

Summary of Clackamas County Policy for Floodplain Development Permit Variance for Non-Residential Structures

Conventional Standards for Non-Residential Structures

FEMA and County floodplain development standards for an accessory structure larger than 500 square feet require that pursuant to Subsection 703.09(A)(2) of the Clackamas County Zoning and Development Ordinance (ZDO):

- 1) First floor, including basement, be elevated 1 foot above Base Flood Elevation (BFE) and that fully enclosed areas below the lowest floor possess openings to equalize hydrostatic flood forces; or
- 2) Pursuant to Subsection 703.09(A)(2)(a-c), accessory structures be flood-proofed.

Overview of Variance for Non-Residential Structures

FEMA allows a community to issue a variance to the above standards — providing that the community has variance provisions within its floodplain ordinance, as Clackamas County does in ZDO Subsection 703.11 — pursuant to the still current FEMA FIA Policy Notice 77-29, Nov. 30, 1977, as described in FEMA Region X's "A Summary of NFIP Policy for Local Officials." That document states: "FEMA has long had a policy to permit wet-floodproofing of certain nonresidential buildings by variance." Policy Notice 77-29 states: "A lesser degree of floodproofing may be the most appropriate flood damage prevention technique for certain types of structures ... When properly used, wet-floodproofing is not in conflict with the goals of the NFIP." The allowance of and standards for this type of variance are officially summarized in the Code of Federal Regulations (CFR) for the National Flood Insurance Program, 44 CFR Section 60.6.

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County policy for issuing the Variance follows the standards outlined in ZDO Subsection 703.11, which in turn addresses the standards set forth in FEMA Technical Bulletin 7-93 in accordance with CFR Section 60.6. The County may issue a Variance for the following types of structures:

- 1) Structures Functionally Dependent on Close Proximity to Water
- 2) Historic Buildings
- 3) Accessory Structures
- 4) Certain Agricultural Structures

Variances are issued on the basis of the following conditions and approval criteria:

1. The proposed structure must comply with the floodway encroachment provisions in accordance with CFR Section 60.6(a)(1)
2. The structure must be anchored to resist flotation, collapse, and lateral movement
3. The portions of the structure located below BFE must be constructed of flood-resistant materials.

- a. Flood-resistant materials shall consist of materials selected from FEMA's Technical Bulletin 2-93, "Flood-Resistant Requirements for Buildings Located in Special Flood Hazard Areas in Accordance with the National Flood Insurance Program," as specified within the State of Oregon Amendments to the 1- and 2-Family Dwelling 2000 International Residential Code, updated April 1, 2003.
4. The structure must be designed to allow for the automatic entry of flood waters by installing a minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding, the bottoms of which shall be located no higher than 1 foot above grade and that shall permit the automatic entry and exit of floodwaters
5. Mechanical and utility equipment, including electrical outlets, must be elevated or floodproofed to or above BFE
6. The use of the structure must be limited to parking and / or limited storage
7. The request will be consistent with all provisions of Subsection 703.07(B)
8. The applicant shows good and sufficient cause for the variance.
9. Compliance with the requirements of Section 703 would cause an exceptional hardship to the applicant.
10. Approval of the variance would not result in increased flood levels, additional threats to public safety, extraordinary public expense, or a nuisance condition.
11. The variance requested is the minimum necessary, considering the flood hazard, to provide relief.

Further Information

The Technical Bulletins referred to on this handout, along with additional information, are available at FEMA's Web site at: <http://www.fema.gov>.

For further questions, contact Steve Hanschka with the Clackamas County Planning Division at:
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Mandatory Insurance Information

Variances are granted with respect to floodplain management requirements and do not affect flood insurance rates. The Federal Insurance Administration, by statute, must charge insurance rates commensurate with the risk to which a building is exposed. Insurance rates for buildings constructed under variances are generally higher than rates for a comparable structure that is fully compliant. In some instances the additional costs of insuring these buildings, if they are not elevated or floodproofed in accordance with the NFIP requirements, would approach or even exceed the costs of meeting NFIP elevation or dry floodproofing requirements, and the structure would still be exposed to flood damage.

In accordance with NFIP regulations, applicants must be notified that the issuance of a variance will result in increased premium rates for flood insurance and that such construction below the BFE increases risks to life and property, per 44 CFR Section 60.6(5) and (6).