

ORDINANCE NO. 814

AN ORDINANCE REPEALING ORDINANCE 810, AMENDING STAYTON MUNICIPAL CODE TITLE 17, SECTION 17.04.100 "DEFINITIONS; SECTION 17.12.450 "VARIANCES"; SECTION 17.16.780 "FLOODPLAIN (FP) OVERLAY DISTRICT; AND SECTION 17.16.790 "FLOOD CONTROL REGULATIONS (NATIONAL FLOOD INSURANCE PROGRAM)" AND DECLARING AN EMERGENCY.

WHEREAS, the City of Stayton adopted Ordinance No. 775 (codified as amendments to SMC 17.16.790) a flood damage prevention ordinance;

WHEREAS, Federal Emergency Management Agency (FEMA) has requested changes to Stayton's floodplain overlay ordinance and flood control regulations to ensure consistency with the minimum requirements for participation in the National Flood Insurance Program (NFIP);

WHEREAS, Department of Land Conservation and Development has reviewed the ordinance and recommended changes;

WHEREAS, the purpose of the City of Stayton Land Use and Development Code is to promote public health, safety and general welfare, and minimize public and private loss due to flood conditions in specific areas by provisions designed;

WHEREAS, the proposed Ordinance complies with all applicable provisions of State Planning Goals, statutes, and administrative rules, and with the city's Comprehensive Plan;

WHEREAS, the City of Stayton adopted Ordinance 810 on January 18, 2000 to address the National Flood Insurance Program requirements imposed by FEMA;

WHEREAS, the City's adoption of Ordinance 810 was subsequently appealed to the Land Use Board of Appeals (LUBA), and the City agreed to conduct further review and render a new decision with respect to the code amendments proposed by Ordinance 810; and,

WHEREAS, it is appropriate that an emergency be declared as to the enactment of this Ordinance so that it is in full force and effect immediately from and after its adoption by the Stayton City Council in order to meet the LUBA deadline of May 23, 2000.

NOW THEREFORE, the Stayton City Council does ordain as follows:

SECTION 1. Stayton Municipal Code Section 17.04.100 "DEFINITIONS" is hereby amended to include c & d;

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or

- b. If the structure has been damaged and was being restored before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur 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 however, include either:

- c. Any project for improvement of structure to correct existing violations of state or local health, sanitary code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- d. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 2. Stayton Municipal Code Section 17.16.780.3 is hereby amended to read:

3. FLOODWAY. Except as specifically permitted in SMC Section 17.16.790.16, no development shall be allowed in the floodway, as defined on the Federal Emergency Management Agency (FEMA) flood maps developed for the City.

SECTION 3. Stayton Municipal Code Section 17.16.790.6 is hereby amended to read:

6. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. 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 Stayton” dated March 1, 1979, with accompanying flood insurance maps, and any subsequent updates, is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study is on file at Stayton City Hall, 362 N. Third Avenue, Stayton, Oregon 97383.

For lands annexed into the City of Stayton from Marion County, the City of Stayton hereby adopts by reference and declared a part of this ordinance the Marion County Flood Insurance Rate Maps, Floodway maps, and Flood Insurance Study for those annexed lands including January 19, 2000 and any subsequent updates.

SECTION 4. Stayton Municipal Code Section 17.16.790.11.a.3) is hereby amended to read:

- 3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the provisions of Section 17.16.790.16 are met.

SECTION 5. Stayton Municipal Code Section 17.16.790.11.b. is hereby amended to read:

- b. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 17.16.790.6 “Basis for Establishing the Areas of Special Flood Hazard”, the building official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer sections 17.16.790.14.a. “Specific Standards, Residential Construction”, 17.16.790.14.b. “Specific Standards, Nonresidential Construction”, 17.16.790.15. “Encroachments” and 17.16.790.16 “Floodways”.

SECTION 6. Stayton Municipal Code Section 17.16.790.16 is hereby amended to read:

16. FLOODWAYS. Located within areas of special flood hazard established in Section 17.16.790.6 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - a. The following development is allowed within the floodway:
 - 1) Protection of property and structures during a flooding emergency declared by the City of Stayton. Such protection shall be the minimum necessary to protect property and structures. A subsequent Development Permit shall be required for the protection work done during the flooding emergency, and shall demonstrate compliance with all applicable provisions of SMC 17.16.790.
 - 2) Signs, markers, aids, etc., placed by a public agency to serve the public.
 - 3) Pervious driveways, streets, and parking lots for existing uses where no alteration of the topography will occur.
 - 4) Maintenance of existing structures, (such as flood control structures, fish and wildlife structures, public facilities, public utilities, and other permitted structures), provided no alteration of the topography occurs.
 - 5) Public facilities and public utilities, provided a Development Permit demonstrating compliance with all applicable provisions of SMC 17.16.790 is obtained.
 - b. Any development not listed in SMC 17.16.790.16.a. above shall not be allowed except by variance, per SMC 17.120.450.6.b.2) and all applicable provisions of SMC 17.16.790.

- c. Any development allowed within the floodway, except for development listed in SMC 17.16.790.16.a.2), 3), and 4) above, must demonstrate through certification by a registered professional engineer that such development shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 7. Stayton Municipal Code Section 17.12.450.6.b.2) is hereby amended to delete Section 17.12.450.6.b.2)b) and subsequent paragraphs re-lettered.

SECTION 8. Upon adoption by the Stayton City Council and the Mayor's signing, this Ordinance shall become immediately effective.

ADOPTED BY THE STAYTON CITY COUNCIL this 17th day of May 2000.

CITY OF STAYTON

Date:

May 19, 2000

By:

Henry A. Porter
Henry A. Porter, Mayor

Date:

May 19, 2000

By:

Chris Childs
Chris Childs, Acting City Administrator

APPROVED AS TO FORM:

David A. Rhoten
David A. Rhoten, City Attorney