ORDINANCE NO. 1276
INTRODUCED BY ALL COMMISSIONERS

AN ORDINANCE AMENDING CHAPTER 16.88 AND ADDING CHAPTER 16.242 OF THE WARRENTON MUNICIPAL CODE TO CLARIFY REGULATIONS ON FLOODPLAIN DEVELOPMENT PERMITS

WHEREAS, the City Commission recognizes that public health, safety, and general welfare necessitates the reasonable regulation of floodplain development within the City of Warrenton; and

WHEREAS, the current City code does not currently provide clear and objective standards for floodplain development permitting, leading to confusion across the community;

NOW THEREFORE, the City of Warrenton ordains as follows:

Section 1. Section 16.88.020(B) of the Warrenton Municipal Code is hereby amended as follows:

B. Basis for Establishing the Areas of Special Flood Hazards. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas," dated September 17, 2010, with accompanying flood insurance maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Warrenton City Hall. The best available information for flood hazard area identification shall be the basis for regulation until a new FIRM is issued.

Section 2. Section 16.88.030 and Section 16.88.040 of the Warrenton Municipal Code are hereby repealed.

Section 3. A new Chapter 16.242 is hereby added to the Warrenton Municipal Code as follows:

Chapter 16.242 FLOODPLAIN DEVELOPMENT PERMITS

16.242.010 Purpose.

The purpose of this chapter is to regulate the use of areas of special flood hazard as established in Chapter 16.88 to promote public health, safety, and general welfare, and

to minimize public and private losses due to flood conditions. FEMA's Flood Insurance Rate Map (FIRM) designates flood areas in Warrenton subject to requirements of the National Flood Insurance Program (NFIP).

16.242.020 Establishment of Floodplain Development Permit.

A. A floodplain development permit, in addition to any regular building permit and/or grading permit that may be required, shall be obtained before construction or development begins in any area of special flood hazard established in Chapter 16.88. The permit shall be required for all structures and buildings and for all development as set forth in Chapter 16.12.

B. Applications for a floodplain development permit shall be made on forms furnished by the Planning Department and shall be processed as a Type I procedure. Applications shall include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Description of proposed development.
2. Size and location of proposed development (site plan required).
3. Base flood elevation at the site.
4. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
5. Elevation to which floodproofing has occurred (if any).
6. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 16.88.040.
7. Elevation in relation to mean sea level of floodproofing in any structure.
8. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
9. FEMA/NFIP elevation certificate completed by a land surveyor, engineer, or architect who is authorized by law to certify elevation information (for all new structures and substantial improvements unless otherwise exempt from this requirement by state or federal law).

16.242.030 Duties and Responsibilities.

A. The duties of the Planning Director or their designee shall include but not be limited to:

1. Review all building permits to determine that the permit requirements and conditions of this chapter have been satisfied.

2. 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.
3. 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.

B. Use of Other Base Flood Data. When base flood elevation data is not available either through a Flood Insurance Study, FIRM, or from another authoritative source, applications for floodplain development permits shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. The Planning Director or their designee shall obtain, review, and reasonably utilize available data to administer this chapter. The test of reasonableness is a local judgment and includes but is not limited to the use of historical data, high water marks, and photographs of past flooding. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

C. Information to be Obtained and Maintained.
1. Where base flood elevation data is provided through a Flood Insurance Study, FIRM, or required as in this chapter, the Planning Director or their designee shall verify, obtain, and record the actual elevation (in relation to mean sea level) of the lowest flood (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether the structure contains a basement or not.
2. For all new or substantially improved floodproofed structures where base flood elevation data is provided through a Flood Insurance Study, FIRM, or as required in this chapter, the Planning Director or their designee shall:
    a. Verify and record the actual elevation (in relation to mean sea level); and
    b. Maintain the floodproofing certifications required in this chapter.
3. The Planning Director or their designee shall maintain for public inspection all records pertaining to the provisions of this chapter.
4. 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 to withstand velocity waters.

D. Interpretation of FIRM Boundaries. Where needed, the Planning Director or their designee shall be authorized to interpret the exact location of the boundaries of the areas of special flood hazards 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 to the Planning Commission consistent with this chapter.

E. Alteration of Watercourses. The Planning Director or their designee shall:
   1. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
   2. Require that a maintenance plan is provided within the altered or relocated portion of said watercourse which assures the flood carrying capacity is not diminished.

16.242.040 Standards for Flood Hazard Reduction.

In all areas of special flood hazard established in Chapter 16.88, the standards outlined in this section shall apply.

A. Anchoring.
   1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
   2. All manufactured homes shall 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 and frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)
   3. 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 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 elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities.
   1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwater into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharge from the systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment of them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality (DEQ).

D. Manufactured Dwelling Park and Subdivision Proposals.
1. All manufactured dwelling park and subdivision proposals shall be consistent with the need to minimize flood damage.
2. All manufactured dwelling park and subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
3. All manufactured dwelling park and 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 an authoritative source, it shall be generated for manufactured dwelling park and subdivision proposals and other proposed developments which contain at least 50 lots or five acres.

E. Residential Construction.
1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.
2. 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 be either certified by a registered professional engineer or architect or 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 they permit the automatic entry and exit of floodwaters.

F. Nonresidential Construction.
1. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of one foot above the

base flood elevation or, together with attendant utility and sanitary facilities, shall meet the following criteria:

a. Below the base flood level, the structure is floodproofed and watertight with walls substantially impermeable to the passage of water.

b. The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

c. A registered professional engineer or architect certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this chapter based on their development and/or review of the structural design, specification, and plans. Such certifications shall be provided to the building official as set forth in Chapter 16.244.

d. Nonresidential structures that are elevated and not floodproofed must meet the same standards for space below the lowest floor as described in Section 16.242.040(E)(2).

2. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level. For example, a building floodproofed to the base flood level will be rated as one foot below.

3. Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the area of special flood hazard. Construction of new critical facilities shall be permissible within the area of special flood hazard if no feasible alternative site is available. Critical facilities constructed within the area of special flood hazard shall have the lowest floor elevated three feet above base flood elevation 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 base flood elevation shall be provided to all critical facilities to the extent possible.

G. Manufactured Homes/Dwellings.

1. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated to a minimum 18 inches above the base flood elevation and securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement. Electrical crossover connections shall be a minimum of 12 inches above base flood elevation.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:
    a. The lowest floor of the manufactured home is elevated to a minimum of 18 inches (46 cm) above the base flood elevation; or
    b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

H. Recreational vehicles placed on sites for longer than 180 consecutive days are required to either:
    1. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
    2. Meet the elevation and anchoring requirements for manufactured homes.

I. Flood Hazard, Park and Open Space Dedications. Where fill and/or development is allowed within or adjacent to the area of special flood hazard outside the zero-foot rise floodplain, and the Comprehensive Plan designates the subject floodplain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway adjoining or within the floodplain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the City's adopted Transportation System Plan for trails, pedestrian, and bikeway, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact and shall be consistent with Chapter 16.136.

J. Temporary Encroachments in the Floodway for Bridge Construction and Repair.
    1. Temporary encroachments in the floodway for bridge construction and repair shall receive a temporary use permit prior to the issuance of a floodplain development permit or other applicable permits.
    2. The temporary use permit shall state the number of days the structure or other development will be on the site. If a longer period is required, a new permit shall be issued.

3. A flood warning system for the project should be in place to allow equipment to be evacuated from the site and placed outside the floodplain.
4. Placement of equipment in the floodway should be restricted to only equipment which is necessary for the purposes of the project. All other accessory equipment and temporary structures (i.e., construction trailers) should be restricted from the floodway. Structures should be placed on site so that flood damage is minimized. Anchoring the construction trailers in case of evacuation is not practical.

K. Coastal High Hazard Areas. Located within areas of special flood hazard established in Section 16.88.020 are coastal high hazard areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

1. All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
   a. Below the base flood elevation, the structure is floodproofed and watertight with walls substantially impermeable to the passage of water.
   b. The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
2. 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 this section.
3. 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 substantially improved structures in Zones V1-30, VE, and V, and whether such structures contain a basement or not. The Planning Director or their designee shall maintain a record of all such information.
4. All new construction shall be located landward of the reach of mean high tide.
5. Provide 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 latticework, 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:

a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood.

b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage because of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

6. If breakaway walls are utilized, such enclosed space shall be useable solely for parking vehicles, building access, or storage. Such space shall not be used for human habitation.

7. Prohibit the use of fill for structural support of buildings.

8. Prohibit man-made alteration of sand dunes which would increase potential flood damage.

16.242.050 Variances.

A. Variances to the requirements of this chapter shall be processed as a Type III procedure and be issued or denied in accordance with this section and Section 16.242.070.

B. Conditions for Variances.

1. 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. As the lot size increases the technical justification required for issuing the variance increases.

2. 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 procedures set

forth in this section provided that the alteration will not preclude the structure's continued designation as a "historic structure."

3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
    a. A showing of good and sufficient cause;
    b. A determination that the failure to grant the variance would result in exceptional hardship to the applicant;
    c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
    d. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances as interpreted in the NFIP are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic, or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
7. 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 and otherwise complies with general standards.

C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

16.242.060 Appeals.

Appeals will be conducted in accordance with Section 16.208.030 of this Code. The Planning Department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

16.242.070 Variance and Appeal Criteria.

A. While considering variances or appeals to the provisions of this chapter, the hearings body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger to life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Section 4. Severability. If any provision, section, phrase, or word of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does in affect other provisions that can be given effect without the invalid provision or application.

Section 5. This ordinance shall take full force and effect 30 days after its adoption by the Commission of the City of Warrenton.

First Reading: November 12, 2024
Second Reading: November 26, 2024

ADOPTED by the City Commission of the City of Warrenton, Oregon this 26th day of November, 2024.

APPROVED:

Henry A. Balensifer III, Mayor

ATTEST:

~~Dawne Shaw, CMC, City Recorder~~

Hanna Bentley Deputy City Recorder