sign structures shall be permitted only in accordance with the requirements of Chapter 47.42 RCW and Chapter 468-66 WAC on interstate highways;

2. Rural Flood Fringe District. Any use consistent with the controlling shoreline master program and that is a permitted use in the city's A-1 zone.

C. Development Standards for Permitted Uses in Urban and Rural Flood Fringe Districts.

1. The first flood of structures and outdoor storage areas shall be two feet above the regulatory flood protection elevation.

2. The elevation of the site shall be two feet above the regulatory flood protection elevation for a distance of fifteen feet beyond any structure in any direction.

3. All parking areas and driveways shall be no lower than one foot below the regulatory flood protection elevation.

4. Compliance with Federal Regulations Title 44 CFR, Part 60.3 and Section [30.050](#) of this title is required. (Ord. 1671-89 (part), 1989.)

30.050 Standards 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 shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited

to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials and Methods.

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

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

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

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

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

4. Subdivision Proposals.

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

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

5. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Subsection 30.060A1b), application for building permits shall be reviewed to assure that proposed construction will be reasonable safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above base flood elevation in these zones may result in higher insurance rates.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section [30.020](#), basis for establishing the areas of special flood hazard or subsection 30.060A1b, use of other base flood data, the following provisions are required:

1. Residential Construction.

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two feet above base flood elevation.

b. Fully enclosed areas below the lowest 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) 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.

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

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

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

a. Be floodproofed so that below a level which is two feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section 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 Section [30.060.A.1.c.2.](#)

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection 30.050B1b.

e. Applicants 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., as building constructed to the base flood level will be rated as one foot below that level.)

3. Manufactured Homes. All manufactured homes to be placed or substantially improved within zone A1-30, AH and AE as designated on the flood insurance rate map shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection A.1.b of this section.

C. Floodway Standards. Located within areas of special flood hazard established in Section [30.030.A](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

1. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and proposed development, shall not increase the water surface elevation of the base flood more than one foot at any point in the community.

2. If subsection C.1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section, standards for flood hazard reduction. (Ord. 1729-90 § 15, 1990; Ord. 1671-89 (part), 1989.)

30.060 Administration.

A. The planning director shall administer and enforce this chapter.

1. Duties of the planning director shall include, but not be limited to:

a. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section [30.020.A](#), basis for establishing the areas of special flood hazard, the planning director 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 Sections [30.050.B](#), specific standards, and [30.050.C](#), floodway standards.

b. Information to be Obtained and Maintained.

(1) Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection A.1.a of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures;

(a) Verify and record the actual elevation (in relation to mean sea level), and

(b) Maintain the floodproofing certifications required in subsection 30.060.C.3.

(3) Maintain for public inspection all records pertaining to the provisions of this title.

c. Alteration of Watercourses.

(1) Notify adjacent communities and the Washington State Departments of Fisheries and Wildlife prior to any alteration or relocation of a watercourse, and submit evidence of such notification to Federal Insurance Administration.

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

d. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the area of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section [30.090](#).

B. Permits Required. A shoreline permit or floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section [30.020.A](#). The permit shall be for all structures including manufactured homes, as set forth in Section [4.020.D](#), and for all development including fill and other activities, also as set forth in Section [4.020.D](#).

1. Shoreline Permit Required. All permitted and conditional uses within the floodway and flood fringe district which also meet the requirements for a shoreline permit shall obtain said permit, using the review processes as described in EMC Title [15](#), Local Project Review Procedures, prior to obtaining construction permits. Compliance with floodplain requirements shall be addressed within the scope of the shoreline permit process. The shoreline permit shall be obtained prior to application for building permits.

2. Construction or substantial improvement of any building or structure and substantial improvement or reconstruction after damage of nonconforming buildings in the floodway and flood fringe not under the jurisdiction of the shoreline permit process shall be required to obtain a floodplain development permit. Permitted and conditional uses shall be reviewed using review processes as described in EMC Title [15](#), Local Project Review Procedures, and when in compliance with this section, shall be issued a floodplain development permit prior to application for building or public works permits.

Normal maintenance and repair shall be exempt from obtaining a floodplain development permit.

3. Nothing in this chapter shall relieve the applicant from obtaining all required permits, licenses and approvals required for the proposed project under applicable federal, state and local provisions of law.

C. Application for Permit. Application for permits shall be made on forms furnished by the city 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:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section [30.050.B.2](#); and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Ord. 2538-01 §§ 18, 19, 2001; Ord. 1849-92 § 18, 1992; Ord. 1729-90 § 16, 1990; Ord. 1671-89 (part), 1989.)

30.070 Nonconforming uses.

A. Notwithstanding any provisions found in the city's zoning code, for purposes of this title any structure or the use of a structure or premises in the floodway or flood fringe which was lawful before the effective date of the ordinance codified in this title but which is not in conformity with the provisions of this title may be continued subject to the following conditions:

1. No such use shall be substantially (see definition of "substantial improvement" in Section [4.020.D](#)) improved except in conformance with Chapter 30.
2. If a nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent or more of its value before the damage occurred, it shall not be reconstructed except in conformity with the provisions of this section.
3. Residential structures in the floodway shall conform to requirements of Section [30.030.B.2](#). (Ord. 1671-89 (part), 1989.)

30.080 Variances.

A. The board of adjustment as established by the city shall hear and decide requests for variances from the requirements of this title. See Section [41.130](#) and EMC Title [15](#), Local Project Review Procedures.

B. The planning director shall report any variances to the Federal Insurance Administration upon request.

C. Basis for Issuance of Variances.

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
2. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notwithstanding the criteria set forth in Section [41.130](#) of this title, variances from the requirements of this section shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with existing local laws or ordinances.
5. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of

property, they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances.

6. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section [30.080.C.1](#), and otherwise complies with Sections [30.050.A.1](#) and [30.050.A.2](#) of the general standards.

7. Any applicant to whom a variance is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 2538-01 § 20, 2001; Ord. 1671-89 (part), 1989.)

30.090 Appeals.

A. Appeal of variances shall be as provided in Section [41.130.F.6.b](#).

B. The hearing examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the planning director in the enforcement or administration of this chapter. The action of the hearing examiner shall constitute a decision.

C. In reviewing such appeals, the hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other subsections of this chapter, and

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

6. The compatibility of the proposed use with existing and anticipated development;

7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

8. The safety of access to the property in times of flood for ordinary and emergency vehicles;

9. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges. (Ord. 1671-89 (part), 1989.)