

ORDINANCE 861

CITY OF LACEY

AN ORDINANCE MODIFYING THE CITY'S REGULATIONS REGARDING THE PREVENTION OF FLOOD DAMAGE AND CONSTRUCTION WITHIN FLOOD HAZARD AREAS BY REPEALING CHAPTER 14.34 OF THE LACEY MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 14.34 TO SAID CODE.

WHEREAS, the City Council by passage of Ordinance 584 made findings establishing the necessity of regulating construction with flood hazard areas and established such regulations by the enactment of Chapter 14.34 of the Lacey Municipal Code, and

WHEREAS, since the passage of Ordinance 584, the National Flood Insurance Program regulations have been substantially modified and further requirements and changes have been enacted by the Washington State Legislature making necessary substantial changes in Chapter 14.34 of the Lacey Municipal Code containing the city's flood hazard prevention regulations, and

WHEREAS, it will facilitate review by state and federal agencies and use by staff and the public to repeal Chapter 14.34 in its entirety and enact a new comprehensive chapter, now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Chapter 14.34 of the Lacey Municipal Code is hereby repealed.

Section 2. There is hereby enacted a new Chapter 14.34 of the Lacey Municipal Code to read as follows:

14.34.010. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

- A. "Appeal" means a request for a review of the Building Official's interpretation of any provision of this chapter or a request for a variance.
- B. "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.
- C. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
- D. "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "100 Year Flood".
- E. "Development" means any man-made 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.

- F. "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.
- G. "Flood Insurance Rate Map (FIRM)" means the 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.
- H. "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.
- I. "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.
- J. "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.

- K. "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.
- L. "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.
- M. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this chapter.
- N. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. 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 a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

O. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

P. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is 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:

1. 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

2. Any alternation of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

14.34.020. Lands to which this chapter applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Lacey.

14.34.030. 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 Lacey," dated January 1980, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at City Hall, 420 College Street S.E.

14.34.040. Compliance required and penalties for non-compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements

shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

14.34.050. Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

14.34.060. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

14.34.070. Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does 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 chapter shall not create liability on the part of the City of Lacey, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

14.34.080. Establishment of development permit. A development permit shall be obtain before construction or development begins within any area of special flood hazard established in Section 14.34.030. The permit shall be for all structures including manufactured homes, as set forth in the "definitions," and for all other development including fill and other activities, also as set forth in the "definitions." Application for a development permit shall be made on forms furnished by the Building Official 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:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect

that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 14.34.130(B); and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

14.34.090. Designation of the Building Official. The Building Official is hereby appointed to administer and implement this chapter by granting or by denying development permit applications in accordance with its provisions.

14.34.100. Duties and Responsibilities of the Building Official.

Duties of the Building Official shall include, but not be limited to:

A. Permit review:

1. Review all development permits to determine that the permit requirements of this chapter 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 of Section 14.34.140(A) are met.

B. Use of other base flood data: When base flood elevation data has not been provided in accordance with Section 14.34.030, 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 14.34.130 and 14.34.140.

C. Information to be obtained and maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study or required in Section 14.34.100(B), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level), and
 - b. Maintain the floodproofing certifications required in Section 14.34.080(C).
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify communities and the Department of Ecology 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.

- 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 Chapter 2.40.

14.34.110. Variance Procedures. Variations from the terms of this chapter will be issued only in accordance with Section 1910.6 of the Federal Regulations (Title 24 CFR).

14.34.120. General standards for flood hazard protection. In all areas of special flood hazards, the following standards are required:

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 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).

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 designed and/or otherwise 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 flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need 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 flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

14.34.130. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 14.34.030 or 14.34.100(b), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above 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 either be 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 that they permit the automatic entry and exit of floodwaters.
- B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
1. Be floodproofed so that below a point one foot above 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;

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;
 4. Nonresidential structures that are elevated but not floodproofed must meet the same standards for space below the lowest floor as described in Section 14.34.130(A)(2);
 5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated at the base flood level).
- C. **Manufactured Homes.** All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 14.34.120(A)(2). This paragraph applies to manufactured homes to be placed or substantially improved in an expansion to an existing manufactured home park or subdivision. This paragraph does not apply to manufactured homes to be placed or substantially improved in an

existing manufactured home park or subdivision except where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced.

14.34.140. Floodways. Located within areas of special flood hazard established in Section 14.34.030 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. Encroachments, including fill, new construction, substantial improvements, and other development is prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair, reconstruction, or repair is started, or (B) if the structure has been damaged, and is being restored, before the

damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent.

- C. If Section 14.34.140(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 14.34.120.

14.34.150. Wetlands Management. In order to avoid, to the maximum extent possible, the short and long term adverse impacts associated with the destruction or modification of wetlands, especially those activities which limit or disrupt the ability of the wetland to alleviate flooding impacts, the city will:

- A. Review proposals for development within base flood plans for their possible impacts on wetlands located within the flood plain.
- B. Ensure that development activities in or around wetlands do not negatively affect public safety, health, and welfare by disrupting the wetlands' ability to reduce flood and storm drainage.
- C. Request technical assistance from the Department of Ecology in identifying wetland areas. Existing wetland map information from the National Wetlands Inventory (NWI) can be used in conjunction with the city's FIRM to prepare an overlay zone indicating critical wetland areas deserving special attention.

14.34.160. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated de-

velopment, shall not increase the water surface elevation of the base flood more than one foot at any point.

Section 3. The summary of this Ordinance, which is attached hereto, is approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 27 day of July, 1989.

CITY COUNCIL

By: Kay M. Boyd
Mayor

Attest:

Charlotte M. Taylor
City Clerk

Approved as to form:

[Signature]
City Attorney

Published: _____

SUMMARY FOR PUBLICATION
ORDINANCE NO. 861

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed, on July 27, 1989, Ordinance 861 entitled "AN ORDINANCE MODIFYING THE CITY'S REGULATIONS REGARDING THE PREVENTION OF FLOOD DAMAGE AND CONSTRUCTION WITHIN FLOOD HAZARD AREAS BY REPEALING CHAPTER 14.34 OF THE LACEY MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 14.34 TO SAID CODE."

A section by section summary of this Ordinance is as follows:

Section 1 repeals the existing Chapter 14.34 of the Lacey Municipal Code in order to provide for the enactment of a new chapter. The new chapter only amends a portion of the existing Chapter 14.34, however, the entire chapter is repealed in order to provide for a new fully comprehensive ordinance. The changes have become necessary because of modifications to the National Flood Insurance Program regulations and enactments by the Washington State Legislature.

Section 2 enacts a new comprehensive Chapter 14.34 of the Lacey Municipal Code setting forth the city's regulations regarding the prevention of flood damage and construction within flood hazard areas. The new sections within Chapter 14.34 are described as follows:

14.34.010 contains definitions used within the entire chapter.

14.34.020 makes the chapter applicable to all areas of special flood hazards within the city.

14.34.030 continues the adoption of "The Flood Insurance Study for the City of Lacey," dated January 1980.

14.34.040 provides in full "Compliance required and penalties for non-compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with

any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation."

14.34.050 provides that if other restrictions are more stringent than this chapter they shall apply.

14.34.060 calls for a liberal interpretation of the provisions of the chapter.

14.34.070 provides for a warning and disclaimer of liability by the city and the Federal Insurance Administration.

14.34.080 establishes a development permit for areas of the city with special flood hazards.

14.34.090 designates the city's Building Official to administer the chapter.

14.34.100 specifies the duties of that Building Official.

14.34.110 provides for variance procedures.

14.34.120 specifies general standards for flood hazard protection.

14.34.130 sets forth specific standards for different types of construction.

14.34.140 specifies standards within floodways.

14.34.150 provides for the protection of wetlands and their management.

14.34.160 regulates and prohibits encroachments.

Section 3 approves this summary.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: July 30, 1989.