

ORDINANCE NO. 23-20

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING TITLE 8, 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 I – 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 UC 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 8, should be amended by adding new language to various sections as outlined below; 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 the Language As Set Out Below in the Following Code Sections. Any minor formatting adjustments may be applied to better conform with the general code without changing the text or meaning of this ordinance amendment.

8-5-2: Definitions

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

ALLUVIAL FAN FLOODING: 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: 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: A designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (3') 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: The land in the floodplain within a community subject to a one percent (1%) 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 zone A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any year.

BASE FLOOD ELEVATION (BFE): is the water surface elevation of the 1-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

CRITICAL FEATURE: 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: Any manmade 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: A nonbasement building: a) built for 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 zone 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 b) 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 floodwaters. For zone 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: 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: 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: 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 INSURANCE RATE MAP (FIRM): 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: 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.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PROTECTION SYSTEM: 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.

FLOODPLAIN MANAGEMENT: 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: 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.

FLOODPLAIN OR FLOOD PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of Flood Or Flooding).

FLOODPROOFING: Any combination of structural and nonstructural 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): 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: 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: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is:

- A. Listed individually in the national register of historic places (a listing maintained by the department of the interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- B. 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;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the secretary of the interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs certified either:
 - 1. By an approved state program as determined by the secretary of the interior; or
 - 2. Directly by the secretary of the interior in states without approved programs.

LEVEE: A manmade 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: 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: 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 nonelevation design requirement of section 60.3 of the national flood insurance program regulations.

MANUFACTURED HOME: 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: A parcel (or contiguous parcels) of land divided into two (2) 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: 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: A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- 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 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 one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, 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: A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, and a manufactured home.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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:

- A. 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
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE: A grant of relief to a person from the requirement of this chapter when enforcement would cause unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see section 60.6 of the national flood insurance program regulations.)

VIOLATION: 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: 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. (Ord. 15-14, 6-2-2015, eff. 6-2-2015)

8-5-5 Specific Standards

- B. In all areas of special flood hazards where base flood elevation data has been provided as set forth in: 1) subsection 8-5-3B of this chapter, 2) subsection 8-5-4B8 of this chapter, or 3) subsection C3 of this section, 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 subsection 8-5-4C1a of this chapter, 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 1 foot~~ ~~elevated to or~~ above the base flood ~~elevation 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 floodproofed 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 (2) 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 (1') 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.
4. ~~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: 1) outside of a manufactured home park or subdivision, 2) in a new manufactured home park or subdivision, 3) in an expansion to an existing manufactured home park or subdivision, or 4) 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 this subsection B4 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 thirty six inches (36") 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 one hundred eighty (180) consecutive days,
 - b) Be fully licensed and ready for highway use, or
 - c) Meet the permit requirements of subsection 8-5-4C1 of this chapter, and the elevation and anchoring requirements for "manufactured homes" in subsection B4 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.

8-5-5 Floodways

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

~~B.1.~~ South Ogden City shall designate a regulatory floodway that will not increase the base flood elevation more than 1 foot.

~~1.2.~~ 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.~~3. If subsection E1 of this section is satisfied, all new construction and substantial improvements shall comply with all flood hazard reduction provisions of this section.
- ~~3.~~4. 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.
- F. Automatic Adoption: South Ogden City automatically adopts all FEMA flood insurance rate maps (FIRMS), and automatically adopts all FEMA flood insurance studies (FIS). (Ord. 15-14, 6-2-2015, eff. 6-2-2015)

8-5-7: Severability

1. If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

SECTION II - 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 III – 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 IV – 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 V – DATE OF EFFECT

This Ordinance shall be effective on signing and publication or posting as required by law.

DATED this 7th day of November, 2023.

SOUTH OGDEN CITY, a municipal corporation

by: _____
Mayor Russell Porter

Attested and recorded

Leesa Kapetanov, MMC
City Recorder