

## BAY CITY ORDINANCE NO. 467

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF FLOOD DAMAGE PREVENTION REGULATIONS WITHIN THE CITY OF BAY CITY, OREGON, REPEALING ORDINANCE NO. 369 AND DECLARING AN EMERGENCY

Section 1. Title. This ordinance shall be known as the Bay City Flood Damage Prevention Ordinance.

Section 2. Repeal. Ordinance No. 369 codified as Bay City Ordinance 10-4 is hereby repealed in its entirety. All other ordinances and resolutions inconsistent with this Ordinance are hereby repealed to the extent of their inconsistency.

Section 3. Purpose and objectives. It is the purpose of this Ordinance to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the Bay City Comprehensive Plan and Zoning ordinance, the specific objectives of this zone are:

3.1 To promote the general health, welfare and safety of the City;

3.2 To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;

3.3 To minimize the need for rescue and relief efforts associated with flooding;

3.4 To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions;

3.5 To minimize damage to public facilities and utilities located in flood hazard areas;

3.6 To ensure that potential home and business buyers are notified that property is in a flood area; and

3.7 To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 4. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

4.1 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. AO is characterized as sheet flow and AH indicates ponding.

4.2 Area of special flood hazard. Is the land in the flood plain subject to one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

4.3 Base flood. Means the flood having a one percent chance of being equalled or exceeded in any given year.

4.4 Breakaway walls. Means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

4.5 Coastal high hazard area. Means the area subject to high velocity waters, including but not limited to, storm surge or tsunamis. The area is designated on a FIRM as Zone V1-30.

4.6 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 located within the area of special flood hazard.

4.7 Flood or flooding. Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

4.8 Flood Insurance Rate Map (FIRM). 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.

4.9 Flood insurance study. The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary Floodway Map and the water surface elevation of the base flood.

4.10 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 of this Ordinance found at Section 18.

4.11 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 one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

4.12 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.

4.13 Mean Sea Level (MSL). Means the average height of the sea for all stages of the tide.

4.14 New Construction. Means structures for which the "start of construction" commenced on or after the effective date of this amendment to the zoning ordinance.

4.15 Start of construction. Includes substantial improvement, and means that date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (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 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.

4.16 Structure. Means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

4.17 Substantial improvement. Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent 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 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:

- a) 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
- b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

4.18 Variance. Is a grant of relief to a person from the requirements of this Ordinance in a manner that would otherwise be prohibited by this Ordinance.

Section 5. Lands to which this Ordinance applies. This ordinance shall apply to all areas of special flood hazards within the city limits of the City of Bay City.

Section 6. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "Flood Insurance Study for the City of Bay City" dated August 1, 1978, with accompanying Flood Insurance Rate Maps (FIRM) and Flood Boundary Maps and any revision thereto are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the Bay City City Hall.

Section 7. Compliance. No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations

Section 8. Interpretation. In the interpretation and application of this Ordinance, all provisions shall be considered as minimum requirement, liberally construed in favor of the City of Bay City, and deemed neither to limit nor repeal any provisions of other City of Bay City Ordinances.

Section 9. Warning and Disclaimer of liability. The degree of flood protection required by this Ordinance 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 ordinance does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Bay City or by an officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 10. Building permit required. A building permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 6. The permit shall be for all structures including manufactured homes as set forth in the "definitions" and for all development including fill and other activities, also set forth in the "definitions". Application for a Building Permit shall be made to the Building Official on forms furnished by him and shall specifically include the following:

10.1 Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

10.2 Elevation in relation to mean sea level to which any structure has been floodproofed.

10.3 Certification by a registered professional engineer or architect that the floodproofing method for any nonresidential structure meets the floodproofing criteria in Section 18.

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

Section 11. Duties and responsibilities. The duties of the Building Official shall include, but not be limited to the following:

11.1 Review all development to determine that the requirements of this ordinance have been satisfied.

11.2 Review all development permits to require that all

necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

11.3 Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.

Section 12. Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 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 18.1 Specific Standards, Residential Construction, and Section 18.2, Specific Standards, Nonresidential Construction.

Section 13. Information to be obtained and maintained by Building Official. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 12 obtain:

13.1 Verify 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.

13.2 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 10.3.

13.3 Maintain for public inspection all records pertaining to the provisions of this Ordinance.

13.4 In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.

Section 14. Alteration of watercourses. The Building Official shall:

14.1 Notify adjacent communities and the Oregon Water Resources Department prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

14.2 Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

Section 15. Interpretation of FIRM boundaries. The Building Official shall make interpretations where needed, as to the 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 interpretations as provided in Section 16.

Section 16. Appeals and variance procedures.

16.1 An appeal of a ruling or interpretation regarding a requirement of this Ordinance may be made only to the Bay City Council.

16.2 The City Council shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision or determination in the enforcement or administration of this Ordinance.

16.3 The administrative procedures for hearing a variance under the provisions of this Ordinance shall be pursuant to the administrative procedures utilized by the City of Bay City.

16.4 An action or ruling of the City Council pursuant to this Ordinance is final.

16.5 Variances shall be issued in accordance with Section 1910.6 of the Federal Regulations governing flood insurance (Title 24 CRF) and any amendment thereto.

16.6 Authorization of a variance shall be void after six months unless the new construction, substantial improvement or approved activity has taken place. However, the City Council may, at its discretion, extend authorization for an additional six months upon request.

16.7 When a variance is granted, the City Recorder shall give written notice that the structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lower floor elevation.

Section 17. General standards. In all areas of special flood hazards the following standards are required:

### 17.1 Anchoring.

- a) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- b) 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).

### 17.2 Construction materials and methods.

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed an/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### 17.3 Utilities.

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### 17.4 Subdivision proposals.

- a) All subdivision proposals shall be consistent with the need to minimize flood danger.
- b) All subdivision proposals shall have public utilities and

systems located and constructed to minimize flood damage.

c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood danger.

d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

17.5 Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another administrative source (Section 12), 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. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Section 18. Specific standards. In all areas of special flood hazards (FHO Zone) where base flood elevation data has been provided as set forth in Section 6. Basis for Establishing the Areas of Special Flood Hazards or Section 12, Use of Other Base Flood Data, the following provisions are required:

18.1 Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. 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.

18.2 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 one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

- a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- c) 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, specification and plans. Such certification shall be provided to the official as set forth in Section 13.2(b).
- d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 18.1.
- e) 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 constructed to the base flood level will be rated as one foot below that level).

18.3 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 provision of subsection 17.1(b).

Section 19. Coastal high hazard area. Coastal high hazard areas (V Zones) are located within the areas of special flood hazard established in Section 6. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Ordinance, the following provisions shall also apply:

19.1 All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and

b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one (1) percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (a) and (b) of this Section.

19.2 Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-V30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

19.3 All new construction shall be located landward of the reach of mean high tide.

19.4 Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the

effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).

19.5 If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

19.6 Prohibit the use of fill for structural support of buildings.

19.7 Prohibit man-made alteration of sand dunes which would increase potential flood damage.

Section 20. Areas of shallow flooding (AO Zone). shallow flooding areas appear on FIRM's as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

20.1 New construction and substantial improvements of residential structures within AO Zone shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specific on the FIRM (at least two feet if no depth marker specified).

20.2 New construction and substantial improvement of nonresidential structures shall, either:

a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building to or above the depth number specified in the FIRM (at least two feet if no depth number is specified), or

b) Together with attendant utility and sanitary facilities be completely floodproofed to or above this level so that any space below this level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

20.3 Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

Section 21. Restrictions and prohibited uses.

21.1 Restrictions. Restrictions regarding heights, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the area of special flood hazard.

21.2 Prohibited uses. It shall be unlawful to erect, alter, maintain or establish in a special flood hazard area any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses.

Section 22. Penalties. Any intentional or knowing violation of this Ordinance shall be punished as a Class "C" misdemeanor. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.

Section 23. Severability. The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of the Ordinance.

Section 24. Emergency. The City Council believes that existing Ordinance No. 369 is not in compliance with federal and state standards. The Bay City Planning Commission has held a hearing on the proposed changes and has recommended adoption. Therefore, the City Council declares an emergency to exist and declares that this Ordinance shall become immediately effective upon passage by the City Council and approved by the Mayor.

PASSED and ADOPTED by the City Council this 10th day of February, 1987 and APPROVED by the Mayor this 10th day of February, 1987.

/s/ George R. Woolcock  
George R. Woolcock, Mayor

Attest:

/s/ William A. Batusic  
William A. Batusic, City Recorder