

MAY 15 2014

TASSI O'NEIL
COUNTY CLERK

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THE BOARD OF COUNTY COMMISSIONERS

FOR THE COUNTY OF TILLAMOOK IN THE STATE OF OREGON

In the Matter of Declaring a)	
Temporary Moratorium on)	ORDER
Building Permit Issuance in the)	
Nehalem and Nestucca River)	#14 - <u>030</u>
Floodplains.)	

This matter came on to be heard this 14th day of May, 2014 at a regular meeting of the Board of Commissioners, at the request of Bryan Pohl, Director of the Tillamook County Department of Community Development.

Being fully apprised of the records and files herein, the Board of Commissioners finds as follows:

1. The National Flood Insurance Program (NFIP) is administered by the Federal Emergency Management Agency (FEMA). As part of ensuring the NFIP's solvency and limiting liability, FEMA relies on individual communities to adopt and enforce regulations which are germane to those communities. In most cases, this regulation comes in the form of building and development standards placed into the community's zoning ordinance. As such, local departments of planning or community development are tasked with implementing and enforcing FEMA's flood standards. In the case of Tillamook County, the Department of Community Development (DCD) administers Tillamook County Land Use section 3.060 which regulates all development within the floodway, flood fringe, coastal velocity zones, and areas of shallow flooding. Participation in the NFIP is not mandatory; however, the citizens of a community that does not participate are not eligible for any type of flood insurance. This means that in order for homeowners to obtain flood insurance, Tillamook County must participate in the NFIP.

2. As part of Tillamook County's participation in NFIP, FEMA periodically conducts audits, called Community Assistance Visits (CAV). If FEMA conducts a CAV and finds that a county, town, or city excels in implementing floodplain regulations at the local level, that locality is eligible to participate in the Community Rating System (CRS), which provides all flood insurance policy holders within that jurisdiction with a discount in their flood insurance premiums of 20%. Until recently, Tillamook County was a CRS community, due largely to the fact that the county has adopted more stringent requirements into the Flood Hazard Overlay section of the zoning ordinance than required by FEMA.

3. In May of 2012, FEMA conducted a CAV, where many deficiencies in the program were identified. As a result of these deficiencies, Tillamook County was taken out of the CRS, and the premium reduction enjoyed by policy holders was lost. Moreover, the County is expected to rectify the deficiencies through a Corrective Action Plan (CAP). While work on many aspects of the CAP either is ongoing or has already been accomplished, one thing that FEMA has been insistent upon has been the restudy of the Nestucca and Nehalem floodways. FEMA's contention is that, within those two rivers' floodways, decades of improperly permitted development has been allowed to occur, so much so that both floodways must be restudied to reflect the development that occurred subsequent to the original study. FEMA's belief is that the Base Flood Elevation (BFE) may have been altered from the original study, and there is no alternative to a full restudy to verify existing BFE.

4. The BFE may have changed. Yet the County continues to issue permits based upon original information which requires structures to be built at least three feet above the BFE. As a result, the owner of a permitted structure could be required to pay an excessive rate for flood insurance. Additionally, FEMA has the option of placing the County on probation with the NFIP which would result in higher premiums County-wide for flood insurance policy holders.

5. Application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in the affected geographical areas because, after 30 or more years of permitting structures in the floodways of both rivers, without proper floodway analyses, the true BFE is unknown. Therefore, unless a study of the extents of the river systems outlined by FEMA is performed, protection of public safety and property cannot be ensured.

6. There are no satisfactory alternative methods other than declaring a moratorium on development within the Nestucca and Nehalem flood plains which will achieve the objectives of this moratorium. Tillamook County must garner information, including expert analyses, in order to determine current BFE.

7. The moratorium will be sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium, as only the parcels within the regulatory flood plains of the Nestucca River, from its confluence with the Nestucca Bay, to cross-section F of the original Flood Insurance Study; and on the Nehalem River from the Oregon Coast Highway/Highway 101 (cross-section C), to Necanicum Highway (cross-section K), then from cross-section A of the North Fork of the Nehalem River to its confluence with Coal Creek (cross-section D), will be affected by this moratorium.

8. The county has developed a work plan and time schedule for achieving the objectives of the moratorium. Tillamook County has given a proposed Scope of Work to three consulting engineering firms. The studies should take approximately thirty to ninety days to complete. After completion, the report will be sent to FEMA as a Letter of Map Revisions for response.

NOW THEREFORE, IT IS HEREBY ORDERED that:

9. A moratorium is imposed upon the issuance of building permits within the regulatory flood plains of the Nestucca River from its confluence with the Nestucca Bay, to cross-section F of the original Flood Insurance Study; and on the Nehalem River from the Oregon Coast Highway/Highway 101 (cross-section C), to Necanicum Highway (cross-section K), then from cross-section A of the North Fork of the Nehalem River to its confluence with Coal Creek (cross-section D). This includes any grading, accessory structures, fences or anything else that meets the definition of "development" under the NFIP.

10. Building permits within the area identified hereinabove may be issued for remodels and renovations that do not add to the footprint of an existing building and do not constitute a substantial improvement.

11. This moratorium shall be in effect for not more than 120 days.

DATED THIS 14th DAY OF May 2014.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Bill Baertlein
Bill Baertlein, Chair

Tim Josi
Tim Josi, Vice-Chair

Mark Labhart
Mark Labhart, Commissioner

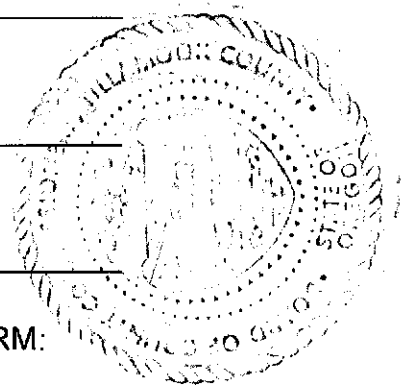
ATTEST: Tassi O'Neil, County Clerk

Aye Nay Abstain/Absent

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APPROVED AS TO FORM:

BY: Susan L. Beecraft
Special Deputy

William K. Sargent
William K. Sargent, County Counsel