

ORDINANCE NO. 972

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, DESIGNED TO PROMOTE THE PUBLIC SAFETY FROM FLOOD LOSS; APPLYING ORDINANCE TO YEAR OF SPECIAL FLOOD HAZARD IDENTIFIED BY THE FEDERAL INSURANCE ADMINISTRATION; PROHIBITING DEVELOPMENT IN THOSE AREAS; APPLYING MORE STRINGENT STANDARDS; PROVIDING A METHOD OF APPLYING FOR DEVELOPMENT PERMITS; APPOINTING THE BUILDING OFFICIAL TO ADMINISTER; APPOINTING AN APPEAL BOARD; SETTING CONDITIONS FOR VARIANCE; SETTING STANDARDS IN AREAS OF SPECIAL FLOOD HAZARD; DESIGNATING FLOODWAYS; SETTING STANDARDS IN AREAS OF SHALLOW FLOODING AREAS; ESTABLISHING AN EFFECTIVE DATE; REPEALER; SEVERABILITY.

BE IT ORDAINED AND RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAYETTE, IDAHO:

SECTION 1: This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Payette, Idaho.

SECTION 2: The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Payette, Idaho, dated August 15, 1983, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the Payette City Hall, 700 Center Avenue, Payette, Idaho.

SECTION 3: 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. Violation 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 \$300.00 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 City of Payette, Idaho, from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 4: This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 5: 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.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most

reasonable application.

"AREA OF SHALLOW FLOODING" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; 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 and AH indicates ponding.

"AREA OF SPECIAL FLOOD HAZARD" means 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 letter A or V.

"BASE FLOOD" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

SECTION 6: 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 City of Payette, Idaho, 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.

SECTION 7: A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 2. The permit shall be for all structures, including manufactured homes, and for all development, including fill and other activities.

SECTION 8: Application for a development permit shall be made on forms furnished by the building official 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:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 13(3); and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

SECTION 9: The building official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. Duties of the building official shall include, but not be limited

to:

(1) Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.

(2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 14(1) are met.

(4) When base flood elevation data has not been provided in accordance with Section 2, the building official obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal State or other source, in order to administer Sections 13 and 14.

(5) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 11, obtain and record the actual 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.

(6) For all new or substantially improved floodproofed structures:

(i) verify and record the actual elevation (in relation to mean sea level), and

(ii) maintain the floodproofing certifications required

in Section 8 (3).

(7) Maintain for public inspection all records pertaining to the provisions of this Ordinance.

(8) Notify adjacent communities and the (State coordinating agency) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(9) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(10) Make interpretations where needed, as to exact location of the boundaries of the areas of apsecial flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 10.

SECTION 10: The appeal board as established by the City of Payette, Idaho, shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

The appeal board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of this Ordinance.

Those aggrieved by the decision of the appeal board, or any taxpayer, may appeal such decision to the District Court of the Third Judicial District of the State of Idaho, in and for the

County of Payette, as provided by statute.

In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:

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

(ii) the danger to life and property due to flooding or erosion damage;

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

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

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

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

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

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

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

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects

of wave action, if applicable, expected at the site; and

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

Upon consideration of the factors of this Section and the purposes of this Ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

The building official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

SECTION 11: Conditions for variances shall be as follows:

(1) 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 lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 10 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

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

(3) Variances shall not be issued within a designated

floodway if any increase in flood levels during the base flood discharge would result.

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

(5) Variances shall only be issued upon:

(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 as identified in Section 10, or conflict with existing local laws or ordinances.

(6) 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 the flood elevations should be quite rare.

(7) 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 11(1), and otherwise

complies with Section 12.

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

SECTION 12: In all areas of special flood hazards, the following standards are required:

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

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Referenc FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

(3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(4) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(5) 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.

(6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

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

(9) All subdivision proposals shall be consistent with the need to minimize flood damage.

(10) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(11) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(12) 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).

(13) Where elevation data is not available either through

the Flood Insurance Study or from another authoritative source (Section 9(4)), 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 grade in these zones may result in higher insurance rates.

SECTION 13: In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 2 or Section 9(4), the following provisions are required:

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

(2) 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 creens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(i) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

(ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iii) 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 Section 9(6).

(iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in this Section.

(v) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building

constructed to the base flood level will be rated as one foot below that level).

(4) All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 12(2).

SECTION 14: Located within areas of special flood hazard established in Section 2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and 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 or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Section 14(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.

SECTION 15: Where base flood elevations have been provided but floodways have not, Section 14 should read as follows:

The cumulative effect of any proposed development, when combined with all other existing and anticipated development,

shall not increase the water surface elevation of the base flood more than one foot at any point.

SECTION 16: Shallow flooding areas appear on FIRM's as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

(1) New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified).

(2) New construction and substantial improvements of non-residential structures within AO zones shall either:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

(ii) together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level 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 bouyancy. If this method

is used, compliance shall be certified by a registered professional engineer or architect as in Section 13(3)(iii).

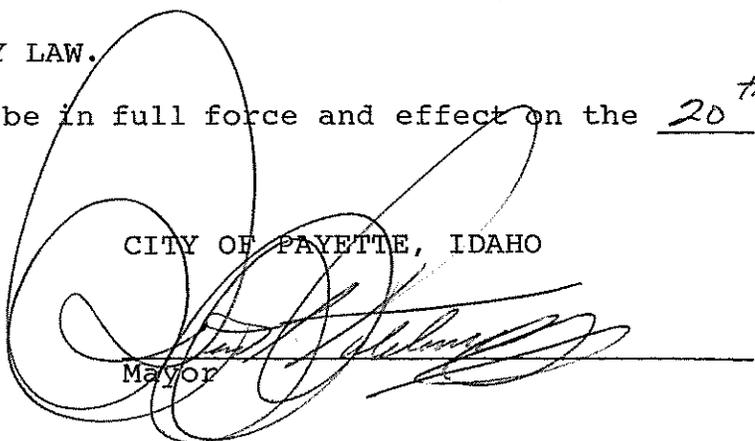
(3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

SECTION 17: Any portions of any existing Ordinances which are in direct conflict with this Ordinance are hereby repealed insofar as the conflict exists.

SECTION 18: If any portion of this Ordinance is found to be unenforceable or unconstitutional for any reason, the remaining portion of this Ordinance shall remain in full force and effect.

BE IT ORDAINED AND RESOLVED THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS APPROVAL, PASSAGE AND PUBLICATION AS REQUIRED BY LAW.

This Ordinance shall be in full force and effect on the 20th day of April, 1987.

CITY OF PAYETTE, IDAHO

Mayor

ATTEST:

John P. Franks
City Clerk