

ORDINANCE NO. 266

AN ORDINANCE CONCERNING FLOOD HAZARDS;
REQUIRING PERMITS; SETTING STANDARDS FOR CONSTRUCTION;
ADOPTING LAND USE CODE SECTIONS 9.700 TO 9.785;
REPEALING PRIOR ORDINANCES AND DECLARING AN EMERGENCY

THE CITY OF DRAIN ORDAINS AS FOLLOWS:

Section 1. It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 2. The following is hereby adopted as part of the City of Drain's Land Use Code:

9.700 For the purposes of sections 9.700 to 9.785 of this Code, the following words shall have their assigned meaning:

(1) Area of Special Flood Hazard means the land in the flood plain subject to a one percent or greater chance of flooding in any given year.

(2) Base Flood means the flood having a one percent chance of being equallized or exceeded in any given year.

(3) Development means human-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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) Mobile Home means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

(9) New Construction means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

(10) Start of Construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 foundations 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 as part of the main structure.

(11) Structure means a walled and roofed building or mobile home that is principally above ground.

(12) Substantial Improvement means any repair, re-construction, or improvement of a structure, the cost of which equals or exceeds 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.

9.705 Lands to Which this Ordinance Applies. Sections 9.700 to 9.785 are applicable to all areas of special flood hazards within the jurisdiction of the City of Drain.

9.710 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 Drain dated February 1979 with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Code. The Flood Insurance Study is on file at the City Administrator's Office, City Hall, Drain, Oregon.

9.715 Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.710. The permit shall be for all "structures" including "mobile homes," and for all other "development" including fill and other activities, all as defined in section 9.700 of this Code.

9.720 Implementation of Flood Hazard Provisions. The planning commission of the City of Drain is hereby appointed to administer and implement sections 9.700 to 9.785 of this Code by granting or denying development permit applications in accordance with this Code.

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- 9.725 Permit Review. The planning commission shall have the following duties and responsibilities.
- (1) Review all development permits to determine that the permit requirements of this Code 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 9.785(1) are met.
- 9.730 Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with section 9.710, the planning commission shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer section 9.780.
- 9.735 Information to be Obtained and Maintained. The planning commission shall:
- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable 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 9.780(2)(b)(3).
- 9.740 Alteration of Watercourses. The planning commission shall:
- (1) Notify adjacent communities and the Water Resources Department 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.
- 9.745 Interpretation of "FIRM" Boundaries. The planning commission shall 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 section 9.750 of this Code.

9.750 Appeal to City Council.

(1) The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the planning commission in the enforcement or administration of sections 9.700 to 9.785 of this Code.

(2) In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3) The planning commission shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

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9.755 Variances.

(1) The planning commission shall hear and decide requests for variances from the requirements of sections 9.700 to 9.785 of this Code.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public upon consideration of the factors identified in section 9.750(2) of this Code, or conflict with existing local laws or ordinances.

(6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in section 9.750 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(7) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(8) The planning commission shall maintain records of all variances granted and report them to the Federal Insurance Administration upon request.

(9) Any party aggrieved by the planning commission's denial of a request for a variance may appeal this decision to the city council as provided in section 9.750 of this Code.

9.760 Anchoring. In all areas of special flood hazards, the following anchoring standards are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(a) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;

(b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

(d) Any additions to the mobile home be similarly anchored.

(3) An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the planning commission that this standard has been met.

9.765 Construction Materials and Methods. In all areas of special flood hazards, the following construction materials and methods standards are required:

(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.

9.770 Utilities. In all areas of special flood hazards, the following utility standards are required:

(1) All new and replacement water supply systems shall be designated 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,

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(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

9.775 Subdivision Proposals. In all areas of special flood hazards the following standards are required on 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 five acres (whichever is less).

9.780 Building Permits. In all areas of special flood hazards the following standards are required for all building permits.

(1) Proposed construction shall 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.

(2) Proposed construction shall also comply with the following specific standards:

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above base flood elevation.

(b) 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 level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) be floodproofed so that below 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; and,

(3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the planning commission as set forth in section 9.735 of this Code.

(c) For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:

(1) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be elevated to one foot above the base flood level;

(2) adequate surface drainage and access for a hauler are provided; and,

(3) in the instance of elevation on pilings, that:

- lots are large enough to permit steps,
- piling foundations are placed in stable soil no more than ten feet apart, and
- reinforcement is provided for pilings more than six feet above the ground level.

(d) No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

9.785 Floodways. In all floodways within areas of special flood hazards, the following standards are required.

(1) Encroachments, including fill, new construction, substantial improvements, and other development are 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.

(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 9.760 to 9.780 of this Code.

(3) The placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision is prohibited.

Section 3. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. The provisions contained herein concern the public welfare and safety and therefore, an emergency is hereby declared to exist, and this Ordinance shall become effective immediately upon its passage by the city council and approval by the mayor ~~OR COUNCIL PRESIDENT.~~

Passed by the City Council this
12 day of June, 1979.

Robert A. Gray
Clerk of the Council Pro Tem

^{COUNCIL PRESIDENT}
Approved by the ~~Mayor~~ this
12th day of June, 1979.

Jack Holt
~~Mayor~~
JACK HOLT, COUNCIL PRESIDENT

This Ordinance No. 266 was prepared by Martha Reidy
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