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SECTION 900 – OVERLAY DISTRICTS

901. FLOODPLAIN OVERLAY DISTRICT (FP)

[Last Amended 10/17/2013; Ord.884]

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 areas of special flood hazards in the county identified as the FP Overlay District , and includes those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas” dated March 2, 2010, with accompanying Flood Insurance Rate Map (FIRM), which study and map are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRM are on file at the Yamhill County Department of Planning and Development, McMinnville, Oregon. [Amended 2/24/2010; Ord.851]
- 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 subsection 901.10 and 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. Residential uses such as lawns, gardens, parking areas and play areas.

- B. Agricultural uses such as farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry sod farming and wild crop harvesting. [Amended 2/24/2010; Ord.851]

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, including manufactured homes, 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 subsection 901.18.

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. In addition to the notification requirements of Section 1402, written notice of the request and action taken will be sent to the Oregon Department of Fish and Wildlife and the Department of Land Conservation and Development. The following information shall be required to be provided by the applicant:

- A. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
- B. Elevation, expressed in feet above mean sea level, to which any structure has been floodproofed.
- C. Certification by a registered professional engineer or architect that the proposed floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 901.08.
- D. Specific data regarding the extent to which any watercourse will be altered or relocated as a result of the proposed development. [Amended 2/24/2010; Ord.851]

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 permit requirements and conditions of this section and the use provisions, standards and limitations of the underlying zoning district and other overlay district. [Amended 2/24/2010; Ord.851]
- 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.
- E. The proposed development is consistent with policies j. and k. of the Comprehensive Plan, as amended by ordinance 471.

For convenience, Policies j. and k. of the Comprehensive Plan, as amended by Ordinance 471 are reprinted here.

j. It is the policy of Yamhill County to protect riparian vegetation from damage that may result from land use applications for development that is otherwise permitted outright or conditionally under county zoning regulations. To achieve this goal, Yamhill County will review land use applications for development in riparian areas in an effort to mitigate or prevent damage to riparian vegetation that might result from the development. For purposes of this policy, "riparian areas" refers to areas within 100 feet measured horizontally from the ordinary high water line of streams identified as "Fish Habitat" in the comprehensive plan inventory (Natural Resource Conservation Plan, Yamhill County, Oregon, May 1979 -U.S.D.A. - Soil Conservation Services), that are not regulated under the Forest Practices Act. (Ord 471)

k. It is county policy that land use management practices and nonstructural solutions to problems of erosion and flooding are preferred to structural solutions. Water erosion control structures, including riprap and fill, should be reviewed by the appropriate state permitting authority to insure that they are necessary, are designed to incorporate vegetation where possible, and designed to minimize adverse impacts on water currents, erosion, and accretion patterns.

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 901.07 B.
2. No manufactured home park or mobile home subdivision shall be developed in the FP Overlay District.

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 provide 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 floodproofed nonresidential construction shall include certification by a registered professional engineer or architect that the standards of this subsection subsection 901.08 (A) are satisfied based on their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the Yamhill County Planning Director.

[Amended 2/24/2010; Ord.851; 10/17/13; Ord 884]

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 Oregon 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 consistent with the DEQ.

[Amended 2/24/2010; Ord.851]

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 or eliminate flood damage.
[Amended 2/24/2010; Ord.851]
3. All subdivision proposals shall have 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 and therefore 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. No fill or levee shall cause additional flood waters on adjacent land.
[Amended 10/17/2013; Ord.884]

901.08 Specified 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 a minimum of one (1) 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 together with attendant utility and sanitary facilities be subject to the following:
[Amended 10/17/2013; Ord.884]

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 bottom of the longitudinal chassis frame beam shall be one (1) foot above the base flood elevation, and the provisions of section 901.07(C)(4) shall be satisfied, if applicable. In addition, the mobile home must be elevated on a permanent foundation and is subject to the anchoring requirements in subsection 901.07 (B). [Amended 10/17/2013; Ord.884]
- C. Nonresidential structures that are elevated, not floodproofed, shall meet the same standards for space below the lowest floor as described in Section 901.07(C). [Added 10/17/2013; Ord.884]
- D. Recreational vehicles placed on sites are required to either:
1. Be on the site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type security devices, and has no permanently attached additions.
[Amended 2/24/2010; Ord.851]

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, including substantial improvements, in the floodway shall be prohibited unless certification is provided by a registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in conformance with standard engineering practice that the proposal will not result in any increase in flood levels during the occurrence of the base flood discharge.
[Amended 10/17/2013; Ord.884]
- C. For any proposed alteration of a watercourse a floodplain development permit shall be required, and approval of the permit shall be subject to the following additional requirements:
1. Adjacent communities, the State Department of Land Conservation and Development, and other appropriate state and federal agencies 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.
[Amended 10/17/2013; Ord.884]

901.10 Review of Permits in Generalized Floodplain Areas.

Where specific flood elevation data are not available, pursuant to subsections 901.03 and 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 flooding or erosion damage. [Amended 10/17/2013; Ord.884]
- B. The danger that materials may be swept onto other lands or downstream to the injury of others.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner. [Amended 10/17/2013; Ord.884]
- 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 necessity to the facility of a waterfront location, where applicable and the compatibility of the proposed use with existing and anticipated development. [Amended 10/17/2013; Ord.884]
- 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 and the effects of wave action, if applicable, expected at the site. [Amended 10/17/2013; Ord.884]
- I. The cost 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. [Added 10/17/2013; Ord.884]

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 180 days from the date it is granted unless substantial construction has taken place. The Director may extend the permit for an additional 180 days if there have been no revisions to the FIRM or FIS, 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. [Amended 10/17/2013; Ord.884]
- 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 basements, 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 FEMA's current Elevation Certificate form. [Amended 10/17/2013; Ord.884]
- 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 floodproofing certifications required in subsection 901.07(C)(5).
- E. All records pertaining 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 CRF 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 CRF 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 the lowest floor of proposed construction is not elevated at least two feet above the highest adjacent grade in floodplain areas where elevation data is not available, higher insurance rates may result. [Amended 2/24/2010; Ord.851]

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

901.18 Floodplain Variance Criteria

A variance to this Section may be authorized, pursuant to the Type B application procedure set forth in Section 1301 and upon consideration of all technical evaluations, all relevant factors, applicable standards specified in other sections of this ordinance, and the factors specifically listed in subsection 901.10.

901.19 Conditions for Variances

- A. 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, providing the factors listed in subsection 901.10 have been fully considered. As the lot sizes increase, the technical justification required for issuing the variance increases.
- B. Variances may be issued for reconstruction, 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.
- C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and 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.
- F. Variances as interpreted by the National Flood Insurance Program 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.
- G. Variances may be issued for nonresidential structures 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 except 901.19 (A), and otherwise complies with subsection 901.07(B), (C) and (D).

- H. 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.

[901.19 Added 10/17/2013; Ord.884]

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