

SECTION 3.10 FLOOD HAZARD OVERLAY ZONE

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SECTION 3.1010 PURPOSE AND OBJECTIVES

It is the purpose of this Flood Hazard Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the City of Gearhart Comprehensive Plan and Zoning Ordinance, the specific objectives of the FHO Zone are:

1. To combine with present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the City.
2. To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards.
3. To minimize the need for rescue and relief efforts associated with flooding.
4. To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions.
5. To minimize damage to public facilities and utilities located in flood hazard areas.
6. To ensure that potential home and business buyers are notified that property is in a flood area; and
7. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 3.1020 DEFINITIONS

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

1. Area of Shallow Flooding. Means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the pathos flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
2. Areas of Special Flood Hazard. The land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

3. Base Flood. A flood having a one percent chance of being equaled or exceeded in any given year.
4. BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.
5. Breakaway Walls. Means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
6. Coastal High Hazard Areas. Means an area of special flood hazard extending from offshore to the inland limit of primary frontal dune along an open coast and any other areas subject to high velocity wave action from storms or seismic sources. The area is designated on FIRM as Zone V1-30 or VE Zone. The area is designated on FIRM as Zone V1-30 or VE Zone.
7. CRITICAL FACILITY means 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, installations which produce, use or store hazardous materials or hazardous waste.
8. Development. Any man-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 or storage of equipment or materials located within the area of special flood hazard.
9. ELEVATED BUILDING means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
10. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - A. The overflow of inland or tidal waters and/or
 - B. The unusual and rapid accumulation or runoff of surface waters from any source.
11. Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
12. Flood Insurance Study. The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.
13. 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 ordinance found at Section 3.1050, 2A.

14. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent foundation and connected to the required utilities. For flood plain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.
15. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or for sale.
 - A. Existing Manufactured Home Park or Subdivision is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Gearhart’s floodplain management regulations (1978). The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.
16. Mean Sea Level. Means for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.
17. New Construction. Structures for which the “state of construction” commenced on or after the effective date of this amendment to the zoning ordinance.
18. Recreation Vehicle. A vehicle which 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 truck, and (4) primarily designed as temporary living quarters for camping, travel, or seasonal use.
19. Recreation Vehicle, Highway Ready. A recreation vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
20. Reinforced Pier. At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.
21. Special Flood Hazard (SFHA). Areas subject to inundation from the waters of a 100-year flood.
22. Start of Construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of 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 street and/or walkways; nor does it include excavation for basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

23. Structure. Means a walled and roofed building, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.
24. Substantial Damage. Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
25. Substantial Improvement. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
- A Before the improvement or repair is started, or
 - B If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either:
 - (1) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 - (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

SECTION 3.1030 GENERAL PROVISIONS.

This ordinance shall apply to all areas of special flood hazards (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the City of Gearhart.

1. Basis for Establishing the Areas of Special Flood Hazard.
The areas of special flood hazard identified by the Federal Insurance Administration is a scientific and engineering report entitled “The Flood Insurance Study for the City of Gearhart” dated June 20, 2018, with accompanying Flood Insurance Rate maps and any revisions thereto is hereby adopted by reference and declared to be a part of this ordinance. The flood Insurance Study is on file at Gearhart City Hall.
2. Compliance.
No structure or land shall hereafter be used, and no structure shall be located, extended converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
3. Warning and Disclaimer of Liability
The degree of flood protection required by this ordinance 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 man-made or natural causes. This ordinance does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Gearhart or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

1. Establishment of Building/Development Permit. A Building/Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.1030 (2). The permit shall be for all structures including manufactured homes as set forth in the “Definitions” and for all development including fill and other activities, also set forth in the “Definitions”. Application for a Building/Development Permit shall be made on forms furnished by the Building Official and shall specifically include the following information:
 - A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
 - B. Elevation in relation to mean sea level to which any structure has been flood proofed.
 - C. Certification by a registered professional engineer or architect that the flood proofing method for any nonresidential structure meets the flood proofing criteria in Section 3.1050 (2)(B).
 - D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
2. Duties and Responsibilities. The duties of the Building Official shall include, but not be limited to permit review:
 - A. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - B. Review all development permits to require that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
 - C. Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.
3. Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 3.1030 (2), Basis For Establishing The Areas Of Special Flood Hazard, the Building Official shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Sections 3.1050 (2)(A), Specific Standards, Residential construction, and Section 3.1050(2)(B), Specific Standards, Nonresidential Construction.
4. Information to be Obtained and Maintained by Building Official. Where base flood elevation data is provided through the Flood Insurance Study or Required as in Section 3.1040(3), the building official shall:
 - A. Verify 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.
 - B. For all new or substantially improved flood proofed structures:

- (1) Verify and record actual elevation (in relation to mean sea level), and
 - (2) Maintain the flood proofing certifications required in Section 3.1040(1)(C).
- C. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- D. In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to with-stand velocity waters.
5. Alteration of Water Courses. The Building Official shall:
 - A. Notify adjacent communities and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
 - B. Require that maintenance is provided within the altered or relocated portion of said watercourse, so that the flood carrying capacity is not diminished.
6. Interpretation of FIRM Boundaries. The Building Official shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretations to the City Council.
7. Variance Procedures
 - A. The administrative procedure for hearing a variance shall be as established in Section 9.060
 - B. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the criteria for granting variances in Section 9.030 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 - C. Variances may be issued for the rehabilitation or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the variance criteria and standards set forth in this section provided that the alteration will not preclude the structure's continued designation as a "historic structure."
 - D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - E. Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause.
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 9.030, or conflict with existing local laws or ordinances.

- F. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- G. 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 3.1040(7)(C) and otherwise complies with Sections 3.1050(1)(A), (B), and (C).
- H. When a variance is granted, the City Auditor shall give written notice that the structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation and that:
 - (1) The issuance of the variance to construct a structure below the base flood level will result in flood insurance rates that will be commensurate with the increased risk resulting from the reduced lowest floor elevation; and
 - (2) Such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions.

SECTION 3.1050 STANDARDS FOR FLOOD HAZARD REDUCTION

- 1. General Standards. In the Flood Hazard Overlay Zone (FHO Zone) the following provisions are required:
 - A. Anchoring
 - (1) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and 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.) A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.
 - B. Construction Materials and Methods
 - (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated to one-foot above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) 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 floodwater; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - a. The City Building Official shall be responsible for notifying the County Sanitarian when development is proposed within the area of special flood hazard that requires an on-site waste disposal (septic) system.
 - b. The County Sanitarian shall be responsible for carrying out the purpose of Section 3.1050 café (3).
 - c. Approval of an on-site waste disposal (septic) system by the County Sanitarian shall authorize the City Building Official to issue a building permit contingent on said sanitary conditions and other applicable regulations.

C. Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) 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 50 lots or 5 acres (whichever is less.)

D. Review of building permits.

Where elevation data is not available either through the Flood Insurance Study or from another administrative source (Section 3.1040 (3)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding.

The test of reasonableness is 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 grade in these zones may result in higher insurance rates.

2. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.1030 (2), Basis for Establishing the Areas of Special Flood Hazards or Section 3.1040 (3) Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited; they shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. 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:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

B. 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 one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

- (1) Be flood proofed so that the portion of the structure that lies below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- (3) 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, specification and plans. Such certifications shall be provided to the official as set forth in Section 3.1040 (4)(B)(2).
- (4) Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in Section 3.1050 (2)(A).
- (5) Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

C. Manufactured homes

- (1) All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE and securely anchored to an adequately anchored foundation system.
- (2) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 3.1050(A).
- (3) Electrical crossover connections shall be a minimum of 12 inches above BFE.

3. Coastal high hazard area.

Coastal high hazard areas (V zones) are located within the areas of special flood hazard established in Section 3.1030. These areas have special flood hazards associated with velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

- A. All new construction and substantial improvements in Zones V-1 to V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
 - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and
 - (2) The pile or column foundation and structure attached there is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
 - (3) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) of Section 3.1050(3)(A).
- B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantial improved structures in zones V1-V30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- C. All new construction shall be located landward of the reach of mean high tide.
- D. Provided that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
 - E. If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
 - F Prohibit the use of fill for structural support of buildings.
 - G Prohibit man-made alteration of sand dunes which would increase potential flood damage.
 - H All manufactured homes to be replaced or substantially improved within Zones V1-V30, V, and VE on the community's FIRM shall meet the standards of this section.
4. Areas of Shallow Flooding (AO Zone).
 Shallow flooding areas appear on the FIRM's as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet 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 these areas, the following provisions apply:
- A. New construction and substantial improvements of residential structures within AO Zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth marker specified.)
 - B. New construction and substantial improvement of nonresidential structures shall, either:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to or above the depth number specified in the FIRM (at least two feet if no depth number is specified.), or
 - (2) Together with attendant utility and sanitary facilities be completely flood proofed to or above this level so that any space below this level 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
 - C. Require adequate drainage paths around structures on slopes to guide floodwater around and away from proposed structures.

5. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (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. 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.

SECTION 3.1060

RESTRICTIONS AND PROHIBITED USES

1. Restrictions.

Restrictions regarding height, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the Flood Hazard Overlay Zone area.

2. Prohibited uses

It shall be unlawful to erect, alter, maintain or establish in a Flood Hazard Overlay Zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Article 10.