

~~INDEXED~~ IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
89-071 FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, OREGON
1989 FEB -1 PM 3:18
CHARLES STEPHEN
COUNTY CLERK

In the Matter of Amending Section 901 of Yamhill County Zoning Ordinance 310 to comply with the National Flood Insurance Program, and Declaring an Emergency)
)
) ORDINANCE 477
)
)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in regular session on February 1, 1989, Commissioners Ted Lopuszynski, David E. Bishop and Dennis L. Goecks being present.

WHEREAS, on October 1, 1986 the Federal Emergency Management Agency (FEMA) revised its rules for participation in the National Flood Insurance Program (NFIP); and

WHEREAS, on December 30, 1988 the county received official notice from FEMA that the county has until February 2, 1989 to make revisions in its floodplain management provisions or be suspended from participation in the NFIP; and

WHEREAS, if suspended from the NFIP, residents of unincorporated areas of the county could not obtain flood insurance, and federal agencies could not approve any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or other form of direct federal assistance, with limited exceptions, in unincorporated areas of Yamhill County; and

WHEREAS, the circumstances set forth herein constitute an emergency for purposes of ORS 197.610(2), allowing adoption with less than 45 days notice to the Department of Land Conservation and Development; and

WHEREAS, the Board has determined that adoption of the ordinance provisions in the attached exhibit labeled "Section 901 of Zoning Ordinance 310 as Revised February 1, 1989 by Ordinance 477" is in the best interests of the health, safety and welfare of Yamhill County citizens; NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD as follows:

Section 1. Section 901 of Yamhill County Zoning Ordinance 310 is hereby repealed and the attached exhibit labeled "Section 901 of Zoning Ordinance 310, as Revised February 1, 1989 by Ordinance 477" is adopted in lieu thereof.

Section 2. If any subsection contained in the attached exhibit is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and effect unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

Section 3. This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall become effective on passage.

DATED this 1st day of February, 1989.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

BY: *Elaine Pearcy*
Deputy ELAINE PEARCEY

FORM APPROVED BY:
Timothy S. Sadlo
TIMOTHY S. SADLO
Assistant County Counsel

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

DAVE BISHOP
Commissioner DAVID E. BISHOP

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

**Section 901 of Zoning Ordinance 310, as Revised February 1, 1989
by Ordinance 477**

901. FLOODPLAIN OVERLAY DISTRICT (FP)

901.01 Purpose.

The purpose of the FP Overlay District is to promote the public health, safety and general welfare, and to minimize public and private losses due to flood damage by establishing methods and provisions designed to recognize such hazards.

901.02 Area of Application

- A. The provisions of this Section shall apply to all floodplain areas in the County, and includes those areas of special flood hazard identified by the Federal Insurance Administration as contained in the flood insurance study for the County and shown in detail on the Flood Insurance Rate Map (FIRM), which study and map are is hereby adopted by reference and declared to be a part of this Section.
- B. The FP Overlay District shall be combined with at least one (1) underlying zoning district, and may be combined with any zoning district pursuant to this Ordinance. All property within the FP Overlay District shall be subject both to the provisions of this Section and to the provisions of the underlying zoning district. Nothing in this Section shall be construed as a waiver or suspension of the provisions of any underlying zoning district.

901.03 Use of Other Base Flood Data.

In areas of the FP Overlay District for which flood elevation data are not provided by the FIRM in accordance with Subsection 901.02, the applicant shall supply to the County other base flood elevation and floodway data or any other evidence available from governmental or private sources that is identified by the County as data appropriate to demonstrate compliance with the flood protection standards of this Section.

901.04 Floodplain Overlay District Use Provisions.

All uses of land and water provided for in the underlying zoning district may be permitted in the FP Overlay District, with the provisions that those uses shall require a floodplain development permit, and shall be subject to the provisions set forth in Subsection 901.05 through 901.14. The following uses shall not require a floodplain development permit unless the uses involve fill or are otherwise determined to constitute construction or development:

- A. Signs, markers, aids, etc., placed by a public agency to serve the public.
- B. Residential uses such as lawns, gardens, parking areas and play areas.
- C. Agricultural uses such as farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

901.05 Floodplain Development Permit Application.

Except as provided in Subsection 901.04, a floodplain development permit shall be obtained before the start of any construction or development within the FP Overlay District. In the event a variance is necessary for construction within the floodplain, such application shall be processed in conjunction with the floodplain permit application, and shall be subject to the provisions of National Flood Insurance Program in addition to applicable provisions of this Ordinance.

A floodplain development permit may be authorized pursuant to the Type B application procedure set forth in Section 1301 and subject to compliance with the review criteria listed in Subsections 901.06 through 901.10. The following information may be required to be provided by the applicant:

- A. Land elevation data expressed in feet above mean sea level, and topographic characteristics of the development site.
- B. Base flood level on the site expressed in feet above mean sea level.

- C. Plot plan, drawn to scale, showing location of existing and proposed structures, fill and other development; elevation of the lowest floor, including basement, of all structures; and locations and elevations of streets, water supply and sanitary facilities.
- D. Elevation, expressed in feet above mean sea level, to which any structure has been flood proofed.
- E. Certification by a registered professional engineer or architect that the proposed flood proofing methods for any nonresidential structure meet the flood proofing criteria in Subsection 901.08.
- F. Specific data regarding the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- G. Any additional statements, maps or information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this Ordinance.

901.06 Floodplain Development Permit Criteria.

Prior to issuance of a floodplain development permit, the applicant must demonstrate that:

- A. The proposed development conforms with the use provisions, standards and limitations of the underlying zoning district and other overlay district.
- B. The proposed development, if located within the floodway, satisfies the provisions of Subsection 901.09.
- C. The proposed development will not increase the water surface elevation of the base flood more than one (1) foot at any point.
- D. All applicable permits have been obtained from Federal, State or local governmental agencies, and all applicable National Flood Insurance Program requirements have been satisfied.

901.07 Floodplain Overlay District General Standards.

In all areas within the FP Overlay District the following standards shall apply:

- A. Manufactured Homes.
 - 1. Manufactured homes shall be anchored in accordance with Subsection 901.07B.
 - 2. No manufactured home park or mobile home subdivision shall be developed in the FP Overlay District.
 - 3. No manufactured home shall be placed in a floodway.

- B. Anchoring.
 - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure. Except in the case of a manufactured home, elevation of a structure on fill above the base flood level shall be considered to satisfy the anchoring requirement.
 - 2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors, subject to the following specifications:
 - a. Over-the-top ties shall be provided at each corner of the manufactured home, with two (2) additional ties per side at intermediate points, or with one (1) additional tie per side for manufactured homes less than fifty (50) feet in length.
 - b. Frame ties shall be provided at each corner of the manufactured home, with five (5) additional ties per side at intermediate points, or with four (4) additional ties per side for manufactured home less than fifty (50) feet in length.
 - c. All components of the anchoring system shall be capable of withstanding a force of 4,800 pounds per square inch.

- d. Any structure appurtenant to the manufactured home shall be similarly anchored.

C. Construction Materials Methods and Certification.

1. All new construction and substantial improvements to existing structures shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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.
4. All new construction and substantial improvements with fully enclosed areas below the floor and subject to flooding shall be designed to automatically equalize the hydrostatic forces to exterior walls by allowing entry and exit of floodwaters. A minimum of two openings having a total net area of not less than one square inch for every square foot of floor area subject to the flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade, and may be equipped with screens, louvers or other devices that automatically permit entry and exit of floodwaters.
5. All non residential construction shall include certification by a registered professional engineer or architect that the standards of this Subsection are satisfied based on their development and/or review of the structural design, specifications and plans.

D. Utilities and Services.

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 and located to minimize or eliminate flood water infiltration and contamination resulting from discharge of effluent consistent with the requirements of the State Department of Environmental Quality (DEQ).
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision Proposals.

No new subdivisions shall be allowed in floodway areas. New subdivisions in flood fringe areas shall be subject to the following:

1. All subdivision proposals shall be consistent with the requirement 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 be adequate drainage provided to reduce exposure to flood damage.
4. Base flood elevations in feet above mean sea level shall be provided for all subdivisions and other proposed developments which contain at least 50 lots or 5 acres, whichever is less, in the FP Overlay District.

F. Fills and Levees.

Except for approved relocation of a water course, no fill or levee shall extend into a floodway area. Fills or levees in a flood fringe area shall be subject to the following:

1. Fills shall consist only of natural materials such as earth or soil aggregate and including sand, gravel and rock, concrete and metal.

2. Any fill or levee must be shown to have a beneficial purpose an amount thereof to be no greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled or diked land will be put and the final dimensions of the proposed fill.
3. Such fill or levee shall be protected against erosion by vegetative cover, rip-rap, bulkheading or similar provisions.

901.08 Specific Standards for Areas where Base Flood Elevation Data are Available.

In the FP Overlay District where base flood elevation data have been provided, as set forth in Subsection 901.02 or 901.03, the following standards shall apply:

- A. For any new residential construction and substantial improvement of any residential structure, the lowest floor level shall be one foot above the base flood elevation. New construction and substantial improvement of any commercial, industrial or other nonresidential structures and accompanying utility and sanitary facilities shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or be subject to the following:
 1. Be floodproofed so that all portions of the structure below the base flood level are watertight, with walls that are substantially impermeable to the passage of water.
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- B. For the placement of a manufactured home the lowest floor level shall be one foot above the base flood elevation, and the above basement provisions shall be satisfied, if applicable. In addition, the mobile home must be elevated on a permanent foundation.

901.09 Floodway or Watercourse Development Provisions.

- A. The placement of any dwelling in the floodway shall be prohibited.
- B. Except those uses provided for in Subsection 901.04, all development in the floodway shall be prohibited unless certification is provided by a registered professional engineer or architect that the proposal will not result in any increase in flood levels during the occurrence of the base flood discharge.
- C. For any proposed alteration or relocation of a floodway, or watercourse a floodplain development permit shall be required, and approval of the permit shall be subject to the following additional requirements:
 - 1. Adjacent communities and the State Department of Land Conservation and Development shall be notified by the Director of any proposed alteration or relocation of a watercourse, and evidence of such notification shall be submitted to the Federal Insurance Administration.
 - 2. All appropriate State and Federal permits shall be obtained.
 - 3. It shall be the applicant's responsibility to maintain the altered or relocated portion of said watercourse so that its flood carrying capacity is not diminished.

901.10 Review of Permits in Generalized Floodplain Areas.

Where specific flood elevation data are not available, pursuant to Subsections 901.03 or 901.04, applications for floodplain development permits shall be reviewed to ensure that the proposed development will be reasonably safe from flooding or resistant to flood damage. In determining whether the proposed floodplain development is reasonably safe, historical data, high water marks, photographs of past flooding, etc. shall be utilized, where available. In addition to the applicable requirements of this Section, the following factors shall be considered when reviewing a floodplain development permit for any proposal in an area where specific flood elevation data are not available:

- A. The danger to life and property due to increased

flood heights or velocities caused by encroachments.

- B. The danger that materials may be swept onto other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions.
- D. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage. The importance of the services provided by the proposed facility to the community.
- E. The compatibility of the proposed use with existing and anticipated development. The requirements of the facility for a waterfront location.
- F. The relationship of the proposed use to the Comprehensive Plan and any floodplain management program of the area.
- G. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- H. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

901.11 Conditions of Approval.

In approving an application for a floodplain development permit, the decision-making body may impose such conditions as it deems appropriate to ensure the intent of this Section is carried out. Such conditions shall be reasonably related to the applicable criteria and standards set forth in Subsections 901.08 through 901.10.

901.12 General Requirements.

Any floodplain development permit authorized pursuant to this Ordinance shall be subject to the following additional requirements:

- A. An authorized floodplain development permit is not personal to the applicant and shall be deemed to run with the land, provided the subsequent owner or developer adheres to the specific proposal originally approved and complies with conditions of approval.

- B. A floodplain development permit involving construction shall become null and void one (1) year from the date it is granted unless substantial construction has taken place. The Director may extend the permit for an additional period one (1) year periods upon receipt of a written request for extension from the applicant demonstrating good cause for the delay and provided that the request to extend the permit is received by the Director prior to the expiration date of the permit. In the event that a permit expires prior to renewal, the Director may require a new application fee.
- C. Where base flood elevation data has been provided, as set forth in Subsection 901.02 or 901.03, the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures must be obtained from the applicant and the elevation, together with information regarding whether the structure contains a basement, must be recorded on the building permit and or the Elevation Certificate provided by FEMA.
- D. For all new or substantially improved floodproofed structures, the Planning Director must verify and record the actual elevation of the structure (in relation to mean sea level) and maintain the flood proofing certifications required in Subsection 901.07 (C)(5).
- E. All records pertaining to the provisions of this Section are to be maintained for public inspection.

901.13 Appeals.

Appeal of any decision made pursuant to this Section shall be as provided in Section 1404 of this Ordinance.

901.14 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 methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Section does not imply that areas outside of the FP Overlay District or uses permitted within such district will be free from flooding or flood damages. This Section shall not create liability on the part of Yamhill County or any

officer or employee thereof, for any flood damages that result from reliance on this Section or any decision lawfully made thereunder.

901.15 Map Revisions.

Floodplain/floodway maps may be revised in accordance with provisions of the National Flood Insurance Program outlined in the Federal Register 44 CFR Part 70, upon approval of the Federal Emergency Management Agency.

901.16 Denial of Flood Insurance Coverage.

In the event that the County finds a violation of floodplain ordinance provisions or a violation of other National Flood Insurance Program requirements, a declaration shall be submitted to the Federal Emergency Management Agency, according to the provisions of 44 CFR Part 70, notifying them of the violation(s), and resulting in the denial of floodplain insurance eligibility for the property in violation.

901.17 Rate Criteria and Notice.

In the event that proposed construction is not elevated at least two feet above grade in floodplain areas where elevation data is not available, higher insurance rates may result.

Applicants floodproofing non-residential buildings are hereby notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level.