

ORDINANCE NO. 804

AN ORDINANCE AMENDING ORDINANCE NO. 740 AND 745, CHANGING THE RULES AFFECTING DEVELOPMENT IN FLOOD PRONE LOCATIONS; AND DECLARING AN EMERGENCY

WHEREAS, it has been determined that a number of legislative changes are needed to the text of the Flood Hazard Protection Ordinance and the Land Development and Planning Ordinance in order to assure that the City's regulations comply with the requirements of the National Flood Insurance Program; and

WHEREAS, the Canby Planning Commission, after providing appropriate public notice, conducted a public hearing on March 9, 1987, during which neither opponents nor proponents came forward to present testimony on these changes; and

WHEREAS, the Canby Planning Commission made the necessary findings of fact and recommended that the City Council adopt these Ordinance amendments.

NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The text of Chapter 15.12 of the Canby Municipal Code, the Flood Hazard Protection Ordinance, is hereby amended as follows:

A. Section 15.12.010 is amended to read:

PURPOSE. The purpose of this ordinance is to minimize flood losses by provisions designed to:

A. Restrict or prohibit construction practices which are dangerous to health, safety or property in times of flood or cause increased flood heights or velocities.

B. Require that developments vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

B. Section 15.12.020 is amended to read:

DEFINITIONS. For the purpose of this ordinance, the following words and phrases are defined:

A. "Base Flood" means the flood having a one percent chance of being equaled or exceeding in any given year.

B. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging,

filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

C. "Flood Insurance Rate Map" (FIRM) means the most recent official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

D. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

E. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

F. "Habitable Floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

G. "MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when 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.

H. "New Construction" means structures for which the start of construction commenced on or after May 4, 1984.

I. "Start of Construction" means the first placement of permanent construction of a structure, other than a mobile home, on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages

or sheas not occupied as dwelling units or not as part of the main structure. For a structure, other than a mobile home, without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, start of construction means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile homes subdivisions, start of construction is the date on which the mobile homes is to be affixed, including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities is completed.

J. "Structure" means a walled and roofed building or mobile home that is principally aboveground.

K. 1. "Substantial Improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure as determined by the County Assessor, either:

a. Before the improvement or repair is started; or

b. If the structure has been damaged and is being repaired, before the damage occurred. For the purpose of this definition substantial improvement is considered to occur with 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.

2. The term does not, however, include either:

a. 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

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

C. Section 15.12.030 is amended to read:

The Flood Insurance Study and Flood Insurance Rate Maps, as prepared by the Federal Emergency Management Agency, are hereby adopted by reference and declared to be a part of this ordinance. Copies of the current maps and studies will be kept on file in the Public Works Department.

D. Section 15.12.040 is amended to read:

DEVELOPMENT PERMIT REQUIRED. A development permit shall be obtained before construction or development begins within an area of special flood hazard established on the Flood Insurance Rate Map. The permit shall be for all structures including manufactured housing and for all other development including fill.

E. Section 15.12.050 is amended to read:

DESIGNATION OF THE BUILDING OFFICIAL. The Building Official is hereby appointed to administer and implement the Flood Hazard Protection Ordinance by granting or denying development permit applications in accordance with its provisions.

F. Section 15.12.060 is amended to read:

DUTIES AND RESPONSIBILITIES OF THE BUILDING OFFICIAL.

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required. (This may include the Clackamas County Department of Transportation & Development, The Division of State Lands, The Oregon Department of Geology & Mineral Industries, The State Water Resources Department, The State Department of Fish & Wildlife, The U.S. Army Corps of Engineers, and The Federal Emergency Management Agency.)
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of this ordinance are met.

B. Use of other Base Flood Data. When base flood elevation data has not been provided in accordance with this ordinance, 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 this ordinance.

C. Information to be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, regardless of whether the structure contains a basement.

2. For all new or substantially improved flood-proofed structures:

a. Verify and record the actual elevation (in relation to mean seal level).

b. Maintain floodproofing certifications.

c. Maintain for public inspection all records pertaining to the provisions of this ordinance.

D. Alteration of Watercourses.

1. Notify adjacent communities and the appropriate county, state and federal agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the 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. Proof in the form of a written report by a registered professional engineer or architect, to the satisfaction of the administration of the Federal Emergency Management Agency may be required.

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to 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 a reasonable opportunity to appeal the interpretation as provided in this ordinance.

G. Section 15.12.070 is amended to read:

Variance and Appeal Procedures. The Planning Commission is established as an appeal board and shall hear and decide appeals and requests for variances from the requirements of this ordinance. The Planning Commission shall utilize the standards, criteria, and procedures delineated in Chapter 16.88 of the Muncipal Code in

considering variance applications. Appeals of staff decisions or interpretations shall be handled as prescribed in Title 16 of the Muncipal Code and/or specified in the regulation of the National Flood Insurance Program.

H. Section 15.12.080 is amended to read:

Provisions for flood hazard protection - generally:

In all areas of special flood hazards the standards of this ordinance are required to be met.

I. Section 15.12.090 is amended to read:

Anchoring.

A. 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).

J. Section 15.12.100 is not amended. The previous wording shall remain unchanged.

K. Section 15.12.110 is amended to read:

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.

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

D. 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.

L. Section 15.12.120 is hereby deleted, in its entirety, from the code.

M. Section 15.12.130 and 15.12.140 are not amended. Their previous wording shall remain unchanged.

N. Section 15.12.150 is amended to read:

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above base flood elevation.

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

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 floodwaters.

O. Section 15.12.160 is amended to read :

A. New Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. be floodproofed so that 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;and

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, specifications and plans. Such certification shall be provided to the official as set forth in this chapter.

B. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor described in subsection "A" above.

P. Section 15.12.170 is amended to read:

Manufactured Housing Units.

A. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on flood insurance rate maps shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 15.12.090.

B. For new mobile home parks and mobile home subdivisions; for expansions of existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, construction or improvement has commenced; and for units not placed in a mobile home park or mobile home subdivision, require that:

1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the unit will be one foot above the base flood level;
2. Adequate surface drainage and access for a hauler are provided; and
3. In the instance of elevation on pilings, that:
  - a. Lots are large enough to permit steps;
  - b. Piling foundations are placed in stable soil no more than 10 feet apart; and
  - c. Reinforcement is provided for pilings more than 6 feet above the ground level.

Q. Section 15.12.180 is amended to read:

Floodways. Located within areas of special flood hazard established in Section 15.12.030 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:

A. Encroachments, including fill, new construction, substantial improvements, and other development are hereby prohibited, unless certification by a registered professional engineer or architect is provided



demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 15.12.080 through 15.12.170; and

C. The placement of any manufactured housing units except in an existing mobile home subdivision is prohibited.

Section 2. The text of Chapter 16.04 of the Canby Municipal Code, the Land Development and Planning Ordinance, is hereby amended as follows:

A. Section 16.04.385 is added to the Code reading:

"Lowest Floor" means 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 in Chapter 16.40 (Hazard Overlay Zone).

B. Section 16.04.387 is added to the Code reading:

"Manufactured Home" and "Manufactured Housing Unit" mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when 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.

Section 3. The text of Chapter 16.40 of the Canby Municipal Code, the Land Development and Planning Ordinance, is hereby amended to read:

A. Section 16.40.014 is added to the Code reading:

16.40.140 Flood Insurance Maps. The Flood Insurance Rate Map and the Floodway Map dated June 15, 1984, as presently adopted, and as may be amended, by the Federal Emergency Management Agency are hereby adopted by reference and declared to be part of this ordinance. Copies of these

maps shall be kept on file with the official zoning map of the City of Canby.

B. Section 16.40.016 is added to the Code reading:

16.40.016 Floodways, Alteration of Watercourse. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the Planning Commission shall work closely with the City Building Official to assure that encroachments into floodways are minimized and the requirements of the Flood Hazard Protection Ordinance (Chapter 15.12 of the Canby Municipal Code) are met.

C. Section 16.40.018 is added to the Code reading:

16.40.018 Subdivisions, Partitions, and Lot Line Adjustments. In approving applications for subdivisions, land partitions, and lot line adjustments in "H" Overlay Zones, it must be found that the proposed development will:

A. Be consistent with the need to minimize flood damage, based upon accurate base flood elevation data.

B. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

C. Have adequate drainage to reduce exposure to flood damage.

D. Section 16.40.050 is added to the Code reading:

Special Conditions Relating to Mobile Homes and Travel Trailers. All manufactured housing units to be placed or substantially improved within the areas designated A-1 through A-30, AH or AE, on the Flood Insurance Rate Map of the City of Canby, as now drawn or as may be amended shall be:

A. Elevated on a permanent foundation such that the lowest floor of the unit is a minimum of one foot above the base flood elevation; and

B. Anchored to a foundation system in compliance with the standards established by the Federal Emergency Management Agency.

Section 4. The text of Chapter 16.88 of the Canby Municipal Code, the Land Development and Planning Ordinance is hereby amended to read:

A. Subsection 16.88.150 (E) is added to the Code reading:

Variance to Requirements of Hazard Overlay (H) Zone. 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 a low damage potential, complies with all other variance criteria, and otherwise meets the requirements of the Hazard Overlay Zone.

Section 5. Inasmuch as this Ordinance is intended to protect the public from flood hazards and to assure the continued availability of Federal Flood Insurance, an emergency is hereby declared to exist and this Ordinance shall, therefore, take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on September 16, 1987; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday October 7, 1987, commencing after the hour of 7:30 p.m., at the Council Meeting Chambers at the Canby City Hall in Canby, Oregon.


  
Marilyn K. Perkett, City Recorder

PASSED on final reading by the Canby City Council at a regular meeting thereof held on the 7th day of October, 1987, by the following vote:

YEAS 6 NAYS 0

  
William F. Pulver, Mayor

ATTEST:

  
Marilyn K. Perkett, City Recorder

subject to modifications, the recommendation of the Planning Commission. The City Council may question those individuals who were a party to the public hearing conducted by the Planning commission if the commission's record appears to be lacking sufficient information to allow for a decision by the City Council. The council shall hear arguments based solely on the record of the commission.

- FINDINGS OF FACT -

The Planning Commission approved the following findings of fact in recommending that the City Council adopt these Ordinance amendments:

I. All of the proposed amendments are legislative in nature, affecting large areas of the community in general, rather than specific sites.

II. A public hearing was conducted on the proposed amendments on March 9, 1987, after proper public notice as required in the Canby Municipal code. No testimony was received from either proponents or opponents.

**A. AMENDMENTS RELATED TO DEVELOPMENT IN FLOOD PRONE LOCATIONS.**

1. These amendments were prepared in response to a memo from the Federal Emergency Management Agency (FEMA) on December 26, 1986. Approval of the City's regulations affecting flood prone areas is required by FEMA as a condition of the City's continued participation in the Federal Flood Insurance Program. Copies of the proposed amendments were forwarded to FEMA for review and no comments were returned prior to the Planning Commission Hearing.

2. Canby's Comprehensive Plan contains several sections dealing with this regulation of flood prone areas. The following quotes apply:

From the Land Use Element:

POLICY NO. 4: CANBY SHALL LIMIT DEVELOPMENT IN AREAS IDENTIFIED AS HAVING AN UNACCEPTABLE LEVEL OF RISK BECAUSE OF NATURAL HAZARDS.

IMPLEMENTATION MEASURES:

- a) Continue to strictly enforce the provisions of the "H" Overlay Zone.
- b) Continue to restrict the creation of additional building lots in areas designated by this overlay zoning. Encourage developers to utilize cluster design methods which concentrate development in those areas which are protected from hazardous conditions.

c) Continue to assist the owners of property designated by this overlay zoning to assure that they are allowed a reasonable and acceptable use of their land.

d) Continue to require proof in the form of an affidavit signed by a licensed professional (e.g., architect, engineer, or surveyor, as the case may warrant) that any development proposed in an area designated by this overlay zoning will not result in any undue hazard for the occupants or users of that development nor in any unusual public expense in the event of flooding, landslide, or other natural disaster.

e) Continue to utilize Chapter 70 of the Uniform Building Code to assure adequate safety for developments on steep slopes.

POLICY NO. 5: CANBY SHALL UTILIZE THE LAND USE MAP AS THE BASIS OF ZONING AND OTHER PLANNING OR PUBLIC FACILITY DECISIONS.

IMPLEMENTATION MEASURES:

Use categories and descriptions of their respective development characteristics are as follows:

FLOOD PRONE OR STEEP SLOPE:

Distinguished as the area requiring special development regulation because of a history of flooding, or because of steep slopes on the perimeter of floodplains. City R-1-H zoning conforms with this category.

From The Environmental Concerns Element:

POLICY NO. 2-H: CANBY SHALL CONTINUE TO PARTICIPATE IN AND SHALL ACTIVELY SUPPORT THE FEDERAL FLOOD INSURANCE PROGRAM.

IMPLEMENTATION MEASURES:

a) Continue to enforce the provisions of the "H" overlay zone which restricts development in areas of identified flood hazards.

b) In reviewing development proposals, prevent the creation of additional building sites in hazardous locations, encourage the clustering of development in the most appropriate locations, and require proof from a registered surveyor or engineer that proposed buildings will have habitable floor elevations at least one foot above the flood levels identified in the engineer's mapping.

3. There is a public need for the adoption of the proposed amendments because:

- a. they will allow for the continued availability of Federal Flood Insurance;
  - b. they will provide for greater protection of the public, including both lives and property, by reducing flood hazards; and
  - c. they will increase the clarity and specificity of the requirements of the Ordinance.
4. These changes will better meet the public need than other changes which might reasonably be expected. The Planning Commission carefully reviewed the wording of the proposed amendments and made changes as necessary to assure that the public need will best be met.
  5. The primary purpose of these changes is to preserve and protect the health, safety, and general welfare of the residents of the community.

I would recommend that the City Council adopt the Planning Commission's findings of fact in this matter and add one more point addressing the statewide Planning Goals.

RECOMMENDATION:

After review of the record in this matter, approve Ordinance #804 on first reading, adopt the Planning Commission's findings of fact with the addition of the following:

"The adoption of these changes to City requirements for development of flood prone areas will have no significant impact on the enforcement or interpretation of City Codes or the Comprehensive Plan which have been found to be in compliance with the statewide Planning Goals. Goals dealing with Citizen Involvement, Land Use Planning, Open Spaces, Water Quality, Natural Hazards, Housing, and Public Facilities all will be furthered by the adoption of this Ordinance".