

ORDINANCE NO. 259-16

AN ORDINANCE ADOPTING FLOOD HAZARD MANAGEMENT AMENDMENTS TO THE COMPREHENSIVE LAND USE PLAN AND DEVELOPMENT CODE OF THE CITY OF DURHAM, OREGON.

Whereas, the Federal Emergency Management Agency ("FEMA") requires that the City restrict development activity in the floodplain if City residents are to be entitled to purchase flood insurance, and

Whereas, FEMA now informs the City that such restrictions as were adopted in Ordinance 219-04 and its amendments 221-05 and 244-08 must be changed so as to conform to the current state of federal law, and only by adopting these changes and the revised flood insurance rate maps (FIRM) shall City residents retain their entitlement to purchase flood insurance, and

Whereas, the City Planning Commission has considered amendments to the Comprehensive Land Use Plan and Development Code; and, having conducted a public hearing on the matter on September 6, 2016, unanimously approved a recommendation to City Council that said amendments be adopted; and

Whereas, the City Council conducted a public hearing on September 27, 2016 based on the Planning Commission recommendation; and deliberated on the proposed amendments; now therefore,

The City of Durham, Oregon ordains as follows:

Section 1. DURHAM COMPREHENSIVE PLAN

- A. Amend the Comprehensive Plan Natural Resources Section 1.E. FLOODPLAIN by deleting outdated information and adding underlined text as follows:

E. FLOODPLAIN

The 100-year floodplain is mapped on Figure 2 in the Appendix. Figure 2 generally conforms to Metro Title 3 maps adopted on 6/18/98 by Metro Ordinance No. 98-730C. Title 3 quadrangle maps for Durham include the area to the south along the Tualatin River (Section 2s1w24) and the area to the west along Fanno Creek and the Tualatin River (Section 2s1w13). In lieu of more precise information, the Title 3 maps will serve to establish generally accepted boundaries for the Flood Management Area and Water Quality Resource Areas.

A more detailed description of the 100 year floodplain and floodway for the Tualatin River and Fanno Creek is designated in the most current Flood Insurance Rate Map (FIRM) for the City Of Durham, Oregon developed by the Federal Emergency Management Agency (FEMA). and February 1996 Flood Inundation for the Fanno Creek area is available in the data compiled for the FANNO CREEK WATERSHED FLOOD INSURANCE RESTUDY 100-Year & 500-Year Floodplain, FEMA Floodway, and Base Flood Elevations (Final Draft 10/1/2000). This information will be used as a

basis for establishing the floodplain elevation for sites in the northwest section of the city.

- B. Amend the Comprehensive Plan Natural Resources Goals and Policies Section 1.A. POLICIES TO PROTECT LIFE AND PROPERTY FROM NATURAL DISASTERS AND HAZARDS by deleting outdated information and adding the following underlined text as follows:**

1. POLICIES TO PROTECT LIFE AND PROPERTY FROM NATURAL DISASTERS AND HAZARDS.

- A. The City shall adopt the Flood Insurance Study published for the City of Durham through the National Flood Insurance Program, as administered by the Federal Emergency Management Agency (FEMA). This study includes maps and measurements pertaining to the floodway and 100-year floodplain in Durham.

No new residential development will be allowed within lands designated as "floodway" according to the Flood Insurance Study (FIS), or as may be updated by Metro Title 3 maps adopted on 6/18/98, or the Fanno Creek Watershed Flood Insurance Restudy 100-Year & 500-Year Floodplain, or the most current FEMA Floodway and Base Flood Elevations (Final Draft 10/1/2000). Any new residential development proposed within the 100-year "flood fringe", as designated by the aforementioned sources and verified by a topographic survey provided by a licensed surveyor, shall be flood-proofed as stated in the Uniform Building Code. ~~The flood-proofing measures shall be approved by the Design Review Board.~~

Section 2. DURHAM DEVELOPMENT CODE

- A. Amend Table 2.18 Natural Resources NRO District to add a cross reference statement that requires conformance with Section 7.2 Flood Management Area provisions in the event of a proposed development in the NRO District as underlined:

TABLE 2.18 ZONING DISTRICT AND USES

NRO Any use permitted in the underlying zoning district, but only as part of a Planned Development, and subject to the provisions of Section 7.2 Flood Management Area, as may be applicable.

- B. Replace DDC Section 7.2.1 Scope with:

The City of Durham has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper management of special flood hazard areas. [FEMA 44 CFR Part 59.22]

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance

Study for the City of Durham dated November 4, 2016 with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this section. The Flood Insurance Study is on file at Durham City Hall. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with these regulations.

C. Amend DDC Section 7.2.1.1 as follows:

Retain, “An application for development in the floodplain shall be reviewed and decided by a Type 1 process but for those aspects of the development that are within the jurisdiction of the Building Official.”

ADD Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all structures including manufactured homes, as set forth in the “DEFINITIONS,” and for all development including fill and other activities, also as set forth in the “DEFINITIONS.”

Application for Development Permit

Application for a development permit shall be made on forms furnished by the City of Durham and may 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) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level of floodproofing in any structure;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

D. Add a new subsection DDC 7.2.1.4 Permit Review Criteria as follows:

DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the local administrator shall include, but not be limited to:

Permit Review

- (1) Review all development permits to determine that the permit requirements 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.
- (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 are met.

- (4) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

E. Amend to Section 7.2.2 Public DISCLOSURE Notice by adding:

If any section clause, sentence, or phrase of these provisions is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this section.

These provisions do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Durham, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

F. Amend and Add to 7.2.10 Manufactured Home Dwelling and RV as follows:

Amend 7.2.10 Manufactured Homes and RV. A manufactured dwelling to be placed or substantially improved within Zones A1 – 30, AH and AE shall be elevated on a permanent foundation such that the lowest finished floor of the manufactured dwelling is a minimum of 18 to 20 inches above the base flood elevation and shall be securely anchored to an adequately anchored foundation system in accordance with this chapter.

Add:

- (1) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with subsection 7.2.9;
- (2) The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;
- (3) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. 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), and;
- (4) Electrical crossover connections shall be a minimum of 12 inches above BFE.

Amend Section 7.2.10.1: A recreational vehicle placed on a site shall ~~either be never be present in a floodplain for more than 180 consecutive days, or, and~~ shall be fully licensed for highway use...

G. Add the following new Section 7.2.14 as follows:

Small Accessory Structures

Relief from elevation or floodproofing requirements may be granted for small accessory structures that are:

- (1) Less than 200 square feet and do not exceed one story;
- (2) Not temperature controlled;
- (3) Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;
- (4) Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation
- (5) Located and constructed to have low damage potential;
- (6) Constructed with materials resistant to flood damage;
- (7) Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- (8) Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or
 - i. provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
 - iii. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- (9) Have electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

H. Amend DDC Section 12 Definitions by amending or adding the following definitions:

“MANUFACTURED ~~Home~~-DWELLING” means a structure, transportable in one of more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured dwelling does not include a “recreational vehicle”.

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

Remove the existing definition for "FLOOD MANAGEMENT AREA" because it is the same as the definition for "Area of Special Flood Hazard" in the code and is not a typical FEMA term.

"FLOOD or FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from 1) the overflow of inland or tidal waters and/or 2) the unusual and rapid accumulation of runoff of surface waters from any source.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, minim, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located with the area of special flood hazard. (Replace the existing 12.2.5 "DEVELOPMENT which is only a general reference to the CWS definition)

"SUBSTANTIAL IMPROVEMENT" means any ~~repair~~, rehabilitation, addition or other improvement of structure , the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement , rehabilitation or addition, or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications as identified by the City and that are the minimum necessary to assure safe living conditions nor any alteration of a structure listed on the National Register of Historic Places or state equivalent.

Section 3. Ordinance No. 259-16 shall be effective October 26, 2016.

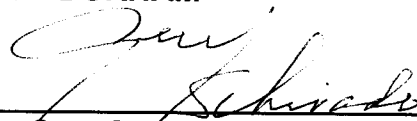
PASSED AND ADOPTED by the City of Durham, Oregon this 25th day of October 2016.

First Reading: September 27, 2016

Second Reading: October 25, 2016

CITY OF DURHAM

By:



Gery Schirado, Mayor

ATTEST:



Linda Tate, City Administrator / Recorder