

The foregoing instrument is a correct copy of the original on file in this office.

ATTEST: _____
City Clerk of the City of Roseville, California
Jill N. Whitland
DEPUTY CLERK

WLO:vlc
12-1-71

ORDINANCE NO. 1158

AN INTERIM ORDINANCE PROHIBITING CONSTRUCTION UPON OR GRADING OF PROPERTY WITHIN CERTAIN AREAS SUBJECT TO FLOODING ADJACENT TO DRY, LINDA, CIRBY AND ANTELOPE CREEKS AND STRAP RAVINE, UNLESS A PERMIT HAS BEEN ISSUED, DECLARING THE URGENCY THEREOF AND THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT, AND REPEALING ORDINANCE NO. 1157.

FILED

DEC 9 1971

THE CITY OF ROSEVILLE ORDAINS:

CITY OF ROSEVILLE

ARTICLE I. DECLARATION OF POLICY AND PURPOSE.

Section 1.1 The City Council of the City of Roseville hereby finds and declares:

a. A large portion of the City's land resources is subject to recurrent flooding by overflow of streams and water-courses endangering the lives of its citizens, causing loss of property, disruption of commerce and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare and property of the people of this City.

b. The public interest necessitates sound development of land use as land is a limited, valuable and irreplaceable resource, and the flood plains of this City are a land resource to be developed in a manner which, in conjunction with economically justified structural measures for flood control, will result in the prevention of loss of life or injury thereto and prevention of economic loss caused by excessive flooding. The City Council of the City of Roseville has, by motion adopted November 10, 1971, requested the City staff to meet with the United States Army Corps of Engineers to conduct a design flood study of the waterways located within the City of Roseville for the purpose of recommending a designated floodway to be established within said City and for the further purpose of developing land use controls over future development within designated floodways and flood plains.

c. It is necessary to adopt flood zone areas, floodways and restrictive flood zones and related regulations for the improvement of flood control works, of existing creeks, and for artificial watercourses or other drainage structures within the City, in order to promote and protect the public health, safety, peace, comfort, convenience and the general welfare; and for the accomplishment of the purposes more particularly set forth as follows:

- (1) To comply with the Cobey-Alquist Flood Plain Management Act, being Sections 8400 through 8415, inclusive, of the Water Code of the State of California.
- (2) To assist in providing a definite plan of development for flood control within the City and to regulate the construction and use of flood control and drainage water-courses in accordance with said plans.
- (3) To provide a guide for the intelligent outlay of capital expenditures of said City for flood control and drainage improvements.

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(4) To provide an authentic source of information for the development of such improvements for present and prospective residents and investors in property within said City.

(5) To provide a pattern for such future subdivision of land as may take place in said City.

(6) To obviate the menace to public safety resulting from inadequate provision for flood control and drainage purposes in connection with and as a result of development within said City.

(7) To prevent deterioration of said property values and impairment of conditions making for desirable agricultural, residential, commercial or industrial development, as the case may be, which would result from lack of definite plans designed to assure the orderly, harmonious and beneficial development of territory within said City.

ARTICLE II. DEFINITIONS.

Section 2.1 Applicable definitions. Unless the context otherwise requires, the following definitions apply throughout this ordinance:

- a. "Bank of a watercourse" means the sloping sides of a watercourse and extends to the top of such slope. Whenever the tops of the slopes on opposite sides of a watercourse vary in elevation more than five (5) feet, the top of the slope having the greater elevation shall be deemed to be at an elevation equal to five (5) feet above the highest point on the opposite slope. Each bank of a watercourse shall include the bottom of such watercourse and shall extend to the centerline of such watercourse.
- b. "Centerline of a watercourse" means a line within, and along the length of, a watercourse at a distance from the tops of the slopes equal to one-half (1/2) the distance between the tops of the slopes of said watercourse.
- c. "Design flood" means the selected flood against which protection is provided, or eventually will be provided, by means of flood protective or control works. It is the basis for design and operation of a particular project after full consideration of flood characteristics, frequencies and potentials, and economic and other practical considerations.
- d. "Designated floodway" means the channel of a stream and that portion of the adjoining flood plain required to reasonably provide for the construction of a project for passage of the design flood, including any lands necessary for construction of project levees.
- e. "Flood plain" means the relatively flat area adjacent to waterways which may be subject to periodic inundation by flood water.
- f. "Levee" means an elongated mound of dirt or earth paralleling and adjacent to the outer edges of a watercourse.
- g. "Rubbish" means any substance which is not readily soluble in water.

h. "Structure" means any wall, retaining wall, crib wall, bulkhead, dwelling, business structure, garage, barn, out-building, trench, pipe, pole, conduit, utility, fence, wire or anything made or constructed which has its foundation or means of support upon, under or within the surface of the earth.

i. "Watercourse" means a river, stream, creek, waterway or channel, or any elongated depression in which water does or may flow, and includes, but is not limited to, any property in which the City of Roseville owns a fee simple interest or easement therein for flood control, drainage or water conservation purposes. Whenever a river, stream, creek or waterway consists of an ordinary channel and, in addition thereto, an overflow channel, the watercourse shall be deemed to include all property lying between the banks of the overflow channel.

j. "Waterline" means the water's edge during normal drainage periods.

ARTICLE III. MAINTENANCE.

Section 3.1 Maintenance of Watercourses. Every property owner, whether it be a person, firm, corporation, governmental body or special district, or his lessee or tenant, through whose property a watercourse exists, shall keep and maintain the same free from obstacles which will prevent, change or retard the flow of the water.

ARTICLE IV. PROHIBITION.

Section 4.1 Acts Prohibited. It shall be unlawful, after the effective date of this Ordinance, for any person, firm, association, organization, partnership, business trust, corporation, the County of Placer, the Federal Government and agencies thereof, the government of the State of California and agencies thereof, or any district to do, or cause to be done, within any area designated in section 4.2 of this ordinance, any of the following without having first secured a permit as hereinafter provided from the City of Roseville.

a. Construct or place any permanent structure unless, prior to the effective date of this ordinance, a building permit has been issued for such structure pursuant to the Uniform Building Code of 1970.

b. Excavate, grade or fill real property, unless prior to the effective date of this ordinance a grading permit has been issued for such excavation, grading or fill pursuant to Chapter 70 of the Uniform Building Code of 1970.

c. Deposit rubbish.

d. Plant any form of flora, other than grasses, annual crops or decorative shrubs.

Section 4.2 The provisions of this ordinance shall apply to the following areas:

a. Within one hundred feet (100') of the waterlines of Dry Creek from Dry Creek's intersection with Riverside Avenue, westerly to the Roseville City limits.

b. Within seventy-five feet (75') of the waterlines of Dry Creek from Dry Creek's intersection with Riverside Avenue, northerly to Dry Creek's intersection with Secret and Miners Ravine.

c. Within seventy-five feet (75') of the waterlines of Antelope Creek from its intersection with Dry Creek, northerly to the Roseville city limits.

d. Within seventy-five feet (75') of the waterlines of Cirby Creek from Cirby Creek's intersection with Dry Creek, easterly to Cirby Creek's intersection with Oakridge Drive. A portion of this section of watercourse is also known as "Linda Creek."

e. Within seventy-five feet (75') of the waterlines of Linda Creek from Linda Creek's intersection with Cirby Creek, easterly to the Roseville city limits.

f. Within seventy-five feet (75') of the waterlines of Strap Ravine from Strap Ravine's intersection with Linda Creek, easterly to the Roseville city limits.

ARTICLE V. PERMITS

Section 5.1 Application for Permit. Any person, firm association, partnership, business trust, corporation, the County of Placer, the Federal government and agencies thereof, the government of the State of California and agencies thereof, or any district, except those filing subdivision maps, desiring a permit to do any of the acts for which a permit is required pursuant to this ordinance, shall make application for such permit to the City Engineer of the City of Roseville. The application shall be made upon an official form provided by the City of Roseville and shall include:

- a. Applicant's name, address and telephone number.
- b. Date of application.
- c. Location of proposed work.
- d. Action intended.
- e. Name, address and telephone number of owner of the property.
- f. Name, address and telephone number of the contractor who will do the work, if known.
- g. A drawing or plan clearly describing any proposed permanent structure, or other work, and the materials and type of construction to be employed which shall show at least a cross section, plan and profile of said proposed structure or other work.
- h. A drawing or plan clearly describing any area of removal of any sand, gravel or material of any kind.
- i. A description and plot plan of existing structures upon the property of the owner near the proposed structure or area of work.
- j. The time required for completion shown in calendar days.

Section 5.2 Application by Subdividers. Any person, firm, corporation or other entity mentioned hereinabove filing a subdivision map, desiring a permit to do any of the acts for which a permit is required pursuant to this ordinance, shall, in lieu of the application procedure set forth above, submit engineered improvement plans to the City Engineer.

Section 5.3 Investigation of Application. Upon receipt of such application for permit or engineered improvements plans or additional information as hereinafter set forth, the City Engineer shall, within fifteen (15) days, make such investigations as he deems necessary and shall determine whether or not the proposed structure or other work is located in an area subject to flooding.

Section 5.4 Granting or Denial of Permit.

a. Upon completion of his investigation, the City Engineer may approve, or conditionally approve, an application for permit in the event that the City Engineer determines that the proposed structure or other work is in an area determined by the City Engineer to be an area which is not subject to flooding. All unapproved applications shall be submitted to the City Planning Commission at their next regular meeting, together with a written report of the City Engineer's investigation. In considering the application and report, the Planning Commission shall determine whether:

(1) The proposed structure or other work is located in an area subject to flooding. If the area in question is found to be subject to flooding, the permit shall be denied.

(2) The proposed structure or other work will damage, weaken, erode or reduce the effectiveness of the banks to withhold storm and flood waters or interfere with structures necessary for water conservation or distribution.

b. The Planning Commission, within thirty (30) days of the receipt of the application and report, shall approve, approve conditionally or disapprove the application or improvement plan. If a permit is granted, it shall state the conditions subject to which it is granted. If the permit is denied, written notice of the denial shall be given to applicant by mail.

ARTICLE VI APPEAL.

Section 6.1 Appeal to City Council. In the event an applicant is aggrieved by the action of the Planning Commission or by reason of the requirements of this ordinance, he may, within fifteen (15) days from the date of the decision of the Planning Commission, take an appeal to the City Council. Such appeal shall be taken by filing with the City Clerk a notice of appeal, specifying the grounds thereof, together with such maps and exhibits as may be reasonably necessary. Upon the filing of said notice, the City Clerk shall transmit to City Council at its next regular meeting the notice of appeal and all the papers constituting the record upon which the action appealed was taken. Upon the receipt of said notice and record, the City Council shall fix a reasonable time and place for the hearing of the appeal and shall give notice thereof to the applicant appealing. It shall set the

hearing within a reasonable time not to exceed forth (40) days. The hearing may be continued from time to time as the City Council deems necessary.

Section 6.2 Authority of City Council. The City Council may approve, modify or reverse, wholly or in part, the decision or conditions and may approve, approve conditionally or disapprove the original application or improvement plans. If a permit is granted upon appeal, the permit shall state the conditions upon which it is granted.

ARTICLE VII. PERFORMANCE OF PERMITTED WORK.

Section 7.1 Other Permits to be Obtained. The permit, when issued, shall constitute authority for the applicant to proceed according to the conditions, if any, of the permit, except as to that work for which other permits are required by the City of Roseville, or other public agency, either Federal, State, County or special district, and as to that work for which other permits are required, such permits must be obtained from the proper legislative body and the permit granted pursuant to the terms of this ordinance shall not be effective until such other permits have been obtained. It shall be the responsibility of the applicant to determine the need for such other permits.

Section 7.2 Violation of Terms of Permit. If the work is not done in accordance with the terms of the permit and contrary to the instructions of the Inspector, then the permittee shall be considered to have violated the terms of this ordinance.

ARTICLE VIII. PENALTIES

Section 8.1 Penalty for Violation. Any person, firm, association, organization, partnership, business trust, corporation, the County of Placer, the Federal government and agencies thereof, the government of the State of California and agencies thereof, or any district or any officer, agent or employee thereof, violating any of the provisions of this ordinance or failing to satisfy the terms of a permit issued, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for a period not to exceed six (6) months or by both such fine and imprisonment.

ARTICLE IX. GENERAL PROVISIONS.

Section 9.1 Effect of Headings. The section headings do not in any manner affect the meaning or intent of the provisions of this ordinance.

Section 9.2 Construction of Ordinance. All the provisions of this ordinance are to be liberally construed with a view to effecting its objects and promoting justice.

Section 9.3 Constitutionality. If any provision or clause of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared severable.

Section 9.4 Repealing Clause. Ordinance No. 1157 and all other ordinances or parts of ordinances insofar as they conflict with the provisions of this ordinance are hereby repealed.

Section 9.5 Effective Date. This ordinance is adopted in contemplation of the future adoption of a comprehensive study and permanent regulations of uses within designated floodways, as authorized by the Cobey-Alquist Flood Plain Management Act. A study is now underway by the staff of the City of Roseville and the United States Army Corps of Engineers to establish and designate floodways within the City of Roseville. The development of structures and the excavation or filling of areas which are historically subject to flooding and which may fall within designated floodways is threatened, and if this ordinance does not take immediate effect said uses will be established and, once established, may result in impeding or altering the existing flow of the waterways of Roseville.

By reason of the foregoing facts, this ordinance is urgently required for the immediate preservation of the public peace, health and safety, and the same shall take effect immediately upon the passage hereof.

Section 9.6 Duration. Upon adoption, this ordinance shall be in full force and effect for the period of one year unless repealed or extended pursuant to law.

Section 9.7 Posting. The City Clerk shall certify to the adoption of this ordinance and shall cause copies of the same to be posted in conspicuous locations in three public places in the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this 8th day of December, 1971, by the following vote on roll call:

AYES COUNCILMEN: R. H. Harold Johnson, L. Perry Chamberlain, Kenneth H. Royer, T. Bruce J. ...

NOES COUNCILMEN: Willard H. Fretsch

ABSENT COUNCILMEN: none

ABSTAIN COUNCILMEN: none

SIGNED AND APPROVED by me after its final passage this 8th day of December, 1971.

Simon ...
MAYOR

ATTEST:

Therese ...
CITY CLERK