

CITY OF BAY CITY

ORDINANCE # 684

AN ORDINANCE AMENDING BAY CITY ORDINANCE 467
FLOOD DAMAGE PROTECTION ORDINANCE AND
DECLARING AN EMERGENCY

The City of Bay City ordains that the Bay City Ordinance #467 Flood Damage Protection Ordinance shall be modified to read:

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

Section 2. Repeal. Ordinance No. 467 codified as Bay City Ordinance 10-4 is hereby repealed in its entirety. All other ordinances and resolutions inconsistent with this Ordinance are hereby repealed to the extent of their inconsistency.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 purpose of the Bay City Comprehensive Plan and Development 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 hazard 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 to give them the meaning they have in the National Flood Insurance Program to give this Ordinance its most reasonable application.

- 4.1 Appeal. Means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.
- 4.2 Area of Shallow Flooding. Means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- 4.3 Area of Special Flood Hazard. The land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year.
- 4.4 Basement. Means any area of the building having its floor subgrade (below ground level) on all sides.
- 4.5 Base Flood. Means the flood elevation having a one percent chance of being equaled or exceeded in any given year. Designation on maps always includes the letters A or V.
- 4.6 Below-Grade Crawl Space. Means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.
- 4.7 Breakaway Walls. Means a wall that is not 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.
- 4.8 Coastal High Hazard Area. Means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-30, VE, or V.
- 4.9 Critical Facility. Means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, and police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.
- 4.10 Development. 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 operations or storage of equipment or materials located within the Area of Special Flood Hazard.

- 4.11 Elevated Building. Means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- 4.12 Flood or Flooding.
- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.
- 4.13 Flood Insurance Rate Map (FIRM). Means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Map (DFIRM).
- 4.14 Flood Insurance Study. Means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- 4.15 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 a designated height.
- 4.16 Flood Openings. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed with flood openings to automatically equalize hydrostatic flood forces on exterior walls by allowing for

the entry and exit of flood waters. Designs for flood openings must either be certified by a registered professional engineer or architect OR must meet or exceed the following minimum criteria:

1. 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.
 2. The bottom of all openings shall be no higher than one foot above grade.
 3. Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- 4.17 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 to render the structure in violation of the applicable non-elevation design requirements of this Ordinance and 44 CFR 60.3.
- 4.18 Manufactured Dwelling. 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 hazard regulatory purposes, the term "manufactured dwelling" does not include park trailers, recreational vehicles, travel trailers, and other similar vehicles.
- 4.19 Manufactured Dwelling Park or Subdivision. A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.
- 4.20 Mean Sea Level (MSL). Means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which the base flood elevations shown on the community's Flood Insurance Rate Maps are referenced.
- 4.21 New Construction. For floodplain management purposes, new construction means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 4.22 Recreational Vehicle. A recreational vehicle means a vehicle which is:
- a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, or seasonal use.

- 4.23 Special Flood Hazard Area (SFHA). See “Area of Special Flood Hazard”.
- 4.24 Start of Construction. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 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 a 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 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 part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.
- 4.25 Structure. Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- 4.26 Substantial Damage. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 4.27 Substantial Improvement. Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:
- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. Any alterations of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.
- 4.28 Variance. Means a grant of relief by a community from the terms of a floodplain management regulation.

- 4.29 Water Dependent. Means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Section 5. Lands to which this Ordinance applies.

This ordinance shall apply to all Areas of Special Flood Hazards within the City Limits and Urban Growth Boundary of the City of Bay City.

Section 6. Designation of the City Floodplain Administrator. The City shall appoint a City Floodplain Administrator to administer and implement this Ordinance and to make decisions to approve or deny Floodplain Development Permits in accordance with its provisions. The City Floodplain Administrator shall maintain certification as a Certified Floodplain Manager with the Association of State Floodplain Managers.

Section 7. Duties and Responsibilities of the City Floodplain Administrator. The duties of the City Floodplain Administrator shall include, but not be limited to the following:

- 7.1 Review all Flood Development Permit applications to determine whether the requirements of this ordinance have been satisfied.
- 7.2 Review all Flood 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
- 7.3 Provide to building officials the base flood elevation and freeboard applicable to any building requiring a building permit.
- 7.4 Inspect all Flood Elevation Certificates required as a condition of Flood Development Permit approval.
- 7.5 Coordinate with the State and Federal Agencies regarding Community Assistance Visits and any amendments required for compliance with applicable state and federal criteria.
- 7.6 Provide notification to FEMA as a Letter of Map Revision (LOMR) within six months of project completion when:
 - a. An applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA; or
 - b. Development altered a watercourse; or
 - c. Development modified a floodplain boundary; or
 - d. Development modified Base Flood Elevations.

- Section 8. Basis for Establishing the Areas of Special Flood Hazard.
The areas of special flood hazard area identified by the Federal Insurance Administration through a scientific and engineering report entitled “Flood Insurance Study for the City of Bay City” 41057CV001A dated December 9, 2016, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps 41057C0392G, 41057C0394G, and 41057C0413G and any adopted revision thereto are hereby adopted by reference and declared to be part of this Ordinance. The Flood Insurance Study and Flood Insurance Rate Maps and any adopted revision thereto are on file at the City Hall of Bay City, Oregon.
- Section 9. Interpretation of FIRM Boundaries.
The City Floodplain Administrator shall make interpretation where needed, as to the exact location of the boundaries of special flood hazard areas and shall document the findings of support for the decision in the record. Such an interpretation is subject to appeal under the provisions of this Ordinance.
- Section 10. Use of Other Base Flood Data.
Where base flood elevation data is not available either through the Flood Insurance Study, Flood Insurance Rate Map, or from another administrative source, the City Floodplain Administrator shall require, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source. The City Floodplain Administrator shall review Flood Development Permit applications to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement 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 11. Floodplain Development Permit Required.
A Floodplain Development Permit shall be obtained before construction or development begins within any Special Flood Hazard Area. A Flood Development Permit is required for any development within the Special Flood Hazard Area as defined in this Ordinance including and not limited to fill and other activities, grading, subdivision applications, utility extensions, and the placement of manufactured homes or improvement of structures.
- 11.1 Application for a Development Permit.
Application for a Floodplain Development Permit shall be made on forms furnished by the City Floodplain Administrator. The application shall include all information necessary to show compliance with the provisions of this ordinance including:
- 11.2 Flood Development Permit Application Documentation.
The Floodplain Development Permit application documentation shall include all required documentation in electronic format and three originals, signed and printed to measurable scale where applicable including:

- a. A Pre-Construction Flood Elevation Certificate completed by a licensed, Professional Land Surveyor;
- b. Elevation of the site in relation to mean sea level of the lowest floor (including basement) of all structures;
- c. Elevation in relation to mean sea level of floodproofing in any structure;
- d. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria;
- e. Certification by a registered professional engineer that describes the extent to which a watercourse will be altered or relocated as a result of the proposed development.
- f. A site plan showing the nature, location, dimensions, and topographic elevations of the area in question; existing or proposed structures; fill, storage of materials and drainage facilities.
- g. Development Plans that identify the location of all development, Base Flood Elevation, Freeboard, and the Elevation of the Lowest Floor (A Zones) or Lowest Horizontal Member including the longitudinal chassis of a manufactured home (V Zones) whether or not the structure has a basement.
- h. For development proposed to an existing structure, documentation of the real market value determined by the Tax Assessor's Office and a calculation of the cost of work.
- i. All necessary permits from federal, state, or local governmental agencies from which prior approval is required.
- j. In Coastal High Hazard Areas, V-Zone Certification written, signed and stamped by a licensed Professional Engineer or Architect that documents that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity floodwaters.

11.3 Flood Development Permit Documentation Required as Conditions of Approval.

If the Flood Development Permit is approved, as a condition of approval, the property owner shall provide the following documentation for all new construction and substantial improvements:

- a. Certification of the Lowest Floor completed by a licensed, Professional Land Surveyor;
- b. A Post-Construction Flood Elevation Certificate completed by a licensed, Professional Land Surveyor;
- c. Certification by a registered professional engineer or architect of the extent to which any nonresidential structure meets floodproofing criteria.

11.4 Maintenance of Records.

The City shall maintain in electronic format for public inspection in perpetuity all records pertaining to the provisions of this Ordinance, the issuance of a Flood Development Permit, and compliance with conditions of approval including and not limited to lowest floor, elevation and floodproofing certification records.

Section 12. General Standards. In all areas of special flood hazards, the following standards are required:

12.1 Anchoring.

- a. All new construction and substantial improvements shall be anchored to prevent floatation, 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).

12.2 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 and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. Electrical, mechanical, and plumbing components are not to be mounted on or penetrate through walls that are designed to break away under flood loads.
- e. Electrical crossover connections shall be a minimum of twelve inches above Base Flood Elevation
- f. All site development shall have adequate drainage to reduce exposure to flood damage.
- g. Building materials and installation used for flooring and interior and exterior walls and wall coverings below the elevation required by the Flood Plain Administrator shall be flood damage resistant materials that conform to FEMA provisions.

12.3 Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- 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.

12.4 Subdivision Proposals.

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- 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).

12.5 Critical Facilities.

New critical facilities shall be located outside the limits of the Special Flood Hazard Area except where no feasible alternative site is available. Critical facilities constructed within the Special Flood Hazard Area shall have the lowest floor elevated three feet above Base Flood Elevation. Access to and from the critical facility shall be protected to three feet above Base Flood Elevation to the extent possible.

12.6 Manufactured Dwellings.

In addition to complying with other standards specified by this ordinance, all manufactured dwellings placed or substantially improved:

- a. Shall be elevated on a permanent foundation such that the lowest floor of the dwelling is at or above the base flood elevation.
- b. The bottom of the longitudinal chassis frame beam shall be at or above one foot above Base Flood Elevation in V and Coastal A Zones.
- c. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation in Riverine A Zones
- d. In A and V Zones, electrical crossover connections shall be a minimum of twelve inches above Base Flood Elevation.
- e. The manufactured dwelling chassis shall be anchored foundation system to resist flotation, collapse, and lateral movement. 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).

- f. Where the manufactured dwelling is to be placed in the A1-A30, A, and AE Zones and supported on solid foundation walls, flood openings shall be provided.
- g. Manufactured dwellings to be placed or substantially improved within Zones V1-V30, V, VE or Coastal A Zones designated on the community’s FIRM shall comply with the standards for the Coastal High Hazard Area.

12.7 Recreational Vehicles.

Recreational vehicles placed on sites within the Area of Special Flood Hazard are required to:

- a. Be on site for fewer than 180 consecutive days;
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions;

Or

- c. Shall meet all permit elevation, and anchoring requirements for manufactured dwellings including residential standards for the A Zones and the Coastal High Hazard Area.

Section 13. Specific Standards in Zones A1-30, AH, and AE.

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) the following provisions are required:

13.1 Residential Construction.

- a. New construction and substantial improvement of a residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation.
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed with flood openings, as defined in this ordinance, to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for flood openings must either be certified by a registered professional engineer or architect must meet or exceed the following minimum criteria.

13.2 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 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.
- d. Nonresidential structures that are elevated, not floodproofed, must meet the residential construction standards for space below the lowest floor.
- e. Applicants choosing to floodproof non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level. For example, a building floodproofed to the base flood level will be rated as one foot below the required elevation.

Section 14. Coastal High Hazard Area.

In Coastal High Hazard Areas, as defined in this ordinance, 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:

14.1 All new construction and substantial improvements shall be elevated on pilings and columns so that:

- a. The bottom of the lowest horizontal structural member of the lowest floor, with the exception of piling, pile caps, columns, grade beams and bracing, is elevated one foot or more above the base flood elevation; and
- b. The pile or column foundation and structure attached thereto is anchored to resist floatation, 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 equaled or exceeded in any given year 100-year mean recurrence interval).

14.2 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 this Section. Wind loading values shall be those required by applicable State or local building codes.

- 14.3 Development documentation shall identify the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) in relation to mean sea level of all new and substantially improved structures whether or not such structures contain a basement. The City shall maintain a record of all such information.
- 14.4 All new construction and substantial improvements shall 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.
- 14.5 Breakaway walls 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 building equaled or exceeded in any given year.
 - c. Wind loading values shall be those required by applicable State or local building standards.
 - d. Walls intended to break away under flood loads shall have flood openings as defined.
- 14.6 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.
- 14.7 All manufactured homes to be placed or substantially improved Coastal High Hazard Area as defined in this Ordinance shall meet the General Standards for placement of Manufactured Dwellings.

- 14.8 Recreational Vehicles placed on sites in the Coastal High Hazard Area as defined in this Ordinance shall meet the General Standards for the placement of Recreational Vehicles.
- 14.9 All new construction shall be located landward of the reach of mean high tide.
- 14.10 The use of fill for structural support of buildings is prohibited.
- 14.11 The City prohibits man-made alteration of sand dunes which would increase potential flood damage.
- 14.12 Basement floors that are below grade on all sides are prohibited.

Section 15. Alteration of Watercourses. Prior to the alteration or relocation of a watercourse, the City Floodplain Administrator shall:

- 15.1 Notify adjacent communities and the State Coordinating Officer, currently the Oregon Department of Land Conservation and Development, and submit evidence of such notification to the Federal Insurance Administration.
- 15.2 Require that a professional engineer provide signed, stamped written certification that the altered or relocated portion of said watercourse flood carrying capacity is not diminished.
- 15.3 Require that a professional engineer provide a signed, stamped, written maintenance plan for the altered or relocated watercourse and a bond or similar assurance that authorizes the City to undertake the cost of the maintenance if the property owner fails to do so in a timely manner.

Section 16. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Ordinance and other applicable regulations.

Section 17. 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, Oregon and deemed neither to limit nor repeal any provisions of other City of Bay City Ordinances.

Section 18. 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 in 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, or the Federal Insurance and Mitigation Administration for any flood damages

that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 19. Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 20. Restrictions and Prohibited Uses.

- 20.1 Restrictions. Restrictions regarding heights, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking spaces shall be the same as set forth in each specific zone located within the Area of Special Flood Hazard.
- 20.2 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 as nonconforming uses.

Section 21. Variances.

- 21.1 Variances may be issued by the City in accordance with Section 60.6(b) of the Federal Regulations governing flood insurance (Title 44 CFR) and any amendment thereto, together with the Bay City Development Ordinance.
- a. The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
- b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 21.2 Variance Procedures. Procedures for the granting of variances by the City are as follows:
- a. Variances may be issued for new construction and substantial improvements to be erected on a lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. While the granting of variances is generally limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the required technical justification for issuing a variance increase.
- b. Variance procedures are governed by the Bay City Development Ordinance.

- c. Variances shall only be issued by the City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use where the City adopts findings that support:
 - 1. All criteria in the Variance section of the Bay City Development Ordinance;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. 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, or conflict with existing local laws or ordinances.
 - 4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard;
 - 5. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- d. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

- e. The City shall provide written notice to property owners as required under the Bay City Development Ordinance.

- f. The City shall notify the applicant in writing that:
 - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and
 - 2. Such construction below the base flood level increases risks to life and property.

- g. The Planning Commission shall review the applicant's burden of proof and shall approve or disapprove a request in accordance with the Bay City Development Ordinance.

- h. The City shall:
 - 1. Maintain a record of all variance actions including justification for their issuance; and
 - 2. Report such variances issued in its annual or biennial report submitted to the State Coordinating Officer and the Federal Insurance Administrator.

21.3 The Federal Insurance Administrator may review the City's findings justifying the

granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action.

- 21.4 Authorization of a variance shall be void after six months unless the new construction, substantial improvement or approved activity has taken place. However, the Planning Commission may authorize a six-month extension in conformance with the Bay City Development Ordinance.

Section 22. Appeal Administration Procedures.

- 22.1 An appeal of a City Floodplain Manager ruling or interpretation of a requirement of this Ordinance may be made to the Planning Commission pursuant to the procedures in the City Bay City Development Ordinance.
- 22.2 An appeal of a Planning Commission decision shall be made to the City Council pursuant to the procedures in the City of Bay City Development Ordinance.
- 22.3 The administrative procedures for public hearings and appeals shall be pursuant to the procedures in the City of Bay City Development Ordinance.
- 22.4 The City shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

Section 23. Penalties.

Any intentional or knowing violation of this Ordinance may be punished as a Class “C” misdemeanor. A violation of this Ordinance shall be considered a separate offense for each day the violation continues. Further, all other remedies are available to the City, including abatement proceedings and all penalties available under the Bay City Development Ordinance.

Section 24. 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 provisions of the Ordinance.

Section 25. Emergency.

The City Council believes that existing Ordinance No. 467 is not in compliance with federal and state standards. The Bay City Planning Commission held a public 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 27th day of August 2018
and APPROVED by the Mayor this 27th day of August 2018.

Shaena E. Peterson

Shaena E. Peterson, Mayor

ATTEST:

Linda Downey

Linda Downey, City Recorder

First Reading: August 27, 2018

Second Reading: August 27, 2018

Adoption: August 27, 2018

Ayes: 5

Nays: 0

Abstentions: 0