



CITY OF BEAVERTON

CITY ORDINANCES

ORDINANCE 3487

AN ORDINANCE REPEALING BC 9.04.010-.120 AND AMENDING BC 9.05.005-.170 OF THE BEAVERTON CODE TO CREATE A UNIFORM SITE DEVELOPMENT CODE; AND DECLARING AN EMERGENCY.

NUMBER OF PAGES

36

ORDINANCE NO.

3487

CODE

AN ORDINANCE REPEALING BC 9.04.010 - .120 AND AMENDING BC 9.05.005 - .170 OF THE BEAVERTON CODE TO CREATE A UNIFORM SITE DEVELOPMENT CODE; AND DECLARING AN EMERGENCY.

WHEREAS, the Beaverton Code, Chapter Nine, divisions 4 and 5 both address site development within the City; and

WHEREAS, there are duplicative and inconsistent provisions which should be eliminated and/or reconciled with one another to achieve internal consistency within the Code; and

WHEREAS, the Site Development Code is in need of updating to reflect current practices; and

WHEREAS, the Council therefore finds and declares that it is necessary to adopt this ordinance to promote the public health, safety and welfare since the ordinance will simplify and streamline the Site Development Code; and

WHEREAS, the Council finds that an emergency exists because (a) the revision included within this ordinance is substantial; (b) the revision can only be included in the 1986 codification of the Beaverton Code if it takes effect during the month of January, 1986; and (c) it is necessary to include these revisions in the 1986 Beaverton Code to avoid confusion through the year as to how the Code will govern site development work within the City; now, therefore,

THE CITY OF BEAVERTON DOES ORDAIN AS FOLLOWS:

Section 1. BC 9.04.010 - .120, inclusive, are hereby repealed and are no longer in effect as of the effective date of this ordinance.

Section 2. BC 9.05.010, Findings and Objectives, is hereby amended by adding new subsections F and G, and the entire section

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shall now read as follows:

"9.05.010 Findings and Objectives. The Council finds and declares that it is necessary to adopt this ordinance to promote the public health, safety and general welfare by accomplishing the purposes set forth in this section, and it is intended that this ordinance be administered in accordance with those purposes. Specifically, this ordinance is intended to:

"A. Insofar as practicable and in permitting reasonable development of land and minimizing fire hazard, insure the maximum retention of ground cover and runoff to aid in protection against flooding, erosion, earth movement, siltation, and other similar hazards;

"B. Protect property values by insuring the maximum preservation of the natural vegetation for wildlife and the scenic character and visual continuity of the City consistent with the reasonable economic enjoyment of property;

"C. Insure that the development of each parcel of land, as well as water courses, streets and other public lands and places, occurs in a manner harmonious with adjacent lands so as to minimize problems of flooding, drainage, erosion, earth movement and similar hazards;

"D. Insure, insofar as practicable, that site development will take place in a manner that complements the public street system and public utilities;

"E. To provide a review process for development proposed in any floodplain to insure that the development will be designed and constructed in a manner likely to minimize the danger present to life or property as a result of all development within the floodplain area;

"F. Insure that site development design and construction are of good quality and are done in conformance with proper and accepted engineering principles;

"G. Insure that site development, design and

construction are accomplished with a minimum of disruption to the public."

Section 3. BC 9.05.015, Definitions, is hereby amended by adding, amending or deleting certain definitions and the entire section shall now read as follows:

"9.05.015 Definitions. For the purpose of this ordinance, the following mean:

"Area of shallow flooding - 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. [Added by Ordinance No. 3400, 9/10/84]

"Base flood - The maximum flood that is predicted to occur within any one hundred year period as measured by the resulting water discharge rates and water surface elevations.

"Board - The Board of Site and Design Review as established in BC 2.03.130. The Board's jurisdiction and powers are set out in the Development Code. [Added by Ordinance No. 3440, 4/2/85]

"Channelization - The process of modifying a waterway to reduce its floodway and/or floodplain by increasing the cross-sectional area of the waterway, to realign the waterway so that the centerline of the water will follow a new alignment, or for any other purpose. [Added by Ordinance No. 3440, 4/2/85]

"Development - The act of bringing about growth; to construct or alter a structure, to make any physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access, or to construct public or private improvements including streets, sidewalks, water lines, sewer lines, or storm drain lines.

"Engineer, city engineer - The city engineer of the City of Beaverton or the city engineer's designee. The city engineer has authority to interpret this ordinance pursuant to BC 9.05.016, and is the mayor's designee for this purpose throughout this ordinance.

"Excavation - An act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and includes the conditions resulting from the act.

"Fill - An act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled or transported, and includes the conditions resulting from the act.

"FIRM - The flood insurance rate map. [Added by Ordinance No. 3440, 4/2/85]

"Floodplain - The zone along a watercourse enclosed by the outer limits of land that is subject to inundation in its natural or lower revised contours by the base flood.

"Floodplain district - The overlay zoning district as established by the Development Code.

"Floodway - The channel of a river or other watercourse and adjacent land areas that are capable of discharging and must be reserved in order to discharge water flow associated with the base flood. [Added by Ordinance No. 3440, 4/2/85]

"Grading - Excavation or fill or any combination of excavation or fill and includes the conditions resulting from any excavation or fill.

"Grading, finish - The final grade of the site that conforms to the approved plan.

"Grading, rough - The stage at which the grade approximately conforms to the approved plan.

"Natural Resource Area, Important Natural Resource Area or Significant Natural Resource Area - The areas defined in the City's General Plan and designated on the General Plan Map as Important or Significant Natural Resource Areas. [Added by Ordinance No. 3440, 4/2/85]

"Public utilities - Service furnished by the City or other public agency including, but not limited to, water, sanitary sewer and storm sewer service, telephone, natural gas, cable and electricity.

"Site - A lot or parcel of land or a series of lots or parcels of land joined together under one ownership where development occurs. The term 'site' also includes a subdivision that has received preliminary plat approval.

"Water course - The line of drainage in a defined channel for either storm run-off or intermittent or year around stream flow.

"Work (alone or as in 'site development work' or 'development work') - Any construction, alteration or the bringing about of any physical change in the use or appearance of land, including grading and excavation as defined herein. [Added by Ordinance No. 3440, 4/2/85]

"Zoning ordinance - Ordinance No. 2050 and amendments thereto."

Section 4. BC 9.05.016, Interpretation, is hereby added and shall read as follows:

"9.05.016 Interpretation.

"A. The city engineer shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this ordinance. A person requesting such an interpretation shall do so in writing and upon forms to be provided by the city engineer.

"B. If the person requesting an interpretation disagrees with the city engineer's interpretation, it may be appealed to the City Council pursuant to BC 9.05.091."

Section 5. BC 9.05.020, Permits Required, is hereby amended and the entire section shall now read as follows:

"9.05.020 Permits Required.

"A. Within right of way, easements or other real property of the City, City franchise holder, or other public agency, no person shall perform any work, development, excavation, or fill; or construct or alter streets, sidewalks, curbs, gutters, or utilities; or in any way tamper with pavement without first obtaining a permit from the city engineer.

"B. Within all areas outside of subsection A, above, no person shall do any of the following without first obtaining a permit from the city engineer.

"1. an excavation, fill or combination thereof, in excess of 50 cubic yards on a site;

"2. an excavation or fill that will encroach on or alter a natural drainage channel or water course;

"3. removal of the natural vegetation or ground cover from an area in excess of 2,000 square feet or the removal of a tree greater than 30 feet in height;

"4. the construction, reconstruction, alteration, repair, or installation of a structure in any water course;

"5. the construction of a private driveway, private road or parking lot on a lot;

"6. site development work by a public utility, public agency, or City franchise holder in a Significant Natural Resource Area.

"C. A separate permit shall be required for each separate noncontiguous site. One permit may cover both an excavation and a fill on the same site. A permit for excavation on one site does not approve the disposal on another site.

"D. A permit shall be required for any work or development in a floodplain. [BC 9.05.020, amended by Ordinance No. 3440, 4/2/85]"

Section 6. BC 9.05.025, Permit Exemptions, is hereby amended and

the entire section shall now read as follows:

"9.05.025 Permit Exemptions. The permit provided for in BC 9.05.020 ~~shall not be required~~ for the following:

"A. Site development work in connection with a public improvement or public work for which inspection is provided by the City or other public agency as approved by the city engineer in an area other than a Significant Natural Resource Area.

"B. Except in a floodplain district, an excavation below finished grade for basements and footings of a building, swimming pool or underground structure authorized by a valid building permit where the cost of the excavation is included in the building permit valuation. This exception shall not affect the applicability of this ordinance to, nor the requirement of a grading permit for, a fill made with the material from the excavation.

"C. Tilling of the soil for agricultural purposes. [BC 9.05.025, amended by Ordinance No. 3440, 4/2/85]"

Section 7. BC 9.05.030, Permit Issuance by Building Official, is hereby repealed.

Section 8. BC 9.05.032, Permits Fees, is hereby amended and the entire section shall now read as follows:

"9.05.032 Permit Fees.

"A. To defray expenses incurred in connection with the processing of applications, preparation of reports, publication of notices, issuance of permits, review and maintenance of plans and records, and other matters, the City shall collect filing and other fees as established by Council resolution. The required fee shall be paid to the City on filing an application or at any other time specified by the resolution. Failure to submit the required fees

with an application or a notice of appeal, including return of checks unpaid or other failure of consideration may preclude the processing of that application or appeal.

"B. Fees are non-refundable, except when the City has incurred no cost in the processing of a terminated or withdrawn application. Municipal corporations and other public agencies are exempt from the payment of application fees.

"C. The Council may reduce or waive required fees on a showing of just cause.

"D. If work is begun on a project requiring a permit under BC 9.05.005 - .170 without first securing a permit, the fee shall be twice the fee authorized by Council resolution, unless the city engineer determines that it was not reasonably possible to obtain a permit before commencing the work. Payment of the fee, however, shall not relieve or excuse a person from the forfeitures imposed for violation of BC 9.05.005 - .170 and/or conformance with Code requirements. Payment of the fee shall not foreclose any other enforcement provisions. [BC 9.05.032, renumbered by Ordinance No. 3440, 4/2/85]"

Section 9. BC 9.05.035, Permit Application, is hereby amended and the entire section shall now read as follows:

"9.05.035 Permit Application.

"A. To obtain a permit required by this ordinance, the applicant shall file a written application on forms furnished by the city engineer.

"B. The application shall be completed to the extent necessary as determined by the city engineer and shall contain the following:

- "1. the purpose of the work;
- "2. the amount of material proposed to be excavated and the amount of fill in cubic yards;

"3. the legal description of the property on which the work is to be performed;

"4. the street address at the point of access to the property where the work is to be performed;

"5. the name and address of the owner of the property on which the work is to be performed;

"6. a description of the equipment and methods to be used in performing the work;

"7. the name, address and phone number of the person who will be performing the work;

"8. the route or routes proposed to be followed within the City in coming to and going from the site by the equipment used to haul the excavation or fill equipment and material;

"9. the estimated dates for starting and completing the work to be done;

"10. an engineering geological investigation, based on the plan for the work proposed under the permit. The engineering geological report shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the effect of geologic conditions, including consideration of seismic hazards and slope stability in natural materials on the proposed development. All reports shall be subject to approval by the city engineer and supplemental reports and data may be required as the city engineer considers necessary. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plan. This requirement may be waived by the city engineer when it appears from the condition of the property that such a report is not necessary;

"11. a soil engineering investigation, based on the plan for the work proposed under the permit. The reports shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, and design criteria

for corrective measures. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plan or specifications. Recommendations may be waived by the city engineer when it appears from the conditions outlined in the report that incorporation of the recommendations is not necessary;

"C. For sites identified as Significant Natural Resource Areas, an environmental assessment report, prepared by a qualified biologist or other professionals qualified to assess the particular resource issues on the site will be required and the application will be referred to the planning director pursuant to BC 9.05.050. The planning director may waive the requirement if sufficient information already exists to address the issues present. For sites not identified as Significant Natural Resource Areas, the city engineer may require such an assessment to determine the impact on such factors as soil erosion and water quality.

"D. If the proposed work requires the approval of any other governmental agency or public utility, such as the Corps of Engineers or Oregon Division of State Lands, the applicant shall also submit evidence of having made such application for approval prior to or simultaneously with the City submittal and shall submit duplicate copies of these applications to the city engineer. The city engineer shall coordinate approvals by the City with those of other agencies to the extent necessary and feasible. Any permit issued by the city engineer pursuant to this ordinance shall not be valid until other agency approvals have been obtained.

"E. The city engineer may require additional information necessary to carry out the purposes of this ordinance. This information may include, but is not limited to, traffic studies, soils reports and geological investigations. The person or persons providing this information shall be qualified with regard to education,

training and experience. The city engineer may also waive any of the requirements in subsection B, above, as he determines they are not necessary or applicable on a case by case basis.

"F. Additional information for property wholly or partly within the floodplain district.

"1. The applicant shall provide base flood elevation data for subdivision proposals and other proposed development.

"2. The city engineer may request:

"a. a detailed hydrologic data report prepared by a registered engineer with a background in the area of hydrology. This report shall include, but is not limited to, water profiles and discharge rates for the channel and the hydrology for the tributary areas; and/or

"b. an environmental assessment report, prepared by a qualified individual, satisfactory to the city engineer. This report shall include, but is not limited to, the impact on soil erosion, damage to significant vegetation and displacement of wildlife, on both the subject property and adjoining properties. It shall identify the factors on which the report is based, and the reasons for conclusions drawn. [BC 9.05.035, amended by Ordinance No. 3400, 9/10/84; Ordinance No. 3440, 4/2/85]"

Section 10. BC 9.05.040, Requirements for Scale Plans and Drawings, is hereby amended and the entire section shall now read as follows:

"9.05.040 Requirements for Scale Plans and Drawings.

"A. The application required by BC 9.05.035 shall be accompanied by five copies of scale plans or drawings prepared and signed as appropriate by a registered civil engineer, architect, or landscape architect showing sufficient details and information to carry out the purposes

of this ordinance. Following are examples of information which may be required:

"1. property lines of the property on which the work is to be performed;

"2. location of buildings or structures on the property where the work is to be performed, and the location of any building or structure on land of adjacent property owners that is within fifteen feet of the property on which the work is to be performed;

"3. elevations, dimensions, location, extent and the slopes of all work proposed to be done, shown on a contour map, and an estimate of the quantity of excavation and fill involved. The contour map shall show the existing contours of the land and the proposed contours of the land after completion of the proposed work. Contours shall be shown at even two-foot or other intervals required by the city engineer;

"4. detailed plans of walls, cribs, drains, dams, erosion control planting or other protective devices to be constructed in connection with or as a part of the proposed work, together with a map showing the drainage area and estimated cubic feet per second runoff of the area served by any drainage facility;

"5. a map or photo showing and describing the major plant materials and a map delineating riparian and wetland boundaries on the site;

"6. detailed engineering plans showing construction details for streets, sidewalks, curbs, gutters, water, sewer, storm drains, parking lots and utilities;

"7. any other applicable plans or drawings the city engineer may require in order to carry out the purposes of this ordinance including, on sites in excess of one-half acre, work on streets or utilities that will become part of the public street.

"B. The city engineer may waive the requirement for

scale drawings if the city engineer finds that the information on the application is sufficient to show that the work will conform to the requirements of this ordinance.

"C. The city engineer shall review the plans in accordance with generally accepted engineering standards, methods, and specifications and may make such requirements as are necessary to insure that the plans submitted and the development, design or construction comply therewith. [BC 9.05.040, amended by Ordinance No. 3440, 4/2/85]"

Section 11. BC 9.05.045, Technical Standards, is hereby amended and the entire section shall now read as follows:

"9.05.045 Technical Standards.

"A. The city engineer shall propose technical standards, such as best management practices, the city engineer finds necessary and advisable to aid in the interpretation, application and implementation of the development standards contained in this ordinance.

"B. Before the implementation of any proposed standards, they shall be approved by resolution of the Council.

"C. Standards adopted under this section shall be kept on file in the office of the city engineer and shall be made available to the public. [BC 9.05.045, added by Ordinance No. 3440, 4/2/85]"

Section 12. BC 9.05.046, Extension of Facilities, is hereby added and shall read as follows:

"9.05.046 Extension of Facilities. To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the city engineer shall require extension of water lines, sanitary and storm sewer

lines and may require extension of streets through applicant's property to the property line of the adjoining or abutting property in a manner approved by Facilities Review in accordance with Ordinance No. 2050 (the Development Code) and may designate maximum or minimum slopes and compaction to be used. Facilities required in accordance with this section shall be consistent with the acknowledged Beaverton Area General Plan."

Section 13. BC 9.05.050, Application Referred to Planning Director or Board of Site and Design Review, is hereby amended and the entire section shall now read as follows:

"9.05.050 Application Referred to Planning Director or Board of Site and Design Review.

"A. When the work to be done on a site occurs in a Significant Natural Resource Area, or in an Important Natural Resource Area within 100 feet of a Significant Natural Resource Area, the application shall be referred by the city engineer to the planning director for study, review and recommendation. The planning director shall report on how the proposal may impact the resource and aesthetic values of the site, alternative methods of development which could result in less loss or damage to scenic, wildlife or natural features of the site, and shall recommend possible preferred methods of mitigation or development.

"The planning director, on completion of investigation, shall transmit the report, with findings and recommendations to the city engineer. In addition, the report shall be transmitted to the Board of Site and Design Review if the proposal involves a development project within the Board's jurisdiction, or to the Planning Commission, in the event the approval involves a subdivision, as set out in the Development Code. No permit shall be issued by the city engineer, Board or Planning Commission until the report has

been received.

"B. Pursuant to the process set out in BC 9.05.083 the city engineer shall submit to the Board all permit applications for work within the Board's jurisdiction under the Development Code and all permit applications for channelization or relocation of the floodway. The Board shall review these applications under the Board's standards contained in the Development Code and may attach conditions to its approval. [BC 9.05.050, amended by Ordinance No. 3440, 4/2/85]"

Section 14. BC 9.05.055, Permit Issuance or Denial by City Engineer, is hereby amended and the entire section shall now read as follows:

"9.05.055 Permit Issuance or Denial by City Engineer.

"A. Grounds For Denial. The application shall be denied when, in the judgment of the city engineer, the proposed work would:

"1. directly or indirectly create a hazard to human life, or a substantial risk of hazard to human life, or;

"2. directly or indirectly harm real or personal property or create a substantial risk of harm to real or personal property;

"3. cause damage or substantial risk of damage to any public sewer, storm drain, watercourse, street, street improvement or any other public real or personal property, or

"4. cause irreparable or unreasonable harm or create substantial risk of harm to a Significant Natural Resource Area.

"B. If, in the opinion of the city engineer, conditions contained in BC 9.05.055, subsection A can be eliminated or mitigated by imposing conditions or by a

specified method of performing the work, or through redevelopment or rehabilitation of the site, the city engineer may grant the permit on the condition that the specified protection and precautionary work or mitigation shall be done to the city engineer's satisfaction or on the condition that a specified method of performing the work shall be used.

"C. Conditions On Issuance. In granting a permit under this ordinance, the city engineer may attach conditions to insure conformity with the provisions of BC 9.05.055, subsection A. No person shall violate any conditions imposed by the city engineer. In addition to conditions which address BC 9.05.055, subsection A, the city engineer may impose additional conditions which may include, but shall not be limited to:

"1. limitations on the hours of operation or the period of year in which work may be performed;

"2. restrictions on the size and type of equipment;

"3. designation of routes on which materials may be transported;

"4. the completion date for the permit;

"5. requirements as to the laying of dust and tracking of dirt, the prevention of noises and other results offensive or injurious to the neighborhood, the general public or any portion of the public or the neighborhood;

"6. manner of use of public streets and places in the course of the work;

"7. requirements to protect the environment and natural resources, on or off site.

"D. The effective date of the permit is governed by BC 9.05.085. [BC 9.05.055, amended by Ordinance No. 3440, 4/2/85]"

Section 15. BC 9.05.060, Permit Issuance or Denial - Floodplain District, is hereby amended and the entire section shall now read as

follows:

"9.05.060 Permit Issuance or Denial - Floodplain District.

"A. Grounds for denial.

"1. In addition to the grounds for denial contained in BC 9.05.055, the city engineer shall also deny a permit for development in the floodplain district if the city engineer finds that any of the following circumstances exist:

"a. the proposed development will diminish the flood carrying capacity of the watercourse;

"b. the proposed development does not maintain the holding capacity of the site;

"c. the proposed development will significantly raise the flood surface elevations up or down stream from or adjacent to the site;

"d. the proposed development will endanger life or property on or off the site;

"e. proposed construction will not 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.

"f. all necessary permits have not been obtained from those federal, State or local governmental agencies from which prior approval is required.

"2. In lieu of denial, the city engineer may grant the permit with any conditions necessary to assure that the provisions of this section will be met.

"B. Development Standards.

"1. A building or other structure that is constructed or substantially improved in the floodplain district shall be:

"a. designed and adequately anchored to prevent flotation, collapse or lateral movement of the

structure;

"b. constructed with materials and utility equipment resistant to flood damage; and

"c. constructed by methods and practices that minimize flood damage.

"2. For non-residential structures unless the lowest flood elevation, including a basement, is at or above the base flood elevation, a newly constructed or substantially improved structure shall be designed so that the structure is impermeable to the passage of water and otherwise floodproofed to at least the base flood elevation. The structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

"3. For residential structures new construction and substantial improvement of the structure if permitted by the zoning ordinance shall have the lowest floor, including basement, elevated to or above base flood elevation.

"4. For nonresidential structures in shallow flooding areas new construction and substantial improvements of nonresidential structures within floodplain zones shall either:

"a. 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. Where appropriate, such structures shall be elevated above the crown of the nearest road, to or above the depth number specified on the FIRM; or

"b. together with attendant utility and sanitary facilities, be completely floodproofed 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.

"5. For residential structures in shallow flooding areas new construction and substantial improvements within floodplain 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. Where appropriate, such structures shall be elevated above the crown of the nearest road, to or above the depth number specified on the FIRM. Where hazardous velocities are noted on the FIRM, consideration shall be given to mitigating the effects of these velocities through proper construction techniques and methods.

"6. Where hazardous velocities were noted on the FIRM, consideration shall be given to mitigating the effects of these velocities through proper construction techniques and methods.

"7. When floodproofing is used for a structure, a registered engineer shall certify that the floodproofing method is adequate to withstand the flood depths, pressures, velocities impact and uplift forces and other factors associated with the base flood.

"8. A public utility or facility associated with new development within the district shall be designed, located and constructed to minimize or eliminate flood damage.

"9. The water supply system shall be designed, located and constructed to eliminate infiltration of floodwaters into the system and avoid damage that flooding could cause to system operation.

"10. The sanitary sewage system shall be designed, located and constructed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into the flood waters, and to avoid damage to system facilities.

"11. Any fill proposed shall be shown to have a

substantially beneficial purpose that is consistent with the intent and purpose of this ordinance and may be placed in an amount no greater than is necessary to achieve that purpose. The placement of fill shall be designed and located in a manner calculated to protect against erosion.

"12. Mobile Homes.

"a. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

"1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;

"2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

"3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and

"4) any additions to the mobile home be similarly anchored.

"b. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the street, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, it is required that:

"1) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

"2) adequate surface drainage and access for a hauler are provided; and

"3) in the instance of elevation on pilings, that

"a) lots are large enough to permit steps,

"b) piling foundations are placed in stable soil no more than ten feet apart, and

"c) reinforcement is provided for pilings more than six feet above the ground level.

[BC 9.05.060, amended by Ordinance No. 3400, 9/10/84]"

Section 16. BC 9.05.065, Designation of Routes, is hereby repealed.

Section 17. BC 9.05.070, Security for Performance, is hereby amended and the entire section shall now read as follows:

"9.05.070 Security for Performance.

"A. The applicant shall submit a cash bond, surety bond or other security in a form satisfactory to the city engineer and approved by the city attorney, in the sum of 100 percent of the estimated cost of the development governed by this ordinance, conditioned on the faithful performance of the work specified in the permit within the time specified by the city engineer.

"B. A surety bond shall obligate the principal, the principal's executors, administrators, successors and assigns, jointly and severally, with the surety, and shall inure to the benefit of the City, its officers, employees and to any person aggrieved by the principal's failure to comply with the conditions of it, and shall further provide that it will not be cancelled or terminated until the City has approved the work.

"C. Surety Bond - Notice of Default. When the city engineer finds that a default has occurred in the

performance of any term or condition of a permit, written notice of the default shall be given to the principal and to the surety of the bond. The notice shall state the work to be done, the estimated cost, and the period of time considered by the city engineer to be reasonably necessary for the completion of the work.

"D. Surety Bond - Duty of Surety.

"1. After receipt of the notice the surety shall, within the time specified, either cause the required work to be performed, or, pay over to the city engineer the estimated cost of doing the work as stated in the notice, plus an additional sum equal to ten percent of the estimated cost, but not to exceed the principal sum of the bond.

"2. On the receipt of the money, the city engineer shall cause the work to be performed and completed, but no liability shall be incurred in excess of the cost of the work plus ten percent. The balance, if any, of the bond funds shall, upon completion of the work, be returned to the surety, after deducting the cost of the work plus ten percent of the cost for administrative expenses.

"E. Surety Bond - Right of entry. If a default in the performance of a term or condition of the permit for the work occurs, the surety or person employed or engaged on the surety's behalf, shall have the right to complete the required work or make it safe.

"F. Cash Bond. If a cash bond has been posted, written notice of default shall be given to the principal, and if compliance is not had within the time specified, the city engineer shall, without further notice, use the cash deposited to cause the required work to be done by contract or otherwise at the discretion of the city engineer and in compliance with the City contracting law. The balance, if any, of the cash deposit shall, on completion of the work, be returned to the depositor or to the depositor's successors or assigns after deducting the cost of the work plus ten percent for administrative expenses.

"G. Other Security. Notice of default or disposition of the security shall be governed by the security instrument.

"H. Interference Prohibited. No person shall interfere with or obstruct ingress to or egress from the premises by an authorized representative or agent of a surety or of the City engaged in completing the work required to be performed under the permit or in complying with the permit terms or conditions.

"I. Termination of Security. All security posted shall be effective from the date of the posting to the date of completion to the satisfaction of the city engineer of all the permit terms and conditions for the work. The completion shall be evidenced by a statement signed by the principal on request. When a cash bond has been posted, the cash shall be returned to the depositor or the depositor's assigns on the termination of the bond, except any portion of it that may have been used. [9.05.070, amended by Ordinance No. 3440, 4/2/85]"

Section 18. BC 9.05.083, Approval by Board of Site and Design Review, is hereby amended and the entire section shall now read as follows:

"9.05.083 Approval by Board of Site and Design Review. Where a permit also requires review by the Board under BC 9.05.050, the Board's approval must be obtained prior to the issuance of the permit by the city engineer. The city engineer shall transmit in writing recommendations for preliminary approval and conditions based on this ordinance to the Board prior to the Board's decision. If the city engineer denies the permit, the denial is immediately appealable by the applicant under BC 9.05.091 and the denial does not need to be reviewed by the Board. If the Board denies the proposed work on grounds within its authority,

the site development permit shall be automatically denied without any further action of the city engineer. If application for a site development permit is made after the Board's approval of a site plan, the preliminary approval and conditions shall be submitted to the planning director who shall review it for conformity to the Board's approval, requirements and conditions. If the planning director finds it has a major impact on the Board's prior approval, the applicant shall be required to resubmit plans to the Board. [BC 9.05.083, added by Ordinance No. 3440, 4/2/85]"

Section 19. BC 9.05.085, Effective Date of Permit, is hereby amended and the entire section shall now read as follows:

"9.05.085 Effective Date of Permit.

"A. Fill permits outside the floodplain district or outside a Significant Natural Resource Area or which do not require Board approval shall be effective when issued by the city engineer pursuant to this ordinance.

"B. Permits outside a floodplain district, but subject to review by the planning director or Board under BC 9.05.050 shall not be effective until:

"1. the provisions of BC 9.05.083 have been met for permits subject to Board approval under BC 9.05.050;

"2. the city engineer has mailed or caused to be delivered a notification of issuance of the permit to the planning director, the applicant and any other interested party who requested such notification for a permit reviewed by the planning director under BC 9.05.050, but not the Board;

"3. the time to petition for review as set out in BC 9.05.091 has elapsed; and

"4. any review proceeding initiated under BC 9.05.091 has been completed.

"C. Permits in the Floodplain District. Permits in

the floodplain district shall not become effective until:

"1. the provisions of BC 9.05.083 have been met for a permit subject to Board approval under BC 9.05.050; and

"2. notice of a proposed alteration, relocation or covering of a watercourse has been given to all adjacent communities and the Oregon Water Resources Department with copies of such notice given to FEMA; and

"3. the city engineer has delivered written notice of the decision to grant the permit by certified mail or personal delivery to those persons on a list provided by the permit applicant, certified to be accurate, of the names and addressess of all property owners within an area enclosed by lines parallel to and 300 feet from the boundary of the property on which the work is to be performed. The city engineer shall also cause notice to be published in a newspaper of general circulation in the City. The permit applicant shall bear the administrative expense of preparation of the notices, mailing and publications. The city engineer may require an advance deposit for costs before issuance of notice. Any unused deposit shall be returned to the permit applicant; and

"4. the time to petition for review as set out in BC 9.05.091 has elapsed; and

"5. any review proceeding initiated under BC 9.05.091 has been completed. [9.05.085, amended by Ordinance No. 3400, 9/10/84; Ordinance No. 3440, 4/2/85]"

Section 20. BC 9.05.090, Appeal by Affected Person, is hereby repealed.

Section 21. BC 9.05.091, Appeal Authorized, is hereby amended and the entire section shall now read as follows:

"9.05.091 Appeal Authorized.

"A. An applicant for a permit, a permittee or any

affected person, aggrieved by any action, decision or interpretation of the city engineer may appeal to the Council by filing with the city recorder a written notice of appeal, specifying the basis of the appeal, within ten calendar days from the date of mailing of notice of the city engineer's action or the date of actual notice, whichever is earlier.

"B. If the decision to issue the permit is contested, the burden shall be on the permit applicant to establish that the requirements for issuance of a permit have been met. Evidence previously presented to the city engineer shall not be considered by the Council unless presented on the record before the Council.

"C. If the adequacy of the conditions attached by the city engineer is contested, the petitioner shall have the burden of showing grounds for modification or addition of conditions. The hearing shall be de novo.

"D. At the conclusion of the evidence, and after argument if any, the Council shall rule on the issues presented. The order shall, as applicable, grant or deny the permit, and may attach conditions consistent with this ordinance.

"E. The order shall be in writing and contain findings on all contested issues, with specific reference to the evidence upon which the findings were based. If an emergency exists, the order may be made orally and shall be reduced to writing as soon as practicable. A copy of the order shall be delivered to the permit applicant if any, the petitioner and the city engineer. The decision of the Council shall be final. [BC 9.05.091, amended by Ordinance No. 3440, 4/2/85]"

Section 22. BC 9.05.092, Revocation, Suspension, Modification, is hereby amended and the entire section shall now read as follows:

"9.05.092 Revocation, Suspension, Modification.

"A. The city engineer may revoke, suspend, or modify a permit issued under this ordinance for any of the following reasons:

"1. violation of a condition of the permit;

"2. violation of a provision of this ordinance or any other applicable code section or law relating to the work;

"3. the existence of a condition or the doing of an act constituting or creating a nuisance or directly or indirectly creating a hazard to human life, or a substantial risk of hazard to human life, directly or indirectly harming real or personal property or creating a substantial risk of harm to real or personal property; or

"4. a material error or misrepresentation by the applicant;

"5. any of the grounds set forth in BC 2.05.054.

"B. Revocation or suspension shall be in accordance with the procedures contained in BC 2.05.055 - .066.

BC 2.05.060 procedures may be used by the city engineer, except that no serious danger to the public health or safety shall be required prior to issuance of a cease and desist order or suspension. Instead, the procedures in BC 2.05.060 may be used if the city engineer determines that the existence of a condition or the doing of an act constitutes or creates a nuisance or directly or indirectly harms real or personal property or creates a substantial risk of harm to real or personal property. The procedures in BC 2.05.056 - .058 will be used in all other cases, except as otherwise provided herein. [BC 9.05.092, renumbered by Ordinance No. 3440, 4/2/85]"

Section 23. BC 9.05.105, Inspection by City, is hereby amended and the entire section shall now read as follows:

"9.05.105 Inspection by City.

"A. The inspections of plans, materials, designs and workmanship provided by this section are intended for the protection of the City and the public. In performing these inspections, the city engineer is entitled to rely on more specific and detailed inspection reports submitted by others and is not required to inspect each particular aspect of a project in detail. The applicant is responsible for the quality of construction and shall not be relieved of this due to passing inspections provided by the City. The holder of any permit issued under this ordinance shall notify the city engineer as follows:

"1. Initial inspection. Forty-eight hours before work is commenced;

"2. Utilities. Upon completion of utility installation, but prior to covering the work;

"3. Subgrade rock. When subgrade rock has been installed prior to paving or pouring concrete (when paving or pouring of concrete is to take place);

"4. Grading. When all rough grading has been completed and again when finish grading is to occur, that is, when all work including installation of drainage structures and other protective devices has been completed;

"5. Final inspection. Upon completion of all work for final inspection.

"B. On receiving the notice the city engineer shall promptly inspect the work and shall either approve it or notify the permittee in what respects there has been failure to comply with the requirements of this ordinance. Any portion of the work that does not comply shall be promptly corrected by the permittee."

Section 24. BC 9.05.120, Compaction of Fills, is hereby amended and the entire section shall now read as follows:

"9.05.120 Compaction of Fills.

"A. Fill slopes shall be compacted as necessary for safety; to prevent the saturation, adverse settlement, slipping or erosion of the fill and to achieve a stable slope. Wherever possible, compaction shall not be so dense that it precludes planting on the slope. Where compaction is required it shall be to a minimum of ninety percent compaction and made under supervised grading. The city engineer may specify the maximum thickness of the layers of fill to be compacted.

"B. Fills shall be compacted, inspected and tested in accordance with the following provisions:

"1. the space over which fills are to be made shall first be cleared of all trash, brush, trees, stumps, timber or debris and shall be scarified;

"2. all filling shall be done with good sound earth, gravel or materials approved by the city engineer;

"3. when an existing fill is to be widened or a new fill is to be made on a hillside, the new material shall be bonded to the old by plowing deep longitudinal furrows, or by removing top soil and vegetation and by compacting the fill upon a series of terraces;

"4. all exposed fill slopes shall be protected immediately upon completion with landscaping, an approved sprinkler system or other erosion control devices approved and considered necessary by the city engineer;

"5. in addition to the inspection of fills by the city engineer, the city engineer may require that a written report in duplicate be submitted by a soils engineer certifying the results of tests of the fill at selected stages. If favorable conditions exist, the city engineer may by prior approval waive requirements for supervision of soil testing. If the fill is to support buildings, structures or roadways, the city engineer may require the report to include recommendations on bearing capacities."

Section 25. BC 9.05.125, Maintenance, is hereby amended and the entire section shall now read as follows:

"9.05.125 Maintenance. The owner of property or any other person or agent in control of the property on which development covered by this ordinance has been made under a permit granted under this ordinance, shall maintain in good condition and repair all retaining walls, cribbing, drainage structures, planted slopes and other protective devices shown in the approved plans or drawings submitted with the application for the grading permit or as required by the city engineer."

Section 26. BC 9.05.130, Repair, is hereby amended and the entire section shall now read as follows:

"9.05.130 Repair. When the city engineer determines by inspection that an existing development covered by this ordinance, from any cause, has become a hazard or creates a substantial risk of hazard to people, or harms property or creates a substantial risk of harm to property, or affects the safety, usability or stability of public property, the owner of the property on which the development is located or other person or agent in control of the property, on receipt of notice in writing from the city engineer, shall, within one hundred eighty days from the date of the notice, repair or reconstruct the development so that it will conform to the requirements of this ordinance. A shorter period of time may be specified by the city engineer if an imminent and immediate hazard is found to exist. A person receiving notice from the city engineer may appeal from the notice in the manner provided by BC 2.05.056, subsections B to G."

Section 27. BC 9.05.135, Drainage Requirements, is hereby

amended and the entire section shall now read as follows:

"9.05.135 Drainage Requirements.

"A. Drainage generally. All graded sites shall be developed to provide control of storm and surface waters. Adequate provisions shall be made to prevent storm or surface waters from damaging the face of an excavation or the sloping face of a fill. All drainage provisions shall be subject to the approval of the city engineer and shall be designed to carry storm and surface waters to the nearest practical street, storm drain, or natural water course, approved by the city engineer as a safe place to deposit and receive such waters.

"B. Building Pad. Building pads on graded sites shall be sloped at a minimum of two percent to the street or an approved drainage device.

"C. Subdrainage. When the city engineer considers it necessary, adequate subdrainage shall be provided in connection with fills.

"D. Control of Excessive Runoff.

"1. Where a one-half acre or larger site is involved, the site drainage design shall provide for retention of storm waters by use of impoundments that constitute an approved drainage device to limit the amount of run-off to a rate that approximates the run-off rate of the site in its undeveloped state. Flat-roof buildings shall provide rooftop catchments with a maximum runoff of the entire roof area limited to one-half inch per hour.

"2. On sites of less than one-half acre where flat-roof buildings are constructed, the requirements of subsection D1 above, as they apply to roofs, shall apply."

Section 28. BC 9.05.140, Additional Safety Precautions, is hereby amended and the entire section shall now read as follows:

"9.05.140 Additional Safety Precautions. If at any stage of development requiring a permit by this ordinance the city engineer determines by inspection that further work as authorized by an existing permit is likely to endanger life, real or personal property or public property, the city engineer may require reasonable safety precautions as a condition of allowing further work to be done."

Section 29. BC 9.05.150, Deposits Prohibited, is hereby amended and the entire section shall now read as follows:

"9.05.150 Deposits Prohibited.

"A. Premises of Another Person. No person shall dump, move or place earth, sand, gravel, rock, stone or other excavated material so as to cause the material to be deposited upon or to roll, flow or wash upon or over the premises of another without the express consent of the owner of the premises so affected or upon or over any public place or way.

"B. Spilling. No person shall, when hauling earth, sand, gravel, rock, stone or other excavated material over any public street, alley or other public place, allow the material to blow or spill over and upon a public street, alley or place or adjacent private property.

"C. Removal of Debris. If, due to a violation of subsection A or B, earth, sand, gravel, rock, stone or other excavated material is caused to be deposited upon or to roll, flow or wash upon any public place or way, the person responsible or the permittee shall cause the material to be removed from the public place or way immediately or within such time as authorized by the city engineer or operations director. If it is not so removed, the city engineer or operations director shall cause its removal and the cost of the removal shall be paid to the City by the person who failed to remove the material. Failure to cause the removal

of the material when notified or failure to pay the costs of removal of the material incurred by the City shall be grounds for revocation or suspension of the permit or issuance of a civil infraction complaint."

Section 30. BC 9.05.155, Certificate of Completion, is hereby amended and the entire section shall now read as follows:

"9.05.155 Certificate of Completion.

"A. On completion of the project, the permittee or a civil engineer in charge of the project on the permittee's behalf shall certify in writing to the city engineer that the project was done in conformity with the provisions of this ordinance and the permit, plans and specifications submitted, and shall furnish a final contour map.

"B. If, on final inspection of development requiring a permit under this ordinance, it is found that the work authorized by the permit has been satisfactorily completed in accordance with the requirements of this ordinance, the permit, and the plans and specifications, the city engineer shall issue to the owner a completion certificate covering the work. A separate certificate shall be issued for each lot.

"C. Upon completion of construction in the floodplain, the permittee or a civil engineer in charge of the project on the permittee's behalf shall submit to the City Engineer a completed Elevation Certificate (FEMA 81-31, April 82, 593-117, as amended from time to time). The City shall maintain for public inspection such records as required under federal law. (44 CFR 60.3(b)(5)). [BC 9.05.155, amended by Ordinance No. 3400, 9/10/84]"

Section 31. BC 9.05.156, Failure to Obtain Permit, is hereby added and the entire section shall read as follows:

"9.05.156 Failure to Obtain Permit.

"A. When a permit is required by BC 9.05.020, but is not obtained prior to work or development, the city engineer may issue a stop work order. The issuing officer shall provide notice by posting a notice on-site.

"B. The notice shall include:

"1. the fact of the cease and desist order and the reason therefore; and

"2. a statement that a permit is required and that application may be made through the city engineer.

"C. In addition to the cease and desist order, the city attorney may pursue injunctive relief in the appropriate court.

"D. In addition to other action, failure to obtain a permit when one is required is a civil infraction."

Section 32. BC 9.05.160, Abatement of Violations, is hereby amended and the entire section shall read as follows:

"9.05.160 Abatement of Violations. Violations of this ordinance are declared to constitute public nuisances. When the city engineer determines that conditions violating this ordinance exist, the city engineer may require or provide for abatement of the violation pursuant to the provisions for abatement of nuisances in Chapter Five. The city attorney may institute any legal proceedings necessary to abate a public nuisance. These remedies are not exclusive and are in addition to other remedies provided under this ordinance or under any other law."

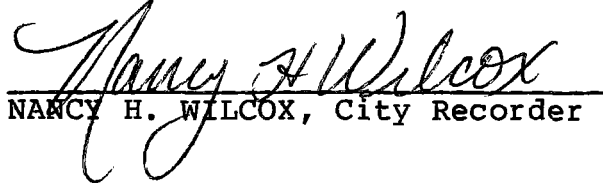
Section 33. BC 9.05.170, Interpretation, is hereby renamed and shall now be entitled Conflicting Provisions. The text of this section is not amended.

Section 34. Because the Council finds that it is necessary for

these amendments to take effect immediately as outlined herein, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon adoption by the Council and approval by the Mayor.

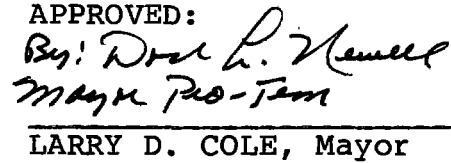
First reading this ^{6th} day of January, 1986.
Passed by the Council this ^{13th} day of January, 1986.
Approved by the Mayor this ^{14th} day of January, 1986.

ATTEST:



NANCY H. WILCOX, City Recorder

APPROVED:



LARRY D. COLE, Mayor