



AGENDA COVER MEMO

Memorandum Date: March 8, 2023
First Reading Date: February 7, 2023
Second Reading/ Public Hearing: March 7, 2023
Third Reading/Deliberations: March 21, 2023

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division, Planning Program

PRESENTED BY: Jared Bauder, Associate Planner, Lane County
Jack Blackham, Permitting and Floodplain Manager, City of Eugene

AGENDA ITEM TITLE: ORDINANCE NO. 23-01 / In the Matter of Amending Lane Code Chapter 10.600-25 to Update the Flood Hazard Regulations Within City of Eugene Development Codes 9.6705-9.6709 to Align More Closely with State Law and the Code of Federal Regulations (CFR) 44. (City File: CA 22-22 / County File: 509-PA22-05559).

I. MOTION

March 21, 2023 (3rd Reading):

- 1) MOVE TO APPROVE ORDINANCE NO. 23-01 AS PRESENTED;
OR
- 2) MOVE TO APPROVE THE THIRD READING, SET A FOURTH READING, AND CONTINUE DELIBERATIONS TO A DATE AND TIME CERTAIN;
OR
- 3) MOVE TO NOT APPROVE ORDINANCE NO. 23-01 AS PRESENTED.

II. AGENDA ITEM SUMMARY

This is a Third Reading and Deliberations meeting for proposed amendments to the floodplain regulations of the Eugene Development Code. This Agenda Cover Memo includes the updated staff memorandum from the City of Eugene, see **Attachment 2**. No changes to the draft code have been made since the March 7, 2023 Second Reading. On March 8th, 2023, the Eugene City Council voted

to unanimously approve the proposed code amendments as presented.

The Board is being asked to consider approval of an Ordinance to adopt amendments to the City of Eugene's (the City) Development Code. Specifically, the City is proposing amendments to their Floodplain Flood Hazard Regulations. Amendments to the City's Development Code must be reviewed and adopted by the Board of Commissioners (the Board) for the regulation of lands between Eugene City Limits and the Eugene Urban Growth Boundary (UGB), which are urbanizing areas subject to Lane Code Chapter 10. This proposal is in accordance with the urban transition agreement made between Lane County and the City, which requires joint development and Lane County adoption of land use regulations within the Eugene urbanizing area.

III. BACKGROUND/IMPLICATIONS OF ACTION

- A. Board Action and Other History
- B. Policy Issues
- C. Board Goals
- D. Financial and/or Resource Considerations
- E. Health Implications
- F. Analysis

For Sections A-F above, see the Agenda Cover Memo packet dated January 2023.

- G. Alternatives/Options

Motions for the Board of County Commissioners at the time of the third reading on March 21st include:

Option 1: Move to approve Ordinance No. 23-01 as presented.

Option 2: Move to approve the third reading, set a fourth reading, and continue deliberations to a time and date certain.

Option 3: Move to not approve Ordinance No. 23-01 as presented.

IV. RECOMMENDATION

Staff recommends **Option 1** above.

V. TIMING/IMPLEMENTATION

Application of the amended Eugene Development Code in the urbanizable area of Eugene is dependent on adoption by the Board. If approved and not appealed, the code changes become effective 30 days after enactment of the enabling ordinance.

VI. FOLLOW-UP

Notice of Board action will be provided to the City of Eugene and the Department of Land Conservation and Development. Adoption of the Eugene Development Code Amendment (**Option 1**) will provide consistency between development regulations applicable to properties that lie inside and outside the Eugene City Limits and within the Eugene Urban Growth Boundary, under County/City *Metro Plan* coordination agreements.

VII. ATTACHMENTS

Attachment 1. Draft Ordinance No. 23-01

Att. 1- Exhibit A: Amendments to Lane Code Chapter 10.600-25

*Legislative version of amendments to Lane Code after Att. 1 - Exhibit A

Att. 1- Exhibit B: Findings of Fact

Att. 1- Exhibit C: City Ordinance with Legislative Version of Eugene Code Ch. 9 Amendments

Attachment 2. City of Eugene Staff Report and Findings

Att. 2- Exhibit A: Record Materials Document

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 23-01

IN THE MATTER OF AMENDING LANE CODE CHAPTER
10.600-25 TO UPDATE THE FLOOD HAZARD
REGULATIONS WITHIN CITY OF EUGENE
DEVELOPMENT CODES 9.6705 - 9.6709 TO ALIGN
MORE CLOSELY WITH STATE LAW AND THE CODE OF
FEDERAL REGULATIONS (CFR) TITLE 44. (CITY FILE:
CA 22-2 / COUNTY FILE: 509-PA22-05559)

WHEREAS, on April 8, 1987, the Lane County Board of Commissioners enacted Ordinance No. 18-86 to adopt the City of Eugene land use regulations for application to urbanizable lands within the Eugene Urban Growth Boundary in accordance with an urban transition agreement with the City of Eugene; and

WHEREAS, provisions of that urban transition agreement provides for County adoption of land use regulations applicable to urbanizable lands within the Eugene Urban Growth Boundary; and

WHEREAS, there is a need to amend the Eugene development codes to implement recent changes to ORS 197.315(5); and

WHEREAS, the City of Eugene Planning Commission and the Lane County Planning Commission reviewed the proposal in a joint public hearing held on September 6, 2022; and

WHEREAS, the City of Eugene Planning Commission deliberated on October 11, 2022, and provided a recommendation for approval to the Eugene City Council; and

WHEREAS, the Lane County Planning Commission deliberated on November 15, 2022, and provided a recommendation for approval to the Board of County Commissioners; and

WHEREAS, the Eugene City Council a public hearing on this matter on February 21, 2023; and

WHEREAS, the Board of County Commissioners conducted a public hearing on this matter on March 7, 2023 and is prepared to take action.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

1. The provisions of the Eugene Land Use Code, as adopted by Lane County Ordinance No. 18-86, and amended by Lane County Ordinance Nos. 16-87, 5-88, 6-88, 7-88, 1-89, 13-89, 2-90, 2-91, 12-91, 14-91, 7-92, 10-00, 2-02, 3-02, 14-15, 17-03, and 18-04 are hereby further amended to include amendments specified in the attached Exhibit "A". These amendments are adopted and incorporated herein by this reference for application to the urbanizable lands within the Eugene Urban Growth Area and shall not be codified into Lane Code.

2. Chapter 10 of Lane Code is hereby amended by removing and inserting the following sections:

REMOVE THESE SECTIONS

10.600-25

INSERT THESE SECTIONS

10.600-25

3. This section is attached hereto and incorporated herein by this reference. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.

4. Although not a part of this Ordinance, the Board of County Commissioners adopts findings as set forth in Exhibit "B" attached and incorporated by this reference, in support of this action.

5. Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

ENACTED this ____ day of _____ 2023.

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

10.600-25

Lane Code

10.600-25

10.600-25 Applicable Land Use Regulations.

Lane County has adopted the following land use regulations to be applied by Eugene on the specified urbanizable land within the Eugene Urban Growth Boundary.

(1) To all urbanizable land not addressed in (2), the Eugene Land Use regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 5-00 as amended in Ordinance No. PA 1234, as further amended by the incorporation of Eugene Ordinance 20546 through enactment of Lane County Ordinance 14-15, Ordinance No. 18-04, and Ordinance No. 23-01.

(2) To the land added to the Eugene Urban Growth Boundary by Ordinance No. PA 1345 as shown on the maps at Exhibit A-4 ("Proposed Metro Plan Designations") attached to Ordinance No. PA 1345, the provisions of Chapter 9 of the Eugene Code, 1971, in effect on the date Ordinance 17-03 is approved ("Eugene Land Use Code"), as that Land Use Code is amended by the revisions shown in Exhibit A to Ordinance No. 17-03.

(3) Copies of these applicable land use regulations shall be on file at the Lane County Land Management Division. *(Revised by Ordinance No. 18-86, Effective 4.27.87; 21-87, 11.25.87; 13-89, 1.12.90; 2-90, 7.20.90; 2-91, 3.29.91; 12-91, 9.20.91; 14-91, 9.25.91; 7-92, 8.28.92; 10-00, 12.13.00; 2-02, 2.13.02; 3-02, 2.13.02; 14-15, 1.2.15, 17-03, 9.7.17; 18-04, 6.26.18)*

10.600-25

Lane Code

10.600-25

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(2) To the land added to the Eugene Urban Growth Boundary by Ordinance No. PA 1345 as shown on the maps at Exhibit A-4 ("Proposed Metro Plan Designations") attached to Ordinance No. PA 1345, the provisions of Chapter 9 of the Eugene Code, 1971, in effect on the date Ordinance 17-03 is approved ("Eugene Land Use Code"), as that Land Use Code is amended by the revisions shown in Exhibit A to Ordinance No. 17-03.

(3) Copies of these applicable land use regulations shall be on file at the Lane County Land Management Division. *(Revised by Ordinance No. 18-86, Effective 4.27.87; 21-87, 11.25.87; 13-89, 1.12.90; 2-90, 7.20.90; 2-91, 3.29.91; 12-91, 9.20.91; 14-91, 9.25.91; 7-92, 8.28.92; 10-00, 12.13.00; 2-02, 2.13.02; 3-02, 2.13.02; 14-15, 1.2.15, 17-03, 9.7.17; 18-04, 6.26.18)*

LANE CODE CRITERIA FOR CO-ADOPTION OF EUGENE DEVELOPMENT CODE AMENDMENTS

Lane Code 10.315-20

Zonings, rezonings, and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the Zone District classification proposed, applicable Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.

Finding 1: Board adoption of this amendment will change the requirements for development in the urbanizable area as referenced in Chapter 10 and achieve the general purpose of this chapter for regulation of the urbanizable area between city limits and the urban growth boundary of Eugene. The applicable Comprehensive Plan for the Eugene Development Code Amendments is the Eugene-Springfield Metropolitan Area General Plan (Metro Plan).

Having consistent development regulations applicable to the urbanizable areas of Eugene provides consistent and clear development guidelines for property owners as land uses transition from rural to urban uses in the City of Eugene.

Lane Code 10.600-20 references adoption of these implementing regulations for application by Eugene on urbanizable lands, which is consistent with the Metro Plan and is not contrary to the public interest. The proposed amendments implement the minimum standards for participation of the City of Eugene in the NFIP. The proposed amendments are not contrary to the public interest in that they implement the laws determined by the State of Oregon and FEMA to best promote the will of the people through better protection from flood hazard.

Lane Code 12.300.030 Metro Plan Amendment Criteria.

The following criteria will be applied by the Board of Commissioners and other applicable governing body or bodies in approving or denying a Metro Plan amendment application:

A. The proposed amendment is consistent with the relevant Statewide Planning Goals; and

Finding 2: The proposal is to amend the Eugene Development Code, which implements the Metro Plan. The Findings document within the City's staff report to amend the development code address and find compliance with the applicable Statewide Planning Goals. These findings are incorporated herein by reference.

B. The proposed amendment does not make the Metro Plan internally inconsistent.

Attachment 1 – Exhibit B

Finding 3: The proposal is not to amend the Metro Plan itself, but to update Lane Code Ch. 10.600. Therefore, the proposal will not make the Metro Plan internally inconsistent. Conformance with the Metro Plan policies have been evaluated in the City's Staff Report. These findings are incorporated herein by reference.

ORDINANCE NO. _____

AN ORDINANCE CONCERNING FLOOD HAZARD AREAS; AMENDING SECTIONS 9.0500, 9.6705, 9.6706, 9.6707, 9.6708 AND 9.6709 OF THE EUGENE CODE, 1971; AND PROVIDING AN EFFECTIVE DATE.

The City Council of the City of Eugene finds as follows:

A. The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental unit to adopt floodplain management regulations designated to promote the public health, safety, and general welfare of its citizenry.

B. The flood hazard areas in the City of Eugene are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

C. These flood losses may be caused by the cumulative effect of obstruction in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protects from flood damage also contribute to flood loss.

D. The purpose of this ordinance is to promote public health, safety and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

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

E. In order to accomplish its purpose, this ordinance sets out methods and provisions for:

- (1) Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

F. ORS 455 establishes that local governments must administer and enforce the State of Oregon Specialty Codes and the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

The City of Eugene ordains as follows:

Section 1. The definitions codified at Section 9.0500 of the Eugene Code, as adopted or revised by this ordinance, also apply to the uncoded provisions of this ordinance.

Section 2. Duties and Responsibilities of the Floodplain Administrator. The City Manager, and the City Manager's designee, shall administer, implement and enforce the provisions of Eugene Code (EC) Sections 9.6706 – 9.6709 through the approval or denial of development permits in accordance with those code sections as they are hereby adopted or later amended, and the uncoded provisions of this Ordinance. This includes, but is not limited to:

- (a) reviewing all development permit applications to determine whether the permit requirements of sections EC 9.6705 to 9.6709 have been satisfied;
- (b) reviewing all development permit applications to determine whether all other required local, state, and federal permits have been obtained and approved;
- (c) reviewing all development permit applications to determine whether the proposed development is located in a floodway and, if located in the floodway, assuring that the floodway requirements of EC 9.6707(2)(d) are satisfied;
- (d) reviewing all development permit applications to determine whether the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source and, if BFE data is not available, then ensuring compliance with the provision EC 9.6707(1)(g);
- (e) reviewing all development permit applications and, where applicable, providing to building officials the Base Flood Elevation (BFE) and freeboard applicable to any proposed building requiring a development permit.
- (f) reviewing all development permit applications to determine whether the proposed development qualifies as a substantial improvement as defined in EC 9.0500;
- (g) reviewing all development permit applications to determine whether the proposed development activity is a watercourse alteration and, if a watercourse alteration is proposed, ensure compliance with the provisions of EC 9.6707(1)(a); and

- (h) reviewing all development permit applications to determine whether the proposed development activity includes the placement of fill or excavation.

Section 3. Information to be Obtained and Maintained. The City Manager or their designee shall obtain and maintain information as necessary to carry out the purposes of this Ordinance and shall make such information available for public inspection as needed, as follows:

- (a) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with EC 9.6707(1)(g).
- (b) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of EC 9.6707(2)(d) and all other required local, state, and federal permits have been obtained, approved and are adhered to.
- (c) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- (d) Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- (e) Maintain all Elevation Certificates (EC) submitted to the City;
- (f) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with EC 9.6707(1)(g).
- (g) Maintain all floodproofing certificates required under this ordinance;
- (h) Record and maintain all variance actions, notices of variance, and the justification for their issuance as described at EC 9.6709;
- (i) Obtain and maintain all hydrologic and hydraulic analyses performed as required under EC 9.6707(2)(d).
- (j) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations required under EC 9.6708(1) and (2), keeping a record of SI calculations within permit files.
- (k) Maintain for public inspection all records pertaining to the provisions of this ordinance.

Section 4. Community Boundary Alterations. The City Manager or their designee shall notify the Federal Insurance Administrator in writing whenever the City limits have been modified by annexation or the City has otherwise assumed authority or no longer has authority

to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the City's boundaries. Include within such notification a copy of a map of the City suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

Section 5. Requirement to Submit New Technical Data. When physical changes affecting flooding conditions cause the City's base flood elevations to increase or decrease, as soon as practicable, but not later than six months after the date such information becomes available, the City Manager or their designee shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3 or require the applicant to submit such data through the applicable FEMA Letter of Map Change (LOMC) process. The City Manager or their designee shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- (a) Proposed floodway encroachments that increase the base flood elevation; and
- (b) Proposed development which increases the base flood elevation by more than one (1) foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

Section 6. Section 9.0500 of the Eugene Code, 1971, is amended to add the following definitions in alphabetical order:

Appeal. As used in EC 9.6705 to 9.6709, a request for a review of the interpretation of any provision of this section or a request for a variance.

Appurtenant Structure. As used in EC 9.6705 to 9.6709, an appurtenant structure is the same as an "accessory building" as defined above.

Area of shallow flooding. As used in EC 9.6705 to 9.6709, a designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly 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. As used in EC 9.6705 to 9.6709, the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

Base flood elevation (BFE). As used in EC 9.6705 to 9.6709, the elevation to which floodwater is anticipated to rise during the base flood.

Basement: As used in EC 9.6705 to 9.6709, any area of the building having its floor subgrade (below ground level) on all sides.

Flood elevation study. As used in EC 9.6705 to 9.6709, see "Flood Insurance Study."

Flood proofing. As used in EC 9.6705 to 9.6709, any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Functionally dependent use. As used in EC 9.6705 to 9.6709, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest adjacent grade. As used in EC 9.6705 to 9.6709, the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. As used in EC 9.6705 to 9.6709, any structure that is:

(A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(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 which have been approved by the Secretary of Interior; or

(D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been 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.

Letter of Map Change (LOMC). As used in sections 9.6705 to 9.6709, an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs

(A) ***Conditional Letter of Map Amendment (CLOMA).*** A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

(B) ***Conditional Letter of Map Revision (CLOMR).*** A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

(C) Conditional Letter of Map Revision based on Fill (CLOMR-F). A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

(D) Letter of Map Amendment (LOMA). An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.

(E) Letter of Map Revision (LOMR). A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

(F) Letter of Map Revision based on Fill (LOMR-F). A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

(G) A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

Lowest floor. As used in EC 9.6705 to 9.6709, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Mean sea level. As used in EC 9.6705 to 9.6709, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction. As used in EC 9.6705 to 9.6709, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted into this code and includes any subsequent improvements to such structures.

Special flood hazard area. As used in EC 9.6705 to 9.6709, see "Area of special flood hazard" for this definition.

Substantial damage. As used in EC 9.6705 to 9.6709, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition

would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Violation. As used in EC 9.6705 to 9.6709, the failure of a structure or other development to be fully compliant 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 this ordinance is presumed to be in violation until such time as that documentation is provided.

Section 7. Section 9.0500 of the Eugene Code, 1971, is further amended to revise the following definitions as shown:

Base Flood. As used in sections 9.6705 to 9.6709, the flood having a one percent chance of being equaled or exceeded in any given year. ~~Also referred to as the "100-year flood."~~
~~Designation on maps always includes the letters A or V.~~

Development.

(A) The act, process or result of developing.

(B) As used in sections 9.6705 to 9.6709, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations **or storage of equipment or materials** ~~located within the area of special flood hazard.~~

Flood or Flooding. As used in sections 9.6705 to 9.6709:

(A) ~~a~~A general and temporary condition of partial or complete inundation of normally dry land areas from:

~~(A)~~(1) The overflow of inland or tidal waters;

~~(B)~~(2) The unusual and rapid accumulation or runoff of surface waters from any source.; **or**

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (A)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (A) of this definition.

Flood Insurance Rate Map (FIRM). As used in sections 9.6705 to 9.6709, the official map on which the Federal Insurance Administration ~~or~~ has delineated both the **special hazard** areas of ~~special flood hazards~~ and the risk premium zones applicable to the community. **A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).**

Flood Insurance Study (FIS). As used in sections 9.6705 to 9.6709, **an examination, evaluation and determination of flood hazards and, if appropriate, corresponding** the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevations, **or an examination and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards** of the base flood.

Floodway. **As used in sections 9.6705 to 9.6709, the channel of a river or other watercourse and the adjacent land areas designated as a floodway by the Federal Emergency Management Agency that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."**

Manufactured Home/Manufactured Dwelling.

(A) A ~~"manufactured home"~~ is a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. A "manufactured dwelling" includes a residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed before January 1, 1962, a mobile home meeting the above requirements that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction, and a manufactured home meeting the above requirements. "Manufactured dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer. A manufactured home accessory building or structure includes: ~~(A) Any portable, demountable or permanent structure established for use of the occupant of the manufactured structure and as further defined by rule of the Director of the State Department of Consumer and Business Services.~~

(B) As used in sections 9.6705 to 9.6709: a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

Manufactured Home/Dwelling Park.

(A) Any place where 4 or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than 1 manufactured dwelling per lot if

the subdivision was approved by the city. "Manufactured dwelling park" also does not include a development permitted as a fourplex or a cottage cluster.

(B) As used in sections 9.6705 to 9.6709, "Manufactured dwelling park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Recreational Vehicle.

(A) A vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and that has a gross floor area not to exceed 400 square feet in set up mode.

(B) As used in sections 9.6705 to 9.6709, a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction. **As used in sections 9.6705 to 9.6709, includes substantial improvement and means** ~~the date the development permit was issued, provided the actual start of~~ **construction**, repair, reconstruction, **rehabilitation, addition**, placement, or other improvement was within 180 days ~~offrom~~ **from** 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 slabs or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured ~~home~~ **dwelling** on a foundation. Permanent construction does not include land preparation, such as clearing, grading, ~~or~~ **and** filling; **nor does it include** the installation of streets and/or walkways; **nor does it include the installation** ~~excavation for a basement, footings, piers or foundations, or erection of temporary forms; nor the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as 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) Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(B) As used in sections 9.6705 to 9.6709, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial Improvement. As used in sections 9.6705 to 9.6709, any ~~repair~~, reconstruction, **rehabilitation, addition**, or **other** improvement of a structure, the cost of which equals or

exceeds 50 percent of the market value of the structure either: ~~(A) — Before the~~ **“start of construction” of the** improvement or repair is started, or

~~(B) — If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.~~ The term does not, however, include either:

~~(C)~~**(A)** Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

~~(D)~~**(B)** Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places **“historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”**

Section 8. Sections 9.6705 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

~~9.6705 Development in Flood Plains — Purpose.~~

~~It is the purpose of sections 9.6705 to 9.6709 to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by adopting provisions designed to:~~

~~(1) — Protect human life and health.~~

~~(2) — Minimize expenditure of public money and costly flood control projects.~~

~~(3) — Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.~~

~~(4) — Minimize prolonged business interruptions.~~

~~(5) — Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.~~

~~(6) — Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.~~

~~(7) — Ensure that potential buyers are notified that property is in an area of special flood hazard.~~

~~(8) — Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.~~

9.6705 Development in Floodplains – General.

(1) The special flood hazard areas identified by the Federal Insurance Administration in the scientific and engineering report entitled “The Flood Insurance Study (FIS) for

Lane County and Incorporated Areas Volumes 1-4," dated June 5, 2020, with accompanying Flood Insurance Rate Maps (FIRMs) Panels 0619 through 1650 are hereby adopted by reference and declared to be a part of this code. The Flood Insurance Study (FIS) and FIRM panels are on file at City of Eugene Public Works Engineering offices.

- (2) Compliance. All development within special flood hazard areas is subject to the terms of EC 9.6705-9.6709 and required to comply with its provisions and all other applicable regulations.***

Section 9. Sections 9.6706 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

9.6706 Development in Flood Plains.

~~All development proposed for location in Special Flood Hazard Areas or Floodways as identified by the Federal Emergency Management Agency in the scientific and engineering report entitled "The Flood Insurance Study for Lane County, Oregon and Incorporated Areas" and associated Flood Insurance Rate Maps dated June 2, 1999 and any amendments thereto adopted by the city, effective at the time of the land use or development permit application, shall comply with the provisions of this code.~~

9.6706 Development in Floodplains – Development Permit.

(1) Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.6705. The permit shall be for all structures including manufactured homes as defined in this land use code, and for all other development including fill and other activities, as also defined in section 9.0500.

(2) Application. Application for a development permit within an area of special flood hazard shall be made on forms furnished by the City 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. In addition to material referenced in EC 9.6707, the following information is specifically required:

(a) In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures.

(b) The proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

(c) Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in EC 9.6707(2)(c)3.

(d) A description of the extent to which any watercourse will be altered or relocated.

(e) Base Flood Elevation data for land division applications or other development when required per EC 9.6707(1)(f).

(f) The substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

(g) The amount and location of any fill or excavation activities proposed.

(h) A Conditional Letter of Map Revision (CLOMR) for any:

1. Proposed floodway encroachments that increase the base flood elevation; or

2. Proposed development which increases the base flood elevation by more than one (1) foot in areas where FEMA has provided base flood elevations but no floodway.

Section 10. Sections 9.6707 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

9.6707 Special Flood Hazard Areas—Development Permit.

~~(1) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.6706. The permit shall be for all structures including manufactured homes as defined in this land use code, and for all other development including fill and other activities, as also defined in section 9.0500. 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. The following information is specifically required:~~

~~(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.~~

~~(b) Elevation in relation to mean sea level to which any structure has been flood proofed.~~

~~(c) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing standards in section 9.6709.~~

~~(d) A description of the extent to which a watercourse will be altered or relocated as a result of proposed development.~~

~~(2) The building official or his/her designee shall administer and implement the provisions of sections 9.6705 to 9.6709 by granting or denying development permit applications in accordance with their provisions. In connection therewith, the duties of the building official or designee shall include, but not be limited to:~~

~~(a) Review of all development permits to determine that the permit requirements of sections 9.6705 to 9.6709 have been satisfied;~~

~~(b) Review of all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies, including the city, from which prior approval is required;~~

~~(c) Review of all development permits to determine if the proposed development is located in the floodway. If located in the floodway, the building official shall assure that the encroachment provisions of section 9.6709 are met;~~

~~(d) Obtaining, reviewing and reasonably utilizing any base flood elevation and floodway data available from a federal, state, or other source in order to administer the provisions of section 9.6709(2) subsections (a) and (b), if the base flood elevation data has not been provided in accordance with subsection (1) of this section.~~

~~(e) Obtaining and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (d) of this section;~~

~~(f) Verifying and recording the actual elevation (in relation to mean sea level) and maintaining the floodproofing certifications required in subsection (1) of this section for all new or substantially improved floodproofed structures;~~

~~(g) Notifying adjacent communities and the Division of State Lands prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Insurance Administration;~~

~~(h) Requiring that maintenance is provided within the altered or relocated portion of a watercourse so that the flood carrying capacity is not diminished; and~~

~~(i) Maintain for public inspection all records pertaining to the provisions of sections 9.6705 to 9.6709.~~

~~(3) Within 5 days of the decision, the building official shall mail a notice of the decision and of the opportunity to appeal to the applicant and owners and occupants of property located within 100 feet of the subject property.~~

~~(4) The decision of the building official may be appealed to the hearings official in the manner provided in this land use code.~~

9.6707 Development in Floodplains – Provisions for Flood Hazard Reduction

(1) General Standards. In all special flood hazard areas, the following standards shall be adhered to:

(a) Alteration of Watercourses.

1. The flood carrying capacity within the altered or relocated portion of said watercourse shall be maintained.

2. Maintenance shall be provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished.

3. Prior to any alteration or relocation of a watercourse:

a. The City Manager or their designee shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies and submit evidence of such notification to the Federal Insurance Administration.

b. The applicant shall notify the Federal Insurance Administration by transmitting a Letter of Map Revision (LOMR) along with either:

(1) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(2) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

4. When required under EC 9.6706(2)(h), the applicant shall submit a Conditional Letter of Map Revision (CLOMR).

(b) Anchoring.

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

2. All manufactured dwellings shall be anchored per section EC 9.6707(2)(c)4.

(c) Construction Materials and Methods.

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

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

(d) Utilities and Equipment.

1. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

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

b. 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.

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

2. Electrical, Mechanical, Plumbing and Other Equipment.

a. Except as provided in b., below, electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated a minimum of one (1) foot above the Base Flood Elevation.

b. The requirement set out in a., above, does not apply to service equipment (including but not limited to electrical systems, equipment and components; heating, ventilation, air conditioning;

plumbing appliances and plumbing fixtures; and duct systems) that is:

(1) Specially designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to one (1) foot above the Base Flood Elevation; and

(2) Not electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities being installed as part of a substantial improvement.

(e) Tanks.

1. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

2. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

(f) Land division Proposals.

1. All new land division proposals and other proposed new developments (including proposals for manufactured dwelling parks and land divisions) that are 5 acres or more in size or are 50 lots or more, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.

2. All new land division proposals and other proposed new developments (including proposals for manufactured dwelling parks and land divisions) shall:

a. Be consistent with the need to minimize flood damage.

b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

c. Have adequate drainage provided to reduce exposure to flood hazards.

(g) Use of Other Base Flood Elevation Data.

1. When Base Flood Elevation data has not been provided in accordance with section EC 9.6705, the City Manager or designee shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer EC 9.6707. All new land division proposals and other proposed new developments (including proposals for manufactured dwelling parks and land divisions) must meet the requirements of EC 9.6707(1)(f).

2. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall

be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc. When no base flood elevation data is available, the reasonably safe elevation requirement for development proposals with an elevation requirement, within a riverine unnumbered a zone, is at least two (2) feet above the highest adjacent grade. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

(h) Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

- 1. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.**
- 2. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.**

(2) Specific Standards. These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in EC 9.6707(1).

(a) Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- 1. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;**
- 2. Be used solely for parking, storage, or building access;**
- 3. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:**
 - a. There shall be a minimum of two openings;**
 - b. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;**
 - c. The bottom of all openings shall be no higher than one (1) foot above grade;**
 - d. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and**
 - e. All additional higher standards for flood openings in the State of Oregon Residential Specialty Code shall be complied with when applicable.**

(b) Garages.

1. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

- a. If located within a floodway the proposed garage shall comply with the requirements of EC 9.6707(2)(d);**
- b. The floors shall be at or above grade on not less than one side;**
- c. The garage shall be used solely for parking, building access, and/or storage;**
- d. The garage shall be constructed with flood openings in compliance with EC 9.6707(2)(a) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;**
- e. The portions of the garage constructed below the BFE shall be constructed with materials resistant to flood damage;**
- f. The garage shall be constructed in compliance with the standards in EC 9.6707(1); and**
- g. The garage shall be constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.**

2. Detached garages must be constructed in compliance with the standards for appurtenant structures in EC 9.6707(2)(c)6 or non-residential structures in EC 9.6707(2)(c)3, depending on the square footage of the garage.

(c) Riverine Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in EC 9.6707(1), the following specific standards shall apply in Riverine special flood hazard areas with Base Flood Elevations (BFE):

1. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

2. Residential Construction.

- a. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above the Base Flood Elevation (BFE). When no base flood elevation data is available, the reasonably safe elevation requirement for**

development proposals with an elevation requirement, within a riverine unnumbered a zone, is at least two (2) feet above the highest adjacent grade.

b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in EC 9.6707(2)(a).

3. Non-Residential Construction.

a. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:

(1) Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) or, when no base flood elevation data is available, the reasonably safe elevation requirement for development proposals with an elevation requirement, within a riverine unnumbered A zone, is at least two (2) feet above the highest adjacent grade; or

(2) Together with attendant utility and sanitary facilities:

(A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; and

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the City.

b. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in EC 9.6707(2)(a).

c. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.)

4. Manufactured Dwellings.

a. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with EC 9.6707(2)(a);

b. The bottom of the longitudinal chassis frame beam shall be at minimum one (1) foot above Base Flood Elevation;

c. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors and;

d. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

5. Recreational Vehicles. Recreational vehicles placed on sites are required to:

a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, 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; or

b. Meet the requirements of EC 9.6707(2)(c)4, including the anchoring and elevation requirements for manufactured dwellings.

6. Appurtenant Structures. Relief from elevation or floodproofing requirements for residential and non-residential structures in riverine flood zones may be granted for as that meet the following requirements:

a. Appurtenant structures located partially or entirely within the floodway shall comply with requirements for development within a floodway found in EC 9.6707(2)(d);

b. Appurtenant structures shall only be used for parking, access, and/or storage and shall not be used for human habitation;

c. Appurtenant structures on properties within the special flood hazard area shall be limited to one-story structures less than 600 square feet in size;

d. The portions of the appurtenant structure located below the Base Flood Elevation shall be built using flood resistant materials;

e. The appurtenant structure shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

f. The appurtenant structure shall be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in EC 9.6707(2)(a);

g. Appurtenant structures shall be located and constructed to have low damage potential;

h. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with EC 9.6707(1)(e); and

i. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(d) Floodways. Located within the special flood hazard areas established in EC 9.6705 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the adopted regulatory floodway unless:

a. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

b. A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

2. If the requirements of EC 9.6707(2)(d)1 are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of EC 9.6707.

(e) Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones, the base flood depths range from one (1) to three (3) feet above ground 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. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

1. Standards for AH Zones. Development within AH Zones must comply with the standards in EC 9.6707(1), 9.6707(2) and 9.6707(2)(e).

2. Standards for AO Zones. In AO zones, the following provisions apply in addition to the standards in sections EC 9.6707(1) and 9.6707(2)(e).

a. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam;

b. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

(1) 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 Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, 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 the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in EC 9.6707(2)(c)3.a.

c. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

(1) Be on the site for fewer than 180 consecutive days, and

(2) Be either:

(A) Fully licensed and ready for highway use, 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; or

(B) Meet the elevation requirements of EC 9.6707(2)(e)2.a, and the anchoring and other requirements for manufactured dwellings of EC 9.6707(2)(c)4.

d. In AO zones, new and substantially improved appurtenant structures must comply with the standards in EC 9.6707(2)(c)6.

e. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in EC 9.6707(2)(a).

Section 11. Sections 9.6708 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

~~9.6708 Special Flood Hazard Areas—Variances.~~

~~The building official may approve, conditionally approve, or deny an application for a variance from the provisions of sections 9.6705 to 9.6709, except that no variance shall be allowed within a floodway. The building official's decision shall be based on the following criteria:~~

~~(1) Compliance with applicable provisions of this land use code;~~

~~(2) Consideration of all technical evaluations, other relevant factors and standards set forth in section 9.6709, and:~~

- ~~(a) The danger that materials may be swept onto other lands to the injury of others;~~
- ~~(b) The danger to life and property due to flooding or erosion damage;~~
- ~~(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~(d) The importance of the services provided by the proposed facility to the community;~~
- ~~(e) The necessity to the facility of a waterfront location, where applicable;~~
- ~~(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~(g) The compatibility of the proposed use with existing and anticipated development;~~
- ~~(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;~~
- ~~(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~(k) 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,~~
- ~~(l) 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.~~
- ~~(m) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;~~
- ~~(n) A determination that good and sufficient cause exists for the variance;~~
- ~~(o) Failure to grant the variance would result in exceptional hardship to the applicant;~~
- ~~(p) Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~
- ~~(q) That variances are interpreted in the National Flood Insurance Program 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.~~
- ~~(r) That variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, and otherwise complies with section 9.6709.~~

~~(3) Within five days of the decision, notice of the building official's decision and of the opportunity to appeal shall be mailed to the applicant and to owners and occupants of property located within 100 feet of the subject property.~~

~~(4) The decision of the building official may be appealed to the hearings official in the manner set forth in this land use code.~~

9.6708 Development in Floodplains – Miscellaneous

(1) Substantial Improvement Assessments and Determinations. The City Manager or their designee shall conduct Substantial Improvement (SI) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files.

(2) Substantial Damage Assessments and Determinations. The City Manager or their designee shall:

(a) Conduct Substantial Damage (SD) assessments when structures are damaged due to a natural hazard event or other causes;

(b) Make SD determinations whenever a structure within the special flood hazard area is damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(3) The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR. The City is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will meet, or has met, the requirements of this code and all applicable state and federal permits.

(4) Notice of Completion for CLOMR. An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

(5) Penalties for Noncompliance. No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the terms of EC 9.6705-9.6709 and other applicable regulations. Violations of EC 9.6705-9.6709 by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) are subject to the code enforcement provisions at EC 9.020-9.0280.

Section 12. Sections 9.6709 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

~~9.6709 Special Flood Hazard Areas—Standards.~~

~~(1) General Standards. In all areas of special flood hazards, compliance with the following standards is required:~~

~~(a) Anchoring.~~

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

~~2. All manufactured homes shall 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 (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).~~

~~(b) Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, using methods and practices that minimize flood damage. 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.~~

~~(c) Utilities.~~

- ~~1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;~~
- ~~2. 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; and,~~
- ~~3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

~~(d) Subdivision Proposals.~~

- ~~1. All subdivision proposals shall:~~
 - ~~a. Be consistent with the need to minimize flood damage;~~
 - ~~b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; and~~
 - ~~c. Have adequate drainage provided to reduce exposure to flood damage; and~~
- ~~2. 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 five acres (whichever is less).~~

~~(e) Review of Development Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for development 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.~~

~~(f) Recreational Vehicles. Recreational vehicles placed on sites will either:~~

- ~~1. Be on the site for fewer than 180 consecutive days, or~~
- ~~2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.~~

~~(2) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as required in subsections 9.6707(1) or (2), the following provisions are required:~~

~~(a) Residential Construction.~~

- ~~1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the 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:~~
 - ~~a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~
 - ~~b. The bottom of all openings shall be no higher than one foot above grade.~~
 - ~~c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~

~~(b) Nonresidential Construction. New construction and substantial improvement of any commercial, employment and 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:~~

~~1. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~

~~2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~

~~3. 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 building official as required in section 9.6707.~~

~~4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subparagraph (2)(a)2. of this section.~~

~~5. 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).~~

~~(c) Manufactured Homes. 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 (1)(a)(2) of this section.~~

~~(d) Floodways. Within areas of special flood hazard established in section 9.6706 are areas designated as floodways. Since a 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. Prohibition on 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; and~~

~~2. If the conditions of subparagraph 1. above are met, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.~~

~~(e) Shallow Flooding Areas — With Depth Designations. Shallow flooding zones appear on Flood Insurance Rate Maps (FIRM), with depth designations, wherever such flooding occurs on sloping water surfaces such as alluvial fan flow, wave wash after the wave has broken, etc. In these areas, the following provisions apply:~~

~~1. New construction and substantial improvements of residential structures within these zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to at least one foot above the depth number specified on the FIRM. Where appropriate, such structures shall be elevated above the crown of the nearest road, to at least one foot above the depth number specified in 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.~~

~~2. New construction and substantial improvements of nonresidential structures within these zones shall either:~~

- ~~a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to at least one foot above the depth number specified on the FIRM; or~~
- ~~b. Together with attendant utility and sanitary facilities, be completely floodproofed to at least one foot 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 buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.~~
- ~~c. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures. 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.~~

9.6709 Development in Floodplains – Variance Procedure.

(1) Generally, variances may be issued for new construction and substantial improvements that are 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, in conformance with the provisions of EC 9.6709(3), (5) and (6). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

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

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

(4) Variances shall only be issued upon:

- (a) A showing of good and sufficient cause;***
- (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;***
- (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.***

(5) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of EC 9.6709(2)-(4) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(6) Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base

Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property.

Section 13. The findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 14. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 15. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 16. In the interpretation and application of the code provisions added or amended by this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 17. 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 person-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.

Section 18. This ordinance shall not create liability on the part of the City of Eugene, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 19. 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 20. This Ordinance shall take effect pursuant to Section 32 of the Eugene Charter 2002, or on the date of its acknowledgement as provided in ORS 197.625, whichever is later.

Passed by the City Council this

___ day of _____, 2023

Approved by the Mayor this

___ day of _____, 2023

City Recorder

Mayor

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session and Possible Action: An Ordinance Concerning Flood Hazard Areas; Amending Sections 9.0500, 9.6705, 9.6706, 9.6707, 9.6708 and 9.6709 of the Eugene Code, 1971; and Providing an Effective Date.

Meeting Date: March 8, 2023

Department: Public Works

www.eugene-or.gov

Agenda Item Number: 2

Staff Contact: Jack Blackham

Contact Telephone Number: 541-731-3873

ISSUE STATEMENT

The Eugene City Council will hold a work session to finalize adoption of City-wide land use code amendments updating the existing floodplain development regulations to adopt Federal Emergency Management Agency development standards for continued participation in the National Flood Insurance Program. The proposed amendments and findings are provided as Attachment A.

BACKGROUND

The flood hazard areas of the City of Eugene are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. The proposed code changes are intended to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- Protect human life and health;
- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- Minimize prolonged business interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in Special Flood Hazard Area Special Flood Hazard Area;
- Notify potential buyers that the property is in a Special Flood Hazard Area;
- Notify those who occupy Special Flood Hazard Area that they assume responsibility for their actions;
- Participate in and maintain eligibility for flood insurance and disaster relief.

For the purposes of these code amendments, the “floodplain” is defined as “a watercourse and adjacent land area that is inundated by the discharge of the base flood, or the one-percent annual chance flood event,” more formally referred to as the Special Flood Hazard Area. The Special Flood Hazard Area is the area where the National Flood Insurance Program floodplain management

regulations must be enforced and shown on Federal Emergency Management Agency Flood Insurance Rate Maps within Eugene's Urban Growth Boundary as Zone A, AO and AE. These zones dictate what level of flood risk a property faces, and determine which specific development standards will apply, and the type of information that an applicant must submit for a proposed development in the floodplain.

City participation in the National Flood Insurance Program allows property owners, businesses and renters residing within the Urban Growth Boundary and Special Flood Hazard Area to purchase this insurance to cover their property in the event of a flood. As part of National Flood Insurance Program participation, the Oregon Department of Land and Conservation Development reviewed the City's floodplain program including the existing development code rules, regulations and permitting processes for development in the Special Flood Hazard Area and provided recommendations and requirements for the City to remain a participant in the National Flood Insurance Program. Among other requirements, community participation in the National Flood Insurance Program is contingent upon adoption and enforcement of Federal Emergency Management Agency's minimum standards for floodplain development. If the proposed floodplain development regulations are not updated to minimum National Flood Insurance Program standards, the City could be suspended from the National Flood Insurance Program and be subject to sanctions which include:

- Inability of property owners to purchase National Flood Insurance Program flood insurance policies and existing policies removed.
- Federal grants would not be available in identified flood hazard areas.
- Federal disaster assistance would not be available for damages cause by a flood.
- Federal mortgage insurance or loan guarantees would not be provided in identified flood hazard area.

Land Use Code

The Land and Conservation Development has provided a model flood hazard code which has been reviewed and approved by Federal Emergency Management Agency Region X (Ten). The proposed ordinance uses the text of this pre-approved model code. Adoption of the model code language will ensure compliance with the minimum floodplain development standards for the City's continued participation in the National Flood Insurance Program. The model code includes standards and provisions that encourage sound floodplain management with language based on the minimum requirements of the National Flood Insurance Program found in the Code of Federal Regulations (CFRs Title 44), Oregon's statewide land use planning Goal 7 (areas subject to natural disasters and hazards), and the Oregon Specialty Codes.

Higher Regulatory Standards

In most cases, the proposed ordinance updates existing code to incorporate Federal Emergency Management Agency's minimum standards for participation in the National Flood Insurance Program. However, the proposed ordinance does include higher regulatory standards where a higher standard is already imposed by the current code: a one (1) foot freeboard requirement, applied to new and/or substantially improved residential structures including mechanical, HVAC and electrical equipment.

To gather a better understanding of the development occurring in the floodplain and as a measure of documenting such activities, staff also propose including two higher standards from the Land and Conservation Development for proposed actions. Specifically, the City recommends the applicant be responsible for preparing all technical data to support certain Letter of Map Changes and paying any processing or application fees associated with the Letter of Map Changes. The Floodplain Administrator or designee shall be under no obligation to sign the Community Acknowledgement Form, which is part of these LOMC applications, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal permits.

City staff's recommendation for this adoption process is to maintain the City's current development standards as much as allowed by Federal Emergency Management Agency. As part of this process, however, staff will take special note of any testimony that suggests more stringent regulations for the Council's future consideration. Federal Emergency Management Agency is in the process of updating flood maps for Eugene and other adjacent communities. Federal Emergency Management Agency's final determination of these maps will require the City to update its code again to adopt these maps. Staff may recommend the adoption of higher regulatory standards at that time, when staff will have a better understanding of the new effective Special Flood Hazard Area, both in area and in development make up, and if certain higher regulatory standards may be more suitable than others.

Planning Commission Recommendation

The Eugene Planning Commission held a work session and public hearing on the proposed ordinance and, on October 11, 2022, voted to recommend that the City Council approve the ordinance. Since that time, the City Attorney's office has made some formatting and other non-substantive revisions (e.g. correction of typographical errors) to the proposed ordinance.

Process to Date and Next Steps

On June 13, 2022, the City Council passed a motion to initiate the formal process to consider the proposed code amendments. Jointly with the Lane County Planning Commission, on September 6, 2022, the Eugene Planning Commission held a work session and public hearing to consider the proposed amendments. While there was one comment about technological issues, there was no testimony or submitted comments about the proposed ordinance. On October 11, 2022, the Eugene Planning Commission deliberated and passed a motion recommending Eugene City Council approval of the proposed code amendments. The Lane County Planning Commission also held a post-hearing work session and passed a motion recommending that the Lane County Board of Commissioners adopt an ordinance to make the same provisions applicable within the area outside of the City limits and inside the Eugene urban growth boundary.

The City Council held a work session on January 11, 2023 and a public hearing on February 21, 2023. There was no testimony on the proposed ordinance at the February 21 public hearing. The record remains open for written testimony up until the time Council acts on the ordinance. Staff will provide any written testimony received before and/or at the March 8 Work Session.

PREVIOUS COUNCIL DIRECTION

[June 13, 2022 City Council Meeting](#)

On June 13, 2022, the City Council formally initiated the land use code amendments for floodplain development regulations to meet minimum Federal Emergency Management Agency standards for the National Flood Insurance Program as part of the consent agenda.

[January 11, 2023 City Council Work Session](#)

On January 11, 2023, the City Council conducted a work session as an introduction and discussion of the proposed floodplain development regulations to comply with minimum Federal Emergency Management Agency standards for the National Flood Insurance Program.

[February 21, 2023 City Council Public Hearing](#)

On February 21, 2023, the City Council conducted a public hearing for the proposed floodplain development regulations to comply with minimum Federal Emergency Management Agency standards for the National Flood Insurance Program. No public testimony was provided.

COUNCIL OPTIONS

The City Council may:

1. Adopt the Ordinance as proposed in Attachment A to this AIS.
2. Adopt the Ordinance with specific modifications as determined by the Council.
3. Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends adoption of the ordinance as provided in Attachment A.

SUGGESTED MOTION

Move to adopt "An Ordinance Concerning Flood Hazard Areas; Amending sections 9.0500, 9.6705, 9.6706, 9.6707, 9.6708 and 9.6709 of the Eugene Code, 1971; and Providing an Effective Date" as included at Attachment A.

ATTACHMENTS

- A. Proposed Ordinance, including Exhibit A (Findings)
- B. Record Materials and Testimony as of February 21, 2023

FOR MORE INFORMATION

Staff Contact: Jack Blackham
Telephone: 541-731-3873
Staff E-Mail: JBlackham@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING FLOOD HAZARD AREAS; AMENDING SECTIONS 9.0500, 9.6705, 9.6706, 9.6707, 9.6708 AND 9.6709 OF THE EUGENE CODE, 1971; AND PROVIDING AN EFFECTIVE DATE.

The City Council of the City of Eugene finds as follows:

A. The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental unit to adopt floodplain management regulations designated to promote the public health, safety, and general welfare of its citizenry.

B. The flood hazard areas in the City of Eugene are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

C. These flood losses may be caused by the cumulative effect of obstruction in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protects from flood damage also contribute to flood loss.

D. The purpose of this ordinance is to promote public health, safety and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

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

E. In order to accomplish its purpose, this ordinance sets out methods and provisions for:

- (1) Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

F. ORS 455 establishes that local governments must administer and enforce the State of Oregon Specialty Codes and the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

The City of Eugene ordains as follows:

Section 1. The definitions codified at Section 9.0500 of the Eugene Code, as adopted or revised by this ordinance, also apply to the uncoded provisions of this ordinance.

Section 2. Duties and Responsibilities of the Floodplain Administrator. The City Manager, and the City Manager's designee, shall administer, implement and enforce the provisions of Eugene Code (EC) Sections 9.6706 – 9.6709 through the approval or denial of development permits in accordance with those code sections as they are hereby adopted or later amended, and the uncoded provisions of this Ordinance. This includes, but is not limited to:

- (a) reviewing all development permit applications to determine whether the permit requirements of sections EC 9.6705 to 9.6709 have been satisfied;
- (b) reviewing all development permit applications to determine whether all other required local, state, and federal permits have been obtained and approved;
- (c) reviewing all development permit applications to determine whether the proposed development is located in a floodway and, if located in the floodway, assuring that the floodway requirements of EC 9.6707(2)(d) are satisfied;
- (d) reviewing all development permit applications to determine whether the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source and, if BFE data is not available, then ensuring compliance with the provision EC 9.6707(1)(g);
- (e) reviewing all development permit applications and, where applicable, providing to building officials the Base Flood Elevation (BFE) and freeboard applicable to any proposed building requiring a development permit.
- (f) reviewing all development permit applications to determine whether the proposed development qualifies as a substantial improvement as defined in EC 9.0500;
- (g) reviewing all development permit applications to determine whether the proposed development activity is a watercourse alteration and, if a watercourse alteration is proposed, ensure compliance with the provisions of EC 9.6707(1)(a); and

- (h) reviewing all development permit applications to determine whether the proposed development activity includes the placement of fill or excavation.

Section 3. Information to be Obtained and Maintained. The City Manager or their designee shall obtain and maintain information as necessary to carry out the purposes of this Ordinance and shall make such information available for public inspection as needed, as follows:

- (a) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with EC 9.6707(1)(g).
- (b) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of EC 9.6707(2)(d) and all other required local, state, and federal permits have been obtained, approved and are adhered to.
- (c) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- (d) Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- (e) Maintain all Elevation Certificates (EC) submitted to the City;
- (f) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with EC 9.6707(1)(g).
- (g) Maintain all floodproofing certificates required under this ordinance;
- (h) Record and maintain all variance actions, notices of variance, and the justification for their issuance as described at EC 9.6709;
- (i) Obtain and maintain all hydrologic and hydraulic analyses performed as required under EC 9.6707(2)(d).
- (j) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations required under EC 9.6708(1) and (2), keeping a record of SI calculations within permit files.
- (k) Maintain for public inspection all records pertaining to the provisions of this ordinance.

Section 4. Community Boundary Alterations. The City Manager or their designee shall notify the Federal Insurance Administrator in writing whenever the City limits have been modified by annexation or the City has otherwise assumed authority or no longer has authority

to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the City's boundaries. Include within such notification a copy of a map of the City suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

Section 5. Requirement to Submit New Technical Data. When physical changes affecting flooding conditions cause the City's base flood elevations to increase or decrease, as soon as practicable, but not later than six months after the date such information becomes available, the City Manager or their designee shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3 or require the applicant to submit such data through the applicable FEMA Letter of Map Change (LOMC) process. The City Manager or their designee shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- (a) Proposed floodway encroachments that increase the base flood elevation; and
- (b) Proposed development which increases the base flood elevation by more than one (1) foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

Section 6. Section 9.0500 of the Eugene Code, 1971, is amended to add the following definitions in alphabetical order:

Appeal. As used in EC 9.6705 to 9.6709, a request for a review of the interpretation of any provision of this section or a request for a variance.

Appurtenant Structure. As used in EC 9.6705 to 9.6709, an appurtenant structure is the same as an "accessory building" as defined above.

Area of shallow flooding. As used in EC 9.6705 to 9.6709, a designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly 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. As used in EC 9.6705 to 9.6709, the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

Base flood elevation (BFE). As used in EC 9.6705 to 9.6709, the elevation to which floodwater is anticipated to rise during the base flood.

Basement: As used in EC 9.6705 to 9.6709, any area of the building having its floor subgrade (below ground level) on all sides.

Flood elevation study. As used in EC 9.6705 to 9.6709, see "Flood Insurance Study."

Flood proofing. As used in EC 9.6705 to 9.6709, any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Functionally dependent use. As used in EC 9.6705 to 9.6709, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest adjacent grade. As used in EC 9.6705 to 9.6709, the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. As used in EC 9.6705 to 9.6709, any structure that is:

(A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(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 which have been approved by the Secretary of Interior; or

(D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been 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.

Letter of Map Change (LOMC). As used in sections 9.6705 to 9.6709, an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs

(A) **Conditional Letter of Map Amendment (CLOMA).** A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

(B) **Conditional Letter of Map Revision (CLOMR).** A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

(C) Conditional Letter of Map Revision based on Fill (CLOMR-F). A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

(D) Letter of Map Amendment (LOMA). An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.

(E) Letter of Map Revision (LOMR). A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

(F) Letter of Map Revision based on Fill (LOMR-F). A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

(G) A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

Lowest floor. As used in EC 9.6705 to 9.6709, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Mean sea level. As used in EC 9.6705 to 9.6709, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction. As used in EC 9.6705 to 9.6709, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted into this code and includes any subsequent improvements to such structures.

Special flood hazard area. As used in EC 9.6705 to 9.6709, see "Area of special flood hazard" for this definition.

Substantial damage. As used in EC 9.6705 to 9.6709, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition

would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Violation. As used in EC 9.6705 to 9.6709, the failure of a structure or other development to be fully compliant 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 this ordinance is presumed to be in violation until such time as that documentation is provided.

Section 7. Section 9.0500 of the Eugene Code, 1971, is further amended to revise the following definitions as shown:

Base Flood. As used in sections 9.6705 to 9.6709, the flood having a one percent chance of being equaled or exceeded in any given year. ~~Also referred to as the "100-year flood."~~
~~Designation on maps always includes the letters A or V.~~

Development.

(A) The act, process or result of developing.

(B) As used in sections 9.6705 to 9.6709, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations **or storage of equipment or materials** ~~located within the area of special flood hazard.~~

Flood or Flooding. As used in sections 9.6705 to 9.6709:

(A) ~~a~~A general and temporary condition of partial or complete inundation of normally dry land areas from:

~~(A)~~(1) The overflow of inland or tidal waters;

~~(B)~~(2) The unusual and rapid accumulation or runoff of surface waters from any source.; **or**

(3) **Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (A)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.**

(B) **The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (A) of this definition.**

Flood Insurance Rate Map (FIRM). As used in sections 9.6705 to 9.6709, the official map on which the Federal Insurance Administration ~~or~~ has delineated both the **special hazard** areas of ~~special flood hazards~~ and the risk premium zones applicable to the community. **A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).**

Flood Insurance Study (FIS). As used in sections 9.6705 to 9.6709, **an examination, evaluation and determination of flood hazards and, if appropriate, corresponding** the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevations, **or an examination and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards** of the base flood.

Floodway. As used in sections 9.6705 to 9.6709, ~~the channel of a river or other watercourse and the adjacent land areas designated as a floodway by the Federal Emergency Management Agency~~ **that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."**

Manufactured Home/Manufactured Dwelling.

(A) A ~~"manufactured home"~~ is a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. A "manufactured dwelling" includes a residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed before January 1, 1962, a mobile home meeting the above requirements that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction, and a manufactured home meeting the above requirements. "Manufactured dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer. A manufactured home accessory building or structure includes: ~~(A) Any portable, demountable or permanent structure established for use of the occupant of the manufactured structure and as further defined by rule of the Director of the State Department of Consumer and Business Services.~~

(B) As used in sections 9.6705 to 9.6709: a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

Manufactured Home/Dwelling Park.

(A) Any place where 4 or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than 1 manufactured dwelling per lot if

the subdivision was approved by the city. "Manufactured dwelling park" also does not include a development permitted as a fourplex or a cottage cluster.

(B) As used in sections 9.6705 to 9.6709, "Manufactured dwelling park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Recreational Vehicle.

(A) A vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and that has a gross floor area not to exceed 400 square feet in set up mode.

(B) As used in sections 9.6705 to 9.6709, a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction. **As used in sections 9.6705 to 9.6709, includes substantial improvement and means** ~~the date the development permit was issued, provided the actual start of~~ **construction**, repair, reconstruction, **rehabilitation, addition**, placement, or other improvement was within 180 days ~~of~~**from** 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 slabs or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured ~~home~~**dwelling** on a foundation. Permanent construction does not include land preparation, such as clearing, grading, ~~or~~**and** filling; **nor does it include** the installation of streets and/or walkways; **nor does it include the installation** ~~excavation for a basement, footings, piers or foundations, or erection of temporary forms; nor the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as 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) Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(B) As used in sections 9.6705 to 9.6709, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial Improvement. As used in sections 9.6705 to 9.6709, any ~~repair~~, reconstruction, **rehabilitation, addition**, or **other** improvement of a structure, the cost of which equals or

exceeds 50 percent of the market value of the structure either: ~~(A) —~~ **before the “start of construction” of the improvement or repair is started, or**

~~(B) — If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. **This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.**~~ The term does not, however, include either:

~~(C)~~ **(A)** Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

~~(D)~~ **(B)** Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places **“historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”**

Section 8. Sections 9.6705 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

~~9.6705 Development in Flood Plains — Purpose.~~

~~It is the purpose of sections 9.6705 to 9.6709 to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by adopting provisions designed to:~~

~~(1) — Protect human life and health.~~

~~(2) — Minimize expenditure of public money and costly flood control projects.~~

~~(3) — Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.~~

~~(4) — Minimize prolonged business interruptions.~~

~~(5) — Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.~~

~~(6) — Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.~~

~~(7) — Ensure that potential buyers are notified that property is in an area of special flood hazard.~~

~~(8) — Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.~~

9.6705 Development in Floodplains – General.

(1) The special flood hazard areas identified by the Federal Insurance Administration in the scientific and engineering report entitled “The Flood Insurance Study (FIS) for

Lane County and Incorporated Areas Volumes 1-4,” dated June 5, 2020, with accompanying Flood Insurance Rate Maps (FIRMs) Panels 0619 through 1650 are hereby adopted by reference and declared to be a part of this code. The Flood Insurance Study (FIS) and FIRM panels are on file at City of Eugene Public Works Engineering offices.

- (2) Compliance. All development within special flood hazard areas is subject to the terms of EC 9.6705-9.6709 and required to comply with its provisions and all other applicable regulations.***

Section 9. Sections 9.6706 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

9.6706 Development in Flood Plains.

~~All development proposed for location in Special Flood Hazard Areas or Floodways as identified by the Federal Emergency Management Agency in the scientific and engineering report entitled “The Flood Insurance Study for Lane County, Oregon and Incorporated Areas” and associated Flood Insurance Rate Maps dated June 2, 1999 and any amendments thereto adopted by the city, effective at the time of the land use or development permit application, shall comply with the provisions of this code.~~

9.6706 Development in Floodplains – Development Permit.

(1) Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.6705. The permit shall be for all structures including manufactured homes as defined in this land use code, and for all other development including fill and other activities, as also defined in section 9.0500.

(2) Application. Application for a development permit within an area of special flood hazard shall be made on forms furnished by the City 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. In addition to material referenced in EC 9.6707, the following information is specifically required:

(a) In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures.

(b) The proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

(c) Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in EC 9.6707(2)(c)3.

(d) A description of the extent to which any watercourse will be altered or relocated.

(e) Base Flood Elevation data for land division applications or other development when required per EC 9.6707(1)(f).

(f) The substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

(g) The amount and location of any fill or excavation activities proposed.

(h) A Conditional Letter of Map Revision (CLOMR) for any:

1. Proposed floodway encroachments that increase the base flood elevation; or

2. Proposed development which increases the base flood elevation by more than one (1) foot in areas where FEMA has provided base flood elevations but no floodway.

Section 10. Sections 9.6707 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

9.6707 Special Flood Hazard Areas—Development Permit.

~~(1) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.6706. The permit shall be for all structures including manufactured homes as defined in this land use code, and for all other development including fill and other activities, as also defined in section 9.0500. 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. The following information is specifically required:~~

~~(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.~~

~~(b) Elevation in relation to mean sea level to which any structure has been flood proofed.~~

~~(c) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing standards in section 9.6709.~~

~~(d) A description of the extent to which a watercourse will be altered or relocated as a result of proposed development.~~

~~(2) The building official or his/her designee shall administer and implement the provisions of sections 9.6705 to 9.6709 by granting or denying development permit applications in accordance with their provisions. In connection therewith, the duties of the building official or designee shall include, but not be limited to:~~

~~(a) Review of all development permits to determine that the permit requirements of sections 9.6705 to 9.6709 have been satisfied;~~

~~(b) Review of all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies, including the city, from which prior approval is required;~~

~~(c) Review of all development permits to determine if the proposed development is located in the floodway. If located in the floodway, the building official shall assure that the encroachment provisions of section 9.6709 are met;~~

~~(d) Obtaining, reviewing and reasonably utilizing any base flood elevation and floodway data available from a federal, state, or other source in order to administer the provisions of section 9.6709(2) subsections (a) and (b), if the base flood elevation data has not been provided in accordance with subsection (1) of this section.~~

~~(e) Obtaining and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (d) of this section;~~

~~(f) Verifying and recording the actual elevation (in relation to mean sea level) and maintaining the floodproofing certifications required in subsection (1) of this section for all new or substantially improved floodproofed structures;~~

~~(g) Notifying adjacent communities and the Division of State Lands prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Insurance Administration;~~

~~(h) Requiring that maintenance is provided within the altered or relocated portion of a watercourse so that the flood carrying capacity is not diminished; and~~

~~(i) Maintain for public inspection all records pertaining to the provisions of sections 9.6705 to 9.6709.~~

~~(3) Within 5 days of the decision, the building official shall mail a notice of the decision and of the opportunity to appeal to the applicant and owners and occupants of property located within 100 feet of the subject property.~~

~~(4) The decision of the building official may be appealed to the hearings official in the manner provided in this land use code.~~

9.6707 Development in Floodplains – Provisions for Flood Hazard Reduction

(1) General Standards. In all special flood hazard areas, the following standards shall be adhered to:

(a) Alteration of Watercourses.

1. The flood carrying capacity within the altered or relocated portion of said watercourse shall be maintained.

2. Maintenance shall be provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished.

3. Prior to any alteration or relocation of a watercourse:

a. The City Manager or their designee shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies and submit evidence of such notification to the Federal Insurance Administration.

b. The applicant shall notify the Federal Insurance Administration by transmitting a Letter of Map Revision (LOMR) along with either:

(1) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(2) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

4. When required under EC 9.6706(2)(h), the applicant shall submit a Conditional Letter of Map Revision (CLOMR).

(b) Anchoring.

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

2. All manufactured dwellings shall be anchored per section EC 9.6707(2)(c)4.

(c) Construction Materials and Methods.

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

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

(d) Utilities and Equipment.

1. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

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

b. 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.

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

2. Electrical, Mechanical, Plumbing and Other Equipment.

a. Except as provided in b., below, electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated a minimum of one (1) foot above the Base Flood Elevation.

b. The requirement set out in a., above, does not apply to service equipment (including but not limited to electrical systems, equipment and components; heating, ventilation, air conditioning;

plumbing appliances and plumbing fixtures; and duct systems) that is:

(1) Specially designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to one (1) foot above the Base Flood Elevation; and

(2) Not electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities being installed as part of a substantial improvement.

(e) Tanks.

1. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

2. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

(f) Land division Proposals.

1. All new land division proposals and other proposed new developments (including proposals for manufactured dwelling parks and land divisions) that are 5 acres or more in size or are 50 lots or more, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.

2. All new land division proposals and other proposed new developments (including proposals for manufactured dwelling parks and land divisions) shall:

a. Be consistent with the need to minimize flood damage.

b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

c. Have adequate drainage provided to reduce exposure to flood hazards.

(g) Use of Other Base Flood Elevation Data.

1. When Base Flood Elevation data has not been provided in accordance with section EC 9.6705, the City Manager or designee shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer EC 9.6707. All new land division proposals and other proposed new developments (including proposals for manufactured dwelling parks and land divisions) must meet the requirements of EC 9.6707(1)(f).

2. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall

be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc. When no base flood elevation data is available, the reasonably safe elevation requirement for development proposals with an elevation requirement, within a riverine unnumbered a zone, is at least two (2) feet above the highest adjacent grade. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

(h) Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

- 1. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.***
- 2. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.***

(2) Specific Standards. These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in EC 9.6707(1).

(a) Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- 1. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;***
- 2. Be used solely for parking, storage, or building access;***
- 3. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:***
 - a. There shall be a minimum of two openings;***
 - b. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;***
 - c. The bottom of all openings shall be no higher than one (1) foot above grade;***
 - d. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and***
 - e. All additional higher standards for flood openings in the State of Oregon Residential Specialty Code shall be complied with when applicable.***

(b) Garages.

1. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

- a. If located within a floodway the proposed garage shall comply with the requirements of EC 9.6707(2)(d);**
- b. The floors shall be at or above grade on not less than one side;**
- c. The garage shall be used solely for parking, building access, and/or storage;**
- d. The garage shall be constructed with flood openings in compliance with EC 9.6707(2)(a) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;**
- e. The portions of the garage constructed below the BFE shall be constructed with materials resistant to flood damage;**
- f. The garage shall be constructed in compliance with the standards in EC 9.6707(1); and**
- g. The garage shall be constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.**

2. Detached garages must be constructed in compliance with the standards for appurtenant structures in EC 9.6707(2)(c)6 or non-residential structures in EC 9.6707(2)(c)3, depending on the square footage of the garage.

(c) Riverine Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in EC 9.6707(1), the following specific standards shall apply in Riverine special flood hazard areas with Base Flood Elevations (BFE):

1. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

2. Residential Construction.

- a. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above the Base Flood Elevation (BFE). When no base flood elevation data is available, the reasonably safe elevation requirement for**

development proposals with an elevation requirement, within a riverine unnumbered a zone, is at least two (2) feet above the highest adjacent grade.

b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in EC 9.6707(2)(a).

3. Non-Residential Construction.

a. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:

(1) Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) or, when no base flood elevation data is available, the reasonably safe elevation requirement for development proposals with an elevation requirement, within a riverine unnumbered A zone, is at least two (2) feet above the highest adjacent grade; or

(2) Together with attendant utility and sanitary facilities:

(A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; and

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the City.

b. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in EC 9.6707(2)(a).

c. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.)

4. Manufactured Dwellings.

a. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with EC 9.6707(2)(a);

b. The bottom of the longitudinal chassis frame beam shall be at minimum one (1) foot above Base Flood Elevation;

c. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors and;

d. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

5. Recreational Vehicles. Recreational vehicles placed on sites are required to:

a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, 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; or

b. Meet the requirements of EC 9.6707(2)(c)4, including the anchoring and elevation requirements for manufactured dwellings.

6. Appurtenant Structures. Relief from elevation or floodproofing requirements for residential and non-residential structures in riverine flood zones may be granted for as that meet the following requirements:

a. Appurtenant structures located partially or entirely within the floodway shall comply with requirements for development within a floodway found in EC 9.6707(2)(d);

b. Appurtenant structures shall only be used for parking, access, and/or storage and shall not be used for human habitation;

c. Appurtenant structures on properties within the special flood hazard area shall be limited to one-story structures less than 600 square feet in size;

d. The portions of the appurtenant structure located below the Base Flood Elevation shall be built using flood resistant materials;

e. The appurtenant structure shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

f. The appurtenant structure shall be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in EC 9.6707(2)(a);

g. Appurtenant structures shall be located and constructed to have low damage potential;

h. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with EC 9.6707(1)(e); and

i. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(d) Floodways. Located within the special flood hazard areas established in EC 9.6705 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the adopted regulatory floodway unless:

a. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

b. A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

2. If the requirements of EC 9.6707(2)(d)1 are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of EC 9.6707.

(e) Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones, the base flood depths range from one (1) to three (3) feet above ground 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. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

1. Standards for AH Zones. Development within AH Zones must comply with the standards in EC 9.6707(1), 9.6707(2) and 9.6707(2)(e).

2. Standards for AO Zones. In AO zones, the following provisions apply in addition to the standards in sections EC 9.6707(1) and 9.6707(2)(e).

a. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam;

b. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

(1) 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 Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, 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 the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in EC 9.6707(2)(c)3.a.

c. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

(1) Be on the site for fewer than 180 consecutive days, and

(2) Be either:

(A) Fully licensed and ready for highway use, 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; or

(B) Meet the elevation requirements of EC 9.6707(2)(e)2.a, and the anchoring and other requirements for manufactured dwellings of EC 9.6707(2)(c)4.

d. In AO zones, new and substantially improved appurtenant structures must comply with the standards in EC 9.6707(2)(c)6.

e. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in EC 9.6707(2)(a).

Section 11. Sections 9.6708 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

~~9.6708 Special Flood Hazard Areas—Variances.~~

~~The building official may approve, conditionally approve, or deny an application for a variance from the provisions of sections 9.6705 to 9.6709, except that no variance shall be allowed within a floodway. The building official's decision shall be based on the following criteria:~~

~~(1) Compliance with applicable provisions of this land use code;~~

~~(2) Consideration of all technical evaluations, other relevant factors and standards set forth in section 9.6709, and:~~

- ~~(a) The danger that materials may be swept onto other lands to the injury of others;~~
- ~~(b) The danger to life and property due to flooding or erosion damage;~~
- ~~(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~(d) The importance of the services provided by the proposed facility to the community;~~
- ~~(e) The necessity to the facility of a waterfront location, where applicable;~~
- ~~(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~(g) The compatibility of the proposed use with existing and anticipated development;~~
- ~~(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;~~
- ~~(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~(k) 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,~~
- ~~(l) 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.~~
- ~~(m) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;~~
- ~~(n) A determination that good and sufficient cause exists for the variance;~~
- ~~(o) Failure to grant the variance would result in exceptional hardship to the applicant;~~
- ~~(p) Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~
- ~~(q) That variances are interpreted in the National Flood Insurance Program 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.~~
- ~~(r) That variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, and otherwise complies with section 9.6709.~~

~~(3) Within five days of the decision, notice of the building official's decision and of the opportunity to appeal shall be mailed to the applicant and to owners and occupants of property located within 100 feet of the subject property.~~

~~(4) The decision of the building official may be appealed to the hearings official in the manner set forth in this land use code.~~

9.6708 Development in Floodplains – Miscellaneous

(1) Substantial Improvement Assessments and Determinations. The City Manager or their designee shall conduct Substantial Improvement (SI) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files.

(2) Substantial Damage Assessments and Determinations. The City Manager or their designee shall:

(a) Conduct Substantial Damage (SD) assessments when structures are damaged due to a natural hazard event or other causes;

(b) Make SD determinations whenever a structure within the special flood hazard area is damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(3) The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR. The City is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will meet, or has met, the requirements of this code and all applicable state and federal permits.

(4) Notice of Completion for CLOMR. An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

(5) Penalties for Noncompliance. No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the terms of EC 9.6705-9.6709 and other applicable regulations. Violations of EC 9.6705-9.6709 by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) are subject to the code enforcement provisions at EC 9.020-9.0280.

Section 12. Sections 9.6709 of the Eugene Code, 1971, is deleted in its entirety and is replaced as follows:

~~9.6709 Special Flood Hazard Areas—Standards.~~

~~(1) General Standards. In all areas of special flood hazards, compliance with the following standards is required:~~

~~(a) Anchoring.~~

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

~~2. All manufactured homes shall 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 (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).~~

~~(b) Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, using methods and practices that minimize flood damage. 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.~~

~~(c) Utilities.~~

- ~~1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;~~
- ~~2. 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; and,~~
- ~~3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

~~(d) Subdivision Proposals.~~

- ~~1. All subdivision proposals shall:

 - ~~a. Be consistent with the need to minimize flood damage;~~
 - ~~b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; and~~
 - ~~c. Have adequate drainage provided to reduce exposure to flood damage; and~~~~
- ~~2. 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 five acres (whichever is less).~~

~~(e) Review of Development Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for development 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.~~

~~(f) Recreational Vehicles. Recreational vehicles placed on sites will either:~~

- ~~1. Be on the site for fewer than 180 consecutive days, or~~
- ~~2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.~~

~~(2) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as required in subsections 9.6707(1) or (2), the following provisions are required:~~

~~(a) Residential Construction.~~

- ~~1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the 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:

 - ~~a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~
 - ~~b. The bottom of all openings shall be no higher than one foot above grade.~~
 - ~~c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~~~

~~(b) Nonresidential Construction. New construction and substantial improvement of any commercial, employment and 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:~~

- ~~1. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~
- ~~2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~
- ~~3. 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 building official as required in section 9.6707.~~
- ~~4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subparagraph (2)(a)2. of this section.~~
- ~~5. 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).~~

~~(c) Manufactured Homes. 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 (1)(a)(2) of this section.~~

~~(d) Floodways. Within areas of special flood hazard established in section 9.6706 are areas designated as floodways. Since a 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. Prohibition on 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; and~~
- ~~2. If the conditions of subparagraph 1. above are met, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.~~

~~(e) Shallow Flooding Areas — With Depth Designations. Shallow flooding zones appear on Flood Insurance Rate Maps (FIRM), with depth designations, wherever such flooding occurs on sloping water surfaces such as alluvial fan flow, wave wash after the wave has broken, etc. In these areas, the following provisions apply:~~

- ~~1. New construction and substantial improvements of residential structures within these zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to at least one foot above the depth number specified on the FIRM. Where appropriate, such structures shall be elevated above the crown of the nearest road, to at least one foot above the depth number specified in 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.~~

- ~~2. New construction and substantial improvements of nonresidential structures within these zones shall either:~~
- ~~a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to at least one foot above the depth number specified on the FIRM; or~~
 - ~~b. Together with attendant utility and sanitary facilities, be completely floodproofed to at least one foot 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 buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.~~
 - ~~c. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures. 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.~~

9.6709 Development in Floodplains – Variance Procedure.

- (1) Generally, variances may be issued for new construction and substantial improvements that are 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, in conformance with the provisions of EC 9.6709(3), (5) and (6). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.***
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.***
- (3) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.***
- (4) Variances shall only be issued upon:***
- (a) A showing of good and sufficient cause;***
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;***
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.***
- (5) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of EC 9.6709(2)-(4) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.***
- (6) Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base***

Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property.

Section 13. The findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 14. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 15. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 16. In the interpretation and application of the code provisions added or amended by this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 17. 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 person-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.

Section 18. This ordinance shall not create liability on the part of the City of Eugene, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 19. 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 20. This Ordinance shall take effect pursuant to Section 32 of the Eugene Charter 2002, or on the date of its acknowledgement as provided in ORS 197.625, whichever is later.

Passed by the City Council this

___ day of _____, 2023

Approved by the Mayor this

___ day of _____, 2023

City Recorder

Mayor

Findings

Ordinance Exhibit A

**Floodplain Development Code Amendments for the
City of Eugene and Eugene Transition Area**

Overview

A local government's participation in the National Flood Insurance Program (NFIP) allows residents within the one-percent annual chance floodplain or Special Flood Hazard Area (SFHA) to purchase flood insurance, allows communities to obtain federal grants and federal disaster assistance, and allows federally insured lending institutions to offer loans for property located in the floodplain. As part of NFIP participation, the Oregon Department of Land Conservation and Development (DLCD) in partnership with the Federal Emergency Management Agency (FEMA) determined that the current regulations applicable within the Eugene urban growth boundary do not meet minimum NFIP standards and will need to be updated. The proposed code language was provided through the State of Oregon's Model Floodplain Code. Standards in the Oregon Model Floodplain Code are found in the Code of Federal Regulations (CFR Title 44). The purpose of the NFIP standards and floodplain development code section is to promote public health, safety, and welfare and to reduce property damage due to flooding.

The following findings address the code amendment criteria of the Eugene Code and the Lane County Code for the Eugene urban transition area at Section 9.8065.

Consistency with applicable statewide planning goals as adopted by the Land Conservation and Development Commission

Goal 1 - Citizen Involvement. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

The City and County have acknowledged procedures for adoption of legislative land use decisions, located in 9.7050 and 9.7500 through 9.7560, that ensure the opportunity for community members to be involved in all phases of the legislative land use decision process and set out the requirements for such involvement. The Floodplain development code amendments do not amend or change the City's adopted citizen involvement program. The process for adoption of the Floodplain development code amendments complies with Goal 1 because it is consistent with the City's acknowledged procedures for legislative land use decisions.

The City and County provided substantial notice of the proposed regulations and public hearings, including mailed notice to all property owners in or near the Special Flood Hazard Area (SFHA), published and posted notice. The City also maintained a project webpage, including a Frequently Asked Questions (FAQ) document. Public hearings were held before the City and Lane County Planning Commissions and before the Eugene City Council and Lane County Board of Commissioners. Written public comment was accepted until the final decision on the Floodplain development code amendments.

These processes afforded ample opportunity for citizen involvement consistent with Goal 1. Therefore, the ordinance is consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

The land use code specifies the formal adoption procedure and approval criteria that were used in considering these amendments. The record shows that there is an adequate factual basis for the amendments to the land use code. The Goal 2 coordination requirement is met when the City and County engage in an exchange, or invite such an exchange, with any affected governmental unit and when the information obtained in the exchange is used to balance the needs of citizens. This project involves the City of Eugene, Lane County, the Oregon Department of Land Conservation and development and Federal Emergency Management Agency.

There are no proposed exceptions to Statewide Planning Goal 2 required for these amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve and maintain agricultural lands.

The regulations at issue will only affect properties located within the Eugene Urban Growth Boundary and therefore do not affect any lands designated by the comprehensive plan for agricultural use. To the extent that there are properties within the City currently zoned for agricultural use the proposed amendments do not force a discontinuance of agricultural practices. Therefore, the amendments are consistent with Statewide Planning Goal 3.

Goal 4 - Forest Lands. To conserve forest lands.

The regulations at issue will only affect properties located within the City of Eugene and Urban Growth Boundary and therefore do not affect any lands designated by the comprehensive plan for forest use. Therefore, the amendments are consistent with Statewide Planning Goal 4.

Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces. To conserve open space and protect natural and scenic resources.

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;*
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*

These Floodplain development code amendments do not create or amend the City's list of Goal 5 resources, do not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged urban growth boundary. Therefore, the proposed amendments are consistent with Statewide Planning Goal 5.

Goal 6 - Air, Water and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The Floodplain development code amendments do not affect the City's ability to provide for clean air, water or land resources. Therefore, the amendments are consistent with Statewide Planning Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards. To protect life and property from natural disasters and hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis, and wildfires. Goal 7 states that "[l]ocal governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements." That is precisely what the subject regulations do.

There are over 3,000 properties located within the SFHA in the City of Eugene Urban Growth Boundary. Participation in the NFIP allows residents within the one-percent annual chance floodplain or SFHA to purchase flood insurance, allows communities to obtain federal grants and federal disaster assistance, and allows federally insured lending institutions to offer loans for property located in the floodplain. As part of NFIP participation, the Oregon DLCD in partnership with FEMA determined that the existing floodplain development code does not currently meet minimum NFIP standards and will need to be amended. The proposed code language was provided through the State of Oregon's Model Floodplain Code. Standards in the Oregon Model Floodplain Code are found in the Code of Federal Regulations (CFR Title 44). The purpose of the NFIP standards and floodplain development code provisions are to promote public health, safety, and welfare and to reduce property damage due to flooding. Therefore, the Floodplain development code amendments are consistent with Statewide Planning Goal 7.

Goal 8 - Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 ensures that recreational facilities are provided to Oregon citizens and is primarily concerned with the provision of recreational facilities in non-urban areas of the state. The Floodplain development code amendments do not affect the provisions for or citizen's access to recreation areas, facilities, or recreational opportunities. Therefore, the amendments are consistent with Statewide Planning Goal 8.

Goal 9 - Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

The Floodplain development code amendments do not impact the acknowledged inventory of industrial or commercial lands. The amendments do not include any changes to the adopted Flood Insurance Rate Maps; only changes to the regulations. The revised floodplain regulations are the minimum required by FEMA, except for those that, prior to the amendments, exceeded minimums. In those cases, the regulations do not impose higher standards that were already in place. The regulations retain the one-foot freeboard, defined as the additional amount above the Base Flood Elevation (BFE), is used as a factor of safety. The proposed floodplain development code amendments apply one-foot of freeboard to all residential buildings, new, and substantially improved/damaged structures, including manufactured dwellings and mechanical, electrical, and plumbing equipment. These floodplain design requirements do not have a material effect on the size or type of development or structure allowed. The purpose of the NFIP standards and floodplain development code provisions are to promote public health, safety, and welfare and to reduce property damage due to flooding. Therefore, the amendments are consistent with Statewide Planning Goal 9.

Goal 10 - Housing. *To provide for the housing needs of citizens of the state.*

The Floodplain development code amendments do not impact the acknowledged inventory of residential buildable land. No land is being re-designated from a residential use to a non-residential use, and the amendments do not otherwise diminish the amount of land available for residential use.

Goal 11- Public Facilities and Services. *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The Floodplain development code amendments do not make changes to the provision of public facilities and services or to the currently adopted Eugene/Springfield Public Facilities and Services Plan (PFSP). Consistent with the PFSP, the City will continue to plan and develop public facilities to support the land uses designated in the City's acknowledged comprehensive plan, including public facility projects that support the development of middle housing. Therefore, the amendments are consistent with Statewide Planning Goal 11.

Goal 12- Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

The Transportation Planning Rule (OAR 660-012-0060) contains the following requirement:

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of*

this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) Change standards implementing a functional classification system; or*
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The floodplain code provisions do not change the City's standards for implementing its functional classification system. In addition, the amendments do not significantly affect a transportation system. The amendments do not change the underlying zoning or change the uses that are allowed outright or conditionally allowed. Accordingly, the amendments do not change traffic-generative uses reasonable allowed on impacted properties and therefore, do not result in any of the effects listed in (A)-(C) above. Therefore, the City is not required to consider whether the amendments significantly affect an existing or planned transportation facility. Based on the above findings, the amendments are consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. *To conserve energy.*

Goal 13 provides guidance on the management of land and land uses to maximize the conservation of energy. Goal 13 provides implementation direction focused on lot sizes, building heights, density of housing, compatibility, and availability of light, wind, and air. The floodplain development code amendments do not affect the provisions for or citizen's opportunity for energy conservation in the development of their property. Therefore, the amendments are consistent with Statewide Planning Goal 13.

Goal 14 - Urbanization. *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth*

boundaries, to ensure efficient use of land, and to provide for livable communities.

The Floodplain development code amendments do not affect the provisions regarding the transition of land from rural to urban uses. Therefore, the amendments are consistent with Statewide Planning Goal 14.

Goal 15 - Willamette River Greenway. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The Floodplain development code amendments do not contain any changes to the City's Willamette River Greenway regulations; therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There are no coastal, ocean, estuarine, or beach and dune resources related to the lands affected by these Floodplain development code amendments. Therefore, these goals are not relevant, and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

Consistency with applicable provisions of the comprehensive plan and applicable adopted refinement plans

- Eugene Springfield Metropolitan Area General Plan (Metro Plan)

To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendments are consistent with and supported by the applicable provisions of the Metro Plan.

Environmental Resources Element- Natural Hazards (Goal 7) Policies

C.30 Except as otherwise allowed according to Federal Emergency Management Agency (FEMA) regulations, development shall be prohibited in floodways if it could result in an increased flood level. The floodway is the channel of a river or other water course and the adjacent land area that must be reserved to discharge a one-percent-chance flood in any given year.

The floodway regulations already prohibit encroachments in the floodway unless a certification is submitted by a registered professional engineer demonstrating thorough hydrologic and hydraulic analysis that the proposed development does not cause any increase in flood levels during the base flood discharge. The proposed floodplain development code language has been revised slightly from existing code to meet minimum NFIP standards. Therefore, the Floodplain development code amendments are consistent with policy C.30 of the Metro Plan.

C.31 When development is allowed to occur in the floodway or floodway fringe, local regulations shall control such development in order to minimize the potential danger to life and property. Within the UGB, development should result in in-filling of partially developed land. Outside the UGB, areas affected by the floodway and floodway fringe shall be

protected for their agricultural and sand and gravel resource values, their open space and recreational potential, and their value to water resources.

The velocity of floodwaters make development in the floodway an extremely hazardous area as the floodwaters may also carry debris. The existing and proposed floodway provisions contain the minimum NFIP standards to reduce danger to life and property. For this reason, the land use code amendments are consistent with policy C31.

Public Facilities and Services Element – Services to Development within the Urban Growth Boundary: Stormwater Policies

G.19 The cities and Lane County shall adopt a strategy for the unincorporated area of the UGB to: reduce the negative effects of filling in floodplains and prevent the filling of natural drainage channels except as necessary to ensure public operations and maintenance of these channels in a manner that preserves and/or enhances floodwater conveyance capacity and biological function.

The proposed code language requires the Floodplain Administrator or their designee to review all development permit applications to determine whether the proposed development activity is a water course alteration and/or includes the placement of fill. Any approved alteration of watercourse must demonstrate that flood carrying capacity within the altered or relocated portion of said watercourse shall be maintained and maintenance shall be provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished.

The code language requires that in areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within SFHA Zone AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Therefore, the floodplain development code amendments are consistent with policy G.19.

G.20 Maintain flood storage capacity within the floodplain, to the maximum extent practical, through measures that may include reducing impervious surface in the floodplain and adjacent areas.

Encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the adopted regulatory floodway unless: Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

Therefore, the proposed floodplain development code amendments are consistent with policy G.20.

- *Envision Eugene Comprehensive Plan*

The Envision Eugene Comprehensive Plan does not contain any specifically relevant or applicable policies for these amendments.

- *Refinement Plans*

There are no refinement plans that contain specifically relevant or applicable policies for these amendments.

Note: In the case of code revisions to establish a special area zone, findings would also address criteria set out in section 9.3020. the subject regulations do not establish a special area zone.

Floodplain Development Code Amendments | City Files: CA 22-2

Record Materials as of February 21, 2023

The following record materials are provided at the links below as an easy way to access materials in the record. The record materials linked below will be provided to the Eugene Planning Commission and Lane County Planning Commission electronically and a paper copy of all record materials will be available at the Planning Division, 99 W. 10th Avenue, Eugene, OR 97401.

More Information and materials can be found on the Project Website:

<https://www.eugene-or.gov/4980/Floodplain-Development-Code-Amendment>

As a courtesy, unless noted otherwise, the materials below are available for download here:

<https://pdd.eugene-or.gov/LandUse/SearchApplicationDocuments?file=CA-22-0002>

Draft Amendments

- [Draft 1](#) – Published August 1, 2022
- [Draft 2](#) – Published January 4, 2023

Meeting Materials

February 21, 2023 Eugene City Council Meeting Materials

- [Recording](#)
- [Agenda Item Summary](#)
 - Attachment A – Proposed Amendments, including Exhibit A (Findings)
 - Attachment B – Recorded Materials and Testimony as of January 31, 2023

January 11, 2023 Eugene City Council Meeting Materials

- [Recording](#)
- [Agenda Item Summary](#)
 - Attachment A – Proposed Amendments, including Exhibit A (Findings)
 - Attachment B – Recorded Materials and Testimony as of December 23, 2022

November 15, 2022 Lane County Planning Commission Meeting Materials

- [Recording](#)
- [Agenda Item Summary & Lane County Staff Memorandum](#)
 - Attachment A – Proposed Amendments to Floodplain Regulations (August 1, 2022 Draft)
 - Attachment B – Draft Findings

- Attachment C – Draft Ordinance
- Attachment D – Record Materials as of October 3, 2022

October 11, 2022 Eugene Planning Commission Meeting Materials

- [Recording](#)
- [Agenda Item Summary](#)
 - Attachment A – Proposed Amendments to Floodplain Regulations (August 1, 2022 Draft)
 - Attachment B – Draft Findings
 - Attachment C – Draft Ordinance
 - Attachment D – Record Materials as of October 3, 2022

September 6, 2022 Joint Public Meeting Materials

- [Recording](#)
- [Agenda Item Summary](#)
 - Attachment A – Proposed Amendments to Floodplain Regulations (August 1, 2022 Draft)
 - Attachment B – Draft Findings
 - Attachment C – Draft Ordinances
 - Attachment D – Record Materials as of August 30, 2022

June 13, 2022 City Council Initiation Meeting Materials

- [Recording](#)
- [Agenda Item Summary](#)

Informational Documents

- [Frequently Asked Questions](#)

Procedural Documents:

- Joint Eugene Planning Commission Hearing Notice – Materials Available [HERE](#)
 - Mailed Notice Affidavit (Signed August 22, 2022) – Notice mailed on August 1, 2022 to Interested Parties
 - Mailed Notice Affidavit (Signed August 22, 2022) – Notice mailed on August 1, 2022 to properties within or may be within an identified existing Flood Hazard Area or Future Flood Hazard Area
 - Affidavit of Electronic Submission of Notice to Department of Land Conservation & Development (Signed August 1, 2022) – Notice and draft amendments uploaded to DLCD web portal on August 1, 2022.

Public Comment: Available [HERE](#)

- Mailed Letter from C. Miller, received August 23, 2022
- Email from Cialin Mills-Ostwald, dated September 6, 2022

Floodplain Development Code Amendments | City Files: CA 22-2

Record Materials as of December 23, 2022

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