

**Ordinance No.**

**AN ORDINANCE** of the City of Olympia, Washington, amending Olympia Municipal Code Chapter 16.70 relating to flood damage prevention.

WHEREAS, the City of Olympia is currently covered under the National Flood Insurance Program (NFIP), which is managed by the Federal Emergency Management Agency (FEMA); and

WHEREAS, FEMA has recently completed its process of conducting a Flood Insurance Study and updating the Flood Insurance Rate Maps for the Thurston County region; and

WHEREAS, FEMA's process included review of and recommended changes to the City's current Flood Plain Management Ordinance, OMC 16.70; and

WHEREAS, FEMA has indicated that its recommended amendments to OMC 16.70 are mandatory in order to remain in compliance with FEMA's program requirements for NFIP coverage; and

WHEREAS, the Department of Homeland Security's FEMA Regional Office is required to approve the floodplain management measures adopted by the City in accordance with Title 44 Code of Federal Regulations Section 60.3(d) by October 16, 2012; and

WHEREAS, the Olympia City Council determines it to be in the City's best interest to adopt FEMA's recommended amendments to OMC 16.70 and submit the adopted measures to FEMA by October 16, 2012; and

WHEREAS, this Ordinance is authorized under RCW 35A.63, RCW 36.70A and Article 11, Section 11 of the Washington State Constitution and any other applicable authority; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with the Ordinance along with documents on file with the City of Olympia;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC Chapter 16.70. Chapter 16.70 of the Olympia Municipal Code is hereby amended to read as follows:**

**Chapter 16.70**  
**FLOOD DAMAGE PREVENTION**

**16.70.000 Chapter Contents**

**Sections:**

- 16.70.010 Purpose and Objectives.
- 16.70.020 Definitions.
- 16.70.030 General Provisions.
- 16.70.040 Administration.
- 16.70.050 Provisions for Flood Hazard Reduction.
- ~~16.70.060 Violation Penalty.~~

## **16.70.010 Purpose and Objectives**

### A. Authorization.

The Legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Of Olympia, does ordain as follows:

### B. Findings of Fact.

1. The flood hazard areas of the City of Olympia are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

### C. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard;
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

### D. Methods of Reducing Flood Losses.

In order to accomplish its purposes, this ordinance includes methods and provisions 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 that unnaturally divert floodwaters or may increase flood hazards in other areas.

### **16.70.020 Definitions**

A. "Appeal" a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

~~B. "Area of Shallow Flooding" designated as AO, or AH Zone on the Flood Insurance Rate Map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; 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; AH indicates ponding, and is shown with standard base flood elevations.~~

~~CB.~~ "Area of Special Flood Hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

~~DC.~~ "Base Flood" the flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). Designated on Flood Insurance Rate Maps by the letters A or V.

~~ED.~~ "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

~~F.~~ "Breakaway Wall" 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.

~~G.~~ "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.

~~HE.~~ "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, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

IF. **\*\*Cumulative Substantial Damage**" means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

JG. **\*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 operations or storage of equipment or materials located within the area of special flood hazard.

KH. **\*\*Elevation Certificate**" means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by Community Officials.

LJ. **"Elevated Building"** means for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

M. ~~"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.~~

N. ~~"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

OJ. **"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.

PK. **"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.

QL. **"Flood Insurance Study (FIS)"** 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.

RM. **"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.

SN. **\*\*Increased Cost of Compliance**" A flood insurance claim payment up to \$30,000 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of "substantial damage" or

as a result of a "cumulative substantial damage." (More information can be found in FEMA ICC Manual 301.)

~~FO.~~ "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 5.2-1(2)-~~ OMC 16.70.050.B.1.b, (i.e. provided there are adequate flood ventilation openings).

UP. "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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

~~V.~~ "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.

WQ. "New Construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

~~X.~~ "New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

~~YR.~~ "Recreational Vehicle" means a vehicle,

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

ZS. "Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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 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.

~~AAT.~~ "Structure" a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

~~BBU~~. "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.

~~CCV~~. "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. 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 can exclude:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

~~DDW~~. "Variance" means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

~~EEV~~. "Water Dependent" means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

### **16.70.030 General Provisions**

A. Lands to Which This Ordinance Applies. This ordinance shall apply to all areas of special flood hazards within the jurisdiction of City of Olympia.

B. 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 City of Olympia- Thurston County, Washington and Incorporated Areas" dated ~~August 17, 1981~~ October 16, 2012 and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM) dated October 16, 2012, and any revisions thereto<sup>±</sup>, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and the FIRM are on file at City of Olympia Permit Assistance Center at 601 – 4<sup>th</sup> Avenue E, Olympia, WA. The best available information for flood hazard area identification as outlined in OMC 16.70.040.C.2 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under OMC 16.70.040.C.2.

C. Penalties For Noncompliance. 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. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply

with any of its requirements shall upon conviction thereof be fined not more than One Thousand and no/100 Dollars (\$1,000.00) or imprisoned for not more than ninety (90) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Building Official from taking such other lawful action as is necessary to prevent or remedy any violation.

D. 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.

E. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body; and,
- 3) Deemed neither to limit nor repeal any other powers granted under State statutes.

F. 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 that 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 Building Official, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

G. Severability. If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter.

#### **16.70.040 Administration**

A. Establishment of Development Permit

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in OMC 16.70.030.B. 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 as set forth in the "Definitions."

2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the City of Olympia and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FEMA Form 81-31) with Section B completed by the local official;

- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in OMC 16.70.050.B.2; and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation of the Local Administrator. Building Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

C. Duties & Responsibilities of the Local Administrator. Duties of the Building Official shall include, but not be limited to:

1. Permit Review

- a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b. 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.
- c. 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 OMC 16.70.050.D.1 are met.

2. Use of Other Base Flood Data (In A and V-Zones)

When base flood elevation data has not been provided (in A or V-Zones) in accordance with OMC 16.70.030.B, 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 OMC 16.70.050.B, Specific Standards, and OMC 16.70.050.D Floodways.

3. Information to be Obtained and Maintained

- a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in OMC 16.70.040.C.2, obtain and record the actual (as-built) 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. Recorded on a current elevation certificate (FEMA Form 81-31) with Section B completed by the local official.
- b. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in OMC 16.70.040.C.2:



- i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and
    - ii. Maintain the floodproofing certifications required in OMC ~~16.70.040.A.2.e.~~ 16.70.040.C.3.b.
  - c. Maintain for public inspection all records pertaining to the provisions of this ordinance.
4. Alteration of Watercourses
  - a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. 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. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).
6. Conditions for Variances
  - a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
  - b. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
  - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - d. Variances shall only be issued upon:
    - i. A showing of good and sufficient cause;
    - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
    - iii. 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.

e. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

f. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except ~~OMC 16.70.040.D.2~~ OMC 16.70.040.C.6.a., and otherwise complies with ~~Sections~~ OMC 16.70.050.A.1, OMC 16.70.050.A.3 and OMC 16.70.050.A.4 of the General Standards.

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

### **16.70.050 Provisions for Flood Hazard Reduction**

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

1. Anchoring

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

b. All manufactured homes shall 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. For more detailed information, refer to FEMA publication FEMA P-85, "Protecting Manufactured Homes from Floods and Other Hazards."

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 and substantial improvements shall be constructed using 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. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

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. Water wells shall be located on high ground that is not in the floodway\*.
- c. 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.
- d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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 50 lots or 5 acres (whichever is less).

5. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (~~Section 4.3-2 OMC 16.70.040.C.2~~), 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 the highest adjacent grade in these zones may result in higher insurance rates.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in ~~Section 3.2 OMC 16.70.030.B~~, Basis for Establishing the Areas of Special Flood Hazard, or ~~Section 4.3-2 OMC 16.70.040.C.2~~, Use of Other Base Flood Data. ~~Additional standards were clarified in FEMA Technical Bulletin 11-01 to allow crawlspace construction for buildings located in the special flood hazard areas; however, adopting this provision can result in a 20% increase in flood insurance premiums.~~ The following provisions are required:

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more\* above the base flood elevation (BFE).

~~\* Minimum FEMA standards require the lowest floor to be elevated "to or above" the BFE; however, adding an additional foot of freeboard increases safety and can reduce insurance premiums by as much as 30%. Adopting additional freeboard is strongly encouraged by FEMA. This note applies throughout the model ordinance.~~

b. 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:

i. 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.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

c. Additional requirements for below-grade crawlspaces construction:

The interior grade of a crawlspace below the base flood elevation (BFE) must not be more than two-feet below the lowest adjacent exterior grade (LAG).

The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four-feet at any point.

The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

This limitation will also prevent these crawlspaces from being converted into habitable spaces.

There must be adequate drainage system that removes floodwaters from the interior area of the crawlspace.

The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

The velocity of floodwaters at the site should not exceed five-feet per second for any crawlspace. For velocities in excess of five-feet per second, other foundations should be used.

Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

Below grade crawlspace construction in accordance with the requirements listed above will not be considered basements.

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 one foot or more\* above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below one foot or more above 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, specifications and plans. Such certifications shall be provided to the official as set forth in OMC 16.70.040.C.3.b; and
- d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in OMC 16.70.050.B.1.b.

\*Applicants who are floodproofing nonresidential buildings should be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

3. Manufactured Homes. All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above\* the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

- a. Be on the site for fewer than 180 consecutive days, or
- b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- c. Meet the requirements of OMC 16.70.050.B.3 above and the elevation and anchoring requirements for manufactured homes.

C. ~~AE and A1-30~~ Zones with Base Flood Elevations but No Floodways. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones ~~A1-30~~ and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

D. Floodways. Located within areas of special flood hazard established in OMC 16.70.030.B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. ~~(44 CFR 60.3(d)(3))~~
2. Construction or reconstruction of residential structures is prohibited within designated floodways<sup>2</sup>, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair, or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. 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 to structures identified as historic places, may be excluded in the 50 percent.
3. If OMC-16.70.050.D.a-1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of OMC 16.70.050, Provisions for Flood Hazard Reduction.

E. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

#### **16.70.060 Violation — Penalty**

~~A.— Violation of the provisions of this article or failure to comply with any of the requirements shall constitute a misdemeanor and shall be punishable by a fine of not more than three hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate, distinct offense.~~

~~B.— Any person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in subsection A of this section.~~

~~C.— In addition to the penalties set forth in subsections A and B of this section, any violation of the provisions of this article is declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in Superior Court or other court of competent jurisdiction.~~

**Section 2. Severability.** The provisions of this ordinance are declared separate and severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or application of the provision to other persons or circumstances, shall be unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

*Darren Niencker*  
\_\_\_\_\_  
DEPUTY CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**