

ORDINANCE NO. 15-14

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING TITLE 8, CREATING CHAPTER 5 TO PROVIDE FOR COMPLIANCE WITH FEMA FLOOD PLAIN MANAGEMENT REQUIREMENTS; MAKING NECESSARY LANGUAGE CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES; AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

Section 1 - Recitals:

WHEREAS, SOUTH OGDEN City (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, the City Council finds that in conformance with UC §10-3-717, and UC §10-3-701, the governing body of the city has previously adopted a City Code which deals with water, sewer, and storm water matters and related issues; and,

WHEREAS, the City Council finds that South Ogden City Code, at Title 8, and its various sections deal with water, sewer, and storm water matters within the city and is based on and adopted in conformance with the authority granted to the City by UCA Title 10; and,

WHEREAS, the City Council finds that it is in the public interest to manage and regulate the procedures governing water-related issues; and,

WHEREAS, the City Council finds that South Ogden City Code, at Title 10, should be amended by adding new language creating Chapter 5 governing flood plain, mapping, and management areas for the city; and,

WHEREAS, the City Council finds that the requirements herein should be effective upon passage of this Ordinance; and,

WHEREAS, the City Council finds that the public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH that

City Code, Title 8, Be Changed And Amended To Add Chapter 5 To Read As
Set Out Below.

Title 8 Chapter 5 FLOOD DAMAGE PREVENTION ORDINANCE

8-5-1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

8-5-1A. STATUTORY AUTHORIZATION

The Legislature of the State of Utah has in Utah Code §10-3-701 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore Utah does or has delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, South Ogden ordains:

8-5-1B. FINDINGS OF FACT

(1) The flood hazard areas of South Ogden are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

8-5-1C. STATEMENT OF PURPOSE

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 areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

8-5-1D. METHODS OF REDUCING FLOOD LOSSES

1. To accomplish its purposes, this ordinance uses the following methods:
2. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
3. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage during initial construction;

4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
5. Control filling, grading, dredging and other development which may increase flood damage;
6. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

8-5-2 DEFINITIONS

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

ALLUVIAL FAN FLOODING - means flooding on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed to prepare for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any year.

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

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and 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.

ELEVATED BUILDING - means a non-basement building (i) built four buildings in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or for a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. For Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated with fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. For Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the

lower area is enclosed with breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means to determine rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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, constructing streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - Means the preparation of additional sites by constructing facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, constructing streets, and either final site grading or the pouring of concrete pads).

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.
2. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, and the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use which cannot perform its intended purpose unless it is located or carried out near water. The term includes only docking facilities, port facilities necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs certified either:
 - a) by an approved state program as determined by the Secretary of the Interior or;
 - b) directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed under sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which comprises a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated under sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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.

MEAN SEA LEVEL - means, for the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, to determine insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. 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.

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, constructing streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
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.

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), 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 slab or footings, the installation of piles, constructing columns, or any work beyond the stage of excavation; or placing a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or 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.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, and a manufactured home.

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.

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 "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when enforcement would cause unnecessary hardship. A variance, therefore, permits construction or

development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to fully comply with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

8-5-3 GENERAL PROVISIONS

8-5-3A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of South Ogden City County.

8-5-3B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for South Ogden," dated June 2, 2015, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are adopted by reference and declared to be a part of this ordinance.

8-5-3C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with this ordinance.

8-5-3D. COMPLIANCE

No structure or land shall be located, altered, or have its use changed without full compliance with this ordinance and other applicable regulations.

8-5-3E. 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.

8-5-3F. 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
2. deemed neither to limit nor repeal any other powers granted under State statutes.

8-5-3G. WARNING AND DISCLAIMER OR LIABILITY

Flood protection required by this ordinance is reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and 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 community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

8-5-4 ADMINISTRATION

8-5-4A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The South Ogden City Floodplain Manager is appointed the Floodplain Administrator to administer and implement this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

8-5-4B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to :

1. Maintain and hold open for public inspection all records pertaining to this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed on the exact location of the boundaries of the areas of special flood hazards (where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Utah Floodplain Administrator, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided under 8-5-3B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, to administer 8-5-5.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that 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.
10. Under 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

8-5-4C. PERMIT PROCEDURES

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. The following information is also required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of 8-5-5B (2);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development.
5. Maintain a record of all such information under 8-5-4B(1).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of this ordinance and the following factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. 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;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

8-5-4D. VARIANCE PROCEDURES

1. The Appeal Board or Entity, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.

2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. 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 in the remainder of this ordinance.

6. 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 the factors in 8-5-1C(2) of this Section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to granting variances as it deems necessary to further the purpose and objectives of this ordinance (8-5-1C).

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

9. 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 structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

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

b) Variances shall only be issued upon:

1) showing a good and sufficient cause;

2) a determination that failure to grant the variance would cause exceptional hardship to the applicant, and

3) a determination that granting 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.

c) Any applicant to whom a variance is granted shall be given written notice that the structure may be built with the 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.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a) the criteria outlined in 8-5-5, Section D(1)-(9) are met, and

b) 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.

8-5-5 PROVISIONS FOR FLOOD HAZARD REDUCTION

8-5-5A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.

5. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

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

8-5-5B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) 8-5-3B, (ii) 8-5-4B(8), or (iii) 8-5-5C(3), the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in 8-5-4C(1)a., is satisfied.

2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding 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 meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

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

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

3. **Manufactured Homes** -

a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is besides applicable State and local anchoring requirements for resisting wind forces.

b) Require that manufactured homes placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" because of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM not subject to paragraph (4) of this section be elevated so that either:

1) the lowest floor of the manufactured home is at or above the base flood elevation, or

2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a) be on the site for fewer than 180 consecutive days,

b) be fully licensed and ready for highway use, or

c) meet the permit requirements of 8-5-4C(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is 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.

8-5-5C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall follow 8-5-1, Sections B, C, and D of this ordinance.

2. All proposals for developing subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of 8-5-3, Section C; 8-5-4, Section C; and 8-5-5 of this ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions.18 which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided under 8-5-3, Section B or 8-5-4, Section B (8) of this ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

8-5-5D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Within the areas of special flood hazard established in 8-5-3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

2. All new construction and substantial improvements of **non-residential** structures;

a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in 8-5-4, Section C (1)a., are satisfied.

4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

8-5-5E. FLOODWAYS

Floodways - within areas of special flood hazard established in 8-5-3, Section B, are areas designated as floodways. Since the floodway is a hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed under standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

2. If 8-5-5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all flood hazard reduction provisions of 8-5-5.

3. Under 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would cause an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

8-5-5F. AUTOMATIC ADOPTION

South Ogden City automatically adopts all FEMA Flood Insurance Rate Maps (FIRMS), and automatically adopts all FEMA Flood Insurance Studies (FIS).

8-5-6. PENALTY CLAUSE

8-5-6A Under Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." Under Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."

THEREFORE: The following penalty clause is adopted with this South Ogden City Flood Damage Prevention Ordinance.

8-5-6A1 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with this ordinance and other applicable regulations. Violation of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established with conditions) shall constitute a class B 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 \$500.00 or imprisoned for not more than 180 days, or both, for each violation, and in addition shall pay all costs and expenses involved . Nothing contained shall prevent the South Ogden City from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 2 - Repealer of Conflicting Enactments:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which are in conflict with this Ordinance, are, to the extent of such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part, repealed.

Section 3 - Prior Ordinances and Resolutions:

The body and substance of any and all prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of South Ogden City.

Section 5 - Certification

The City Council finds and declares that severe flooding has occurred in the past within its jurisdiction and will occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to comply with minimum standards for coverage under the National Flood Insurance Program; and in order to remedy the situation described, it is necessary this ordinance become effective immediately.

Therefore, an emergency is declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect after its passage and approval

Section 6 - Date of Effect

This Ordinance shall be effective on the 2nd day of June, 2015, and after publication or posting as required by law.

DATED this 2nd day of June, 2015

SOUTH OGDEN, a municipal corporation

by: _____
Mayor James F. Minster

Attested and recorded

Leesa Kapetanov
City Recorder