

ORDINANCE NO. 4888

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE, CHAPTER 20.04, ARTICLE 11; DEVELOPMENT CODE, SPECIAL PURPOSE DISTRICTS, FLOODPLAIN DISTRICT REGULATIONS.

WHEREAS, the Federal Emergency Management Agency (FEMA) has directed the City of Albany to amend the Floodplain District regulations to correct a number of deficiencies with the ordinance to assure compliance with National Flood Insurance Program (NFIP) regulations;

WHEREAS, the proposed amendments will allow the City continued eligibility in the National Flood Insurance Program;

WHEREAS the Planning Commission of the City of Albany has held such hearings as are required by law and the ordinances of this city and based upon findings and evidence produced at hearings has recommended approval to the City Council; and

WHEREAS, the Council of the City of Albany has duly advertised as required by law and has had a public hearing concerning the ordinance amendment.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. EXHIBIT "A"

Exhibit "A" which contains Albany Municipal Code, Chapter 20.04, Development Code, Article 11, Special Purpose Districts, Floodplain District Regulations, Sections 11.010 through 11.080 is hereby adopted by the Albany City Council

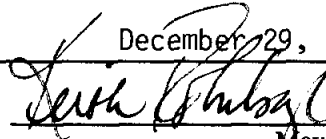
Section 2. COPY FILED

A copy of this ordinance amendment shall be filed in the Office of the City Recorder of the City of Albany and the amended ordinance and date of this action shall be noted in the City of Albany Development Code.

Passed by the Council: November 29, 1989

Approved by the Mayor: November 30, 1989

Effective Date: December 29, 1989



Mayor

ATTEST:



City Recorder

FLOODPLAIN DISTRICT REGULATIONS

- 11.010 General Provisions. The floodplain district regulations apply at a minimum to those City floodplains, floodways, and base flood elevations defined by the Federal Insurance Administration (FIA) in the Flood Insurance Study for Albany (~~April 3, 1987~~ **March 16, 1989**), for Benton County (August 5, 1986), and the preliminary study for Linn County (July 18, 1985). In addition, the City Council may adopt by resolution more current studies or boundary information approved by the Federal Emergency Management Agency (FEMA).

Precise floodplain district boundaries may be difficult to determine from the maps referred to above due to their large scale and lack of site specific studies. In such instances, the Director may apply FIA base flood elevations to topographic maps or site surveys in order to determine actual boundaries. In the absence of FIA base flood elevations, the Director may utilize other sources of floodplain and floodway data to determine base flood elevations and boundaries. However; when elevation data is not available through FIA or another authoritative source and the development consists of 4 or more lots, 4 or more structures, or 4 or more acres; the applicant shall generate and have certified by a registered engineer the base flood elevation. Any decision of the Director regarding a determination of a base flood elevation or interpretation of a district boundary may be appealed in accordance with Article 4.140 of this Code.

All developments proposed within the floodplain district shall be subject to the provisions of Site Plan Review, floodplain district regulations, and if applicable, **Greenway Use Permit regulations.** "Development," as defined in Article 22, includes cuts and fill, residential and non-residential construction, manufactured housing, land divisions, and other forms of development.

- 11.015 State and Federal Approval. City approval of all development permits within the floodplain shall be conditioned upon receipt of any required state or federal permits. Required state and federal permits include but are not limited to:

- (1) ~~Removal and fill~~ Permits and associated wetland development regulations administered by the Oregon Division of State Lands.
- (2) Permits administered by the Army Corps of Engineers.
- (3) ~~Greenway Conditional Use Permits issued by the Rivers Program Division of the Oregon Department of Transportation, and;~~
- (3) All discharge permits covered by the U.S. Environmental Protection Agency and Oregon Department of Environmental Quality regulations.

- 11.020 Floodway Restrictions. No development shall be allowed in any floodway except where the Approval Authority finds that the development will not result in any increase in flood levels during the occurrence of a base flood. Such finding shall be based upon evidence certified by a registered professional engineer and documentation that one of the following three criteria have been met:

- (1) The development does not involve the construction of permanent or habitable structures.
- (2) The development is a public or private park or is a recreational use.
- (3) The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

If a floodway boundary is not designated on an adopted City or FEMA map available to the City, the floodway boundary can be estimated from available data. Proposed development along such estimated floodway boundary shall not result in an increase of the base flood level greater than one foot as certified by a registered professional engineer.

- 11.030 Alteration of a Watercourse. Any alterations of a watercourse shall comply with site plan review criteria and be designed, constructed, and maintained to retain or improve the flood carrying capacity of the watercourse including, where possible, the containment of base year flood waters on open space lands. The Director shall notify ~~affected~~ **affected** any adjacent jurisdictions, and **appropriate state and federal agencies prior to which may be affected by an alteration of to** a watercourse.

11.040 **Information Requirements.** In addition to the information required for site plan approval or for the particular type of development proposal (such as a subdivision, Conditional Use, etc.), any development proposed in the floodplain district shall include the following information:

- (1) Elevations of the original contours.
- (2) Final elevations of proposed fills and excavations.
- (3) Base flood elevations of the site.
- (4) Location of any designated floodway and base flood boundary.
- (5) Location of any designated wetlands and/or wildlife habitat.
- (6) Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
- (7) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- (8) If floodproofing is required, the proposed description and elevation of floodproofing.

11.050 **Floodplain Review.** In addition to the Site Plan review criteria of 13.040, development within the floodplain district shall be approved only upon determining that the following criteria have been satisfied:

GENERAL APPROVAL

- (1) Demonstration can be made that the proposed development of floodplain lands is needed to provide buildable lands for the proposed use which cannot be satisfied with a lesser amount of floodplain encroachment.
- (2) The proposed site or building will not, during potential future flooding, be so inundated by water as to result in injury to residents or serious damage to property or utilities.
- (3) Any development will not change the flow of surface water during future flooding so as to endanger residents or property in the area. (Special engineering reports on the changes in water flow and potential damage which may be caused as a result of proposed activities may be required by the City.)
- (4) It shall be demonstrated that fill is necessary to allow an approved development activity to occur and that the amount of fill proposed is the minimum necessary to raise roadways to a level of at least one foot below the base year flood and to raise floor levels of habitable structures to at least one foot above the base-year flood.

LAND DIVISION STANDARDS

- (5) All land division proposals shall be consistent with the need to minimize flood damage.
- (6) All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (7) All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (8) Any lot created for development purposes must have adequate area created outside of the Floodplain District to maintain a buildable site area meeting the minimum requirements of this Code.

DESIGN STANDARDS

- (9) The lowest floor, including basement, of any proposed structure (including manufactured homes and non-residential structures) shall be placed at least one (1) foot above the base year flood as determined by the latest Federal Insurance Study.
- (10) Any public or private street providing access to a residential development shall have a roadway crown elevation not more than one foot below the base flood elevation.

NOTE: *Exceptions to (4), (8), (9), and (10) above can be considered as part of a Type III Variance as long as applicable FEMA standards for elevation, flood hazard reduction, and floodproofing have been met or exceeded and the request is for roadways, Planned Unit Developments, additions to existing structures, agriculture dwellings, or other non-habitable*

structures, or non-habitable portions of new structures such as garages or other accessory buildings.

- (11) Problems of ponding, poor drainage, high water table, soil instability, or exposure to other flood hazards have been identified and mitigation proposed. Evaluations and mitigating measures shall be based on a base year flood and wet season characteristics. Drainage improvements shall adequately remove ponding and runoff waters from and through the development site without adversely affecting other developed areas or potential development sites.
- (12) If adjacent to a designated floodway or wetlands, the development shall be designed to use the natural amenities of the floodway or wetlands (such amenities include open space, scenic views and vegetation) in accordance with an approved site plan.
- (13) Any possible impacts on fish and wildlife habitat have been considered and appropriate protection measures included in project design.

CONSTRUCTION STANDARDS

- (14) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (15) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (16) 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.
- (17) All fill is engineered and compacted to City standards. Fill areas for structures shall have engineering certification that loading rates are adequate for the proposed structures.
- ~~(12) All new or replacement utility lines, with the exception of storm sewers, shall be designed and constructed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into the flood waters.~~
- ~~(13) All public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed to minimize damage from flooding.~~
- ~~(14) Approval may be granted for new construction, including substantial improvements and manufactured homes to locate lower than one foot above the base flood level provided a Type III Variance is obtained as per Section 11.050(6). Furthermore, these improvements shall be:~~
- (18) All manufactured homes shall be on an adequately anchored, permanent foundation and 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, the use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional details).
- (19) All new construction and substantial improvements shall be (1) anchored to prevent flotation, collapse, or lateral movement and shall be installed or constructed using materials, methods, and practices that minimize flood damage. and;
- ~~(2) certified by a registered professional engineer or architect as meeting or exceeding FEMA floodproofing standards as per Section 11.060.~~

DOCUMENTATION

- (20) Property owners or developers shall file with the City a certificate, whose format is acceptable to FEMA, and approved by the local community permit official, a registered surveyor or professional engineer, architect or surveyor stating: 1) the actual elevation (in relation to mean sea level) of the lowest floor including basement of all new or substantially improved structures; 2) the elevation of any floodproofing; and 3) whether or not the structure contains a basement.
- (21) If flood proofing hazard reduction methods are is required as per Section 11.060, the property owners or developers shall file with the City certification by a registered professional engineer or architect that the floodproofing hazard reduction methods meet or exceed FEMA standards.

NOTE: *The information required in (20) and (21) above shall be maintained by the Director and made available to the public.*

- (22) All land divisions or Planned Unit Developments in the floodplain district shall show the location of the base-year flood contour line followed by the date the flood elevation was established. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: "Development of property within the 100-year floodplain as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City."

11.060 **Flood Hazard Reduction proofing Standards** All flood hazard reduction measures are required, as applicable, and proofing must be certified as required in 11.050 (20) and (21) above to at least meet the following standards:

- (1) For residential structures, fully enclosed areas below the lowest floor and lower than 1 foot above the base flood level must meet or exceed the following minimum 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.
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (2) Non-habitable construction and substantial improvements meeting the exceptions listed in 11.050 (9) and the certification requirements of 11.050 (20) & (21) can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the base flood elevation if the structure:
 - (a) Is floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - (b) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (c) The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.

11.070 **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 as a result of failure of manmade structures and/or natural causes. This ordinance does not imply that the land outside the area 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 Albany or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

11.080 **Storage of Material and Equipment.** No storage of material or equipment is allowed within floodway areas. Storage within floodplain areas shall be approved only upon determination that the following criteria have been satisfied:

- (1) Site Plan approval has been received.
- (2) There is no storage or processing of material that are, in time of flooding, buoyant, flammable, toxic, explosive or otherwise could be injurious to human, animal, or plant life.
- (3) The material or equipment is not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.