



Eugene City Council

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www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

March 8, 2023

12:00 p.m. CITY COUNCIL WORK SESSION

City Council meetings will continue to be held in hybrid format using in person and virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

**Meeting of March 8, 2023;
Her Honor Mayor Lucy Vinis Presiding**

Councilors

Randy Groves, President
Mike Clark
Lyndsie Leech
Jennifer Yeh

Matt Keating, Vice President
Greg Evans
Emily Semple
Alan Zelenka

12:00 p.m. CITY COUNCIL WORK SESSION

1. **WORK SESSION: HB 3115 - Next Steps**
2. **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.**

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010,
or visit us online at www.eugene-or.gov.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: HB 3115 - Next Steps

Meeting Date: March 8, 2023
Department: City Attorney's Office
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Kathryn Brotherton
Contact Telephone Number: 541-682-8477

ISSUE STATEMENT

This work session is an opportunity for the Council to discuss potential City Code amendments that would: 1) update the City's definition of campsite; 2) revise the City's general prohibition on camping to establish specific prohibitions regarding where, when, and how camping can occur on public property; 3) add to the City's prohibition on activities occurring on streets and sidewalks impacting public health, safety, and accessibility; 4) clarify that vehicles with no license plate/registration sticker are subject to the same regulations as vehicles with an expired registration sticker; and, 5) add to Eugene Code 4.816, Permitted Overnight Sleeping, the City's currently uncodified Dusk to Dawn program.

BACKGROUND

HB 3115, now codified as ORS 195.530, was passed by the Oregon Legislature and signed into law by Governor Brown in June 2021. HB 3115 provides that local governments have until July 1, 2023 to comply with the requirements of the bill. This means that if there are any changes that must be made to City Code in order to comply with HB 3115, those changes must be effective by June 30, 2023.

HB 3115 states: "Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness." The bill defines "keeping warm and dry" to mean "using measures necessary for an individual to survive outdoors given the environmental condition" but specifically excludes "using any measure that involves fire or flame."

The City prohibits the establishment of a campsite on all publicly owned property (EC 4.815(3)), defining a campsite as: "[A]ny place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof."

A number of Oregon cities have adopted, or are in the process of adopting, time, place, or manner regulations intended to comply with the requirements of HB 3115. Attachment D to this AIS includes examples of camping-related time, place, and manner regulations adopted or proposed by other jurisdictions. Many of these Oregon cities are including in their code amendments specific allowances for permitted overnight sleeping. As discussed during Council's February 27, 2023, work

session, Eugene has in place many of the programs being considered by other Oregon cities. Starting in 1998 with the Council’s adoption of a car camping program, Eugene has established many exceptions to Eugene Code 4.815, the City’s prohibited camping code provision; these exceptions are primarily set forth in Eugene Code 4.816, Permitted Overnight Sleeping.

Set out in Attachment A to this AIS are a number of potential code amendments intended to bring the City into compliance with HB 3115 by replacing the City’s current prohibited camping code provision with location-specific camping prohibitions that are based on risks to public health, safety, and accessibility. Also included in Attachment A are potential code amendments prohibiting certain health hazard and access-denying activities in the City’s right-of-way; these proposed code amendments are separate and distinct from the City’s prohibited camping code provision. Lastly, Attachment A identifies the City’s Dusk to Dawn program as a permitted overnight sleeping program that could be added to Eugene Code 4.816.

At this work session Council will have an opportunity to discuss the potential code amendments set forth in Attachment A and provide direction to staff regarding which of the code amendments Council would like to move forward to a public hearing.

PREVIOUS COUNCIL DISCUSSION

[February 27, 2023, Work Session](#)

This work session provided an overview of HB 3115 and previewed the Council’s next steps.

COUNCIL OPTIONS

1. Direct staff to prepare an ordinance and schedule a public hearing on the code amendments set forth in Attachment A to this AIS.
2. Direct staff to prepare an ordinance and schedule a public hearing on the code amendments set forth in Attachment A to this AIS with specifically identified modifications.
3. Direct staff to prepare an ordinance and schedule a public hearing on specifically identified code amendments.
4. Direct staff to return to Council for another work session to provide Council additional time to discuss potential code amendments.

CITY MANAGER’S RECOMMENDATION

If the Council is satisfied with the code amendments set forth in Attachment A, the City Manager recommends Council holding a public hearing on those code amendments in April. If Council needs additional information or time to discuss potential code amendments, the City Manager recommends that Council hold another work session in April with the public hearing likely held in May.

POTENTIAL COUNCIL MOTIONS

1. Move to direct the City Manager to prepare an ordinance consistent with the code amendments set forth in Attachment A to this AIS and schedule a public hearing.
or

2. Move to direct the City Manager to prepare an ordinance consistent with the code amendments set forth in Attachment A with the following [additions or deletions] and schedule a public hearing.
or
3. Move to direct the City Manager to prepare an ordinance with the following code amendments _____ and schedule a public hearing.
or
4. Move to direct the City Manager to schedule another work session to provide the Council additional time to discuss potential code amendments prior to holding a public hearing.

CITY MANAGER'S RECOMMENDATION

If the Council is satisfied with the code amendments set forth in Attachment A, the City Manager recommends Council holding a public hearing on those code amendments in April. If Council needs additional information or time to discuss potential code amendments, the City Manager recommends that Council hold another work session in April with the public hearing likely held in May.

ATTACHMENTS

- A. Potential Amendments to the Eugene Code
- B. Eugene Code Sections 4.815 and 4.816
- C. HB 3115
- D. Regulatory Examples from Other Oregon Cities

FOR MORE INFORMATION

Staff Contact: Kathryn Brotherton
Telephone: 541-682-8477
Staff E-Mail: KBrotherton@Eugene-or.gov

Potential Amendments to the Eugene Code

1. Amend the definition of “Campsite” (EC 4.815(1)(b)) to delete references to bedding materials and fire.
2. Amend the findings and declarations for the offense of Prohibited Camping (EC 4.815(2)) as follows:
 - a. Add a declaration regarding the safety risks that result from someone establishing a campsite in or very close to areas intended for vehicular use.
 - b. Add a declaration regarding the need for the City’s sidewalks, accessways, and shared-use paths to have minimum clear widths to allow everyone, including those with disabilities, to use the system.
3. Amend the offense of Prohibited Camping (EC 4.815(3)) as follows:
 - a. Delete the prohibition on camping on all publicly owned property and replace it with a prohibition on camping in specific locations that have been identified based on a risk to public health, safety, or access.
 - b. Add a prohibition on camping on public property that is designed for and intended to be used as a vehicular transportation system, including the portion of the street between the curbs.
 - c. Add a prohibition on camping in publicly owned parking lots and on-street parking spaces.
 - d. Add a prohibition on camping on public property that is intended to provide a buffer between lanes of vehicular traffic or between vehicular traffic and pedestrians if there is not a minimum of 5 feet between the campsite and the vehicular traffic. Examples include traffic islands and parking strips of insufficient width to allow for the 5-foot buffer.
 - e. Add a prohibition on camping on the City’s sidewalks, accessways, and shared-use paths when the minimum clear width established by the ADA and FHA cannot be maintained. Minimum clear width for sidewalks is 4 feet. Minimum clear width for accessways and shared-use paths is 10 feet.
 - f. Add a prohibition on camping adjacent to buildings if doing so blocks access to a building’s entrance, exit, or stairs.
 - g. Add a prohibition on camping within 5 feet of a waterway.
4. Amend the offense of Certain Activities on Streets and Sidewalks Prohibited (EC 4.860) as follows:
 - a. Add accessways and shared-use paths to where these activities are prohibited.
 - b. Add depositing, discarding, or storing debris, human waste, or other refuse to the list of prohibited activities.
 - c. Add the placement of personal property on sidewalks, accessways, or shared-use paths when the minimum clear width established by the ADA and FHA cannot be

maintained. Minimum clear width for sidewalks is 4 feet. Minimum clear width for accessways and shared-use paths is 10 feet.

- d.** Add draining, causing or permitting to be drained, any sewage, graywater, or drainage from a cesspool, septic tank, or recreational or camping vehicle waste holding tank. When an immediate risk to public health and safety, add ability to impound the vehicle.

- 5.** Amend Storing of Vehicles on Streets (EC 5.135) to add the absence of a license or registration to the prohibition on storing a vehicle on a street or other public property. Currently, a vehicle with an expired registration sticker is prohibited but the code is silent regarding vehicles with no license or registration sticker.

- 6.** Amend Permitted Overnight Sleeping (EC 4.816) to add a new section (11) codifying the Dusk to Dawn program adopted by Ordinance No. 20563.

Eugene Code Sections 4.815 and 4.816

4.815 Prohibited Camping.

(1) As used in this section:

(a) “To camp” means to set up or to remain in or at a campsite.

(b) “Campsite” means any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

(2) It is found and declared that:

(a) From time to time persons establish campsites on sidewalks, public rights-of-way, under bridges, and so forth;

(b) Such persons, by such actions create unsafe and unsanitary living conditions which pose a threat to the peace, health and safety of themselves and the community; and,

(c) The enactment of this provision is necessary to protect the peace, health and safety of the city and its inhabitants.

(3) No person shall camp in or upon any sidewalk, street, alley, lane, public right-of-way, park or any other publicly-owned property or under any bridge or viaduct, unless otherwise specifically authorized by this code or by declaration of the Mayor in emergency circumstances.

(4) Upon finding it to be in the public interest and consistent with council goals and policies, the council may, by motion, exempt a special event from the prohibitions of this section. The motion shall specify the period of time and location covered by the exemption.

4.816 Permitted Overnight Sleeping.

(1) Notwithstanding any other provision of this code:

(a) Persons may sleep overnight in a vehicle in a parking lot of a religious institution, place of worship, business or public entity that owns or leases property on which a parking lot and occupied structure are located, with permission of the property owner. The property owner may not grant permission for more than six vehicles used for sleeping at any one time. For purposes of this subsection (1), the term “vehicle” includes a car, tent, camper, trailer, and Conestoga hut.

(b) Persons may sleep overnight in the back yard of a single family residence in a residential zoning district, with permission of the owner and tenant of the residence. Not more than one family may sleep in any back yard, and not more than one tent or camping shelter may be used

for sleeping in the back yard. As an alternative, but not in addition to sleeping overnight in the back yard, not more than one family may sleep in a vehicle, camper or trailer parked in the driveway of a single family residence in a residential zoning district, with permission of the owner and tenant of the residence. For purposes of this subsection, “family” means persons related by blood or marriage, or no more than two unrelated adults.

(c) Persons may sleep overnight in a vehicle, on a paved or graveled surface located on a vacant or unoccupied parcel, with the permission of the property owner, if the owner registers the site with the city or its agent. The city may require the site to be part of a supervised program operated by the city or its agent. The property owner may not grant permission for more than six vehicles used for sleeping at any one time.

(2) A property owner who allows a person or persons to sleep overnight on a property pursuant to subsections (1)(a), (1)(b) or (1)(c) of this section shall:

- (a) Provide or make available sanitary facilities;
- (b) Provide garbage disposal services as required by sections 6.050 and 6.055 of this code;
- (c) Provide a storage area for campers to store any personal items so the items are not visible from any public street;
- (d) Require a tent or camping shelter in a backyard to be not less than five feet away from any property line; and
- (e) Not require payment of any fee, rent or other monetary charge for overnight sleeping, as authorized by this section.

(3) A property owner who permits overnight sleeping pursuant to subsection (1) and (2) of this section, may revoke that permission at any time and for any reason. Any person who receives permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.

(4) Notwithstanding any other provision of this section, the city manager or the manager’s designee may:

- (a) Prohibit overnight sleeping on a property if the city finds that such an activity on that property is incompatible with the uses of adjacent properties or constitutes a nuisance or other threat to the public welfare; or
- (b) Revoke permission for a person to sleep overnight on city-owned property if the city finds that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that the activity is incompatible with the use of the property or adjacent properties.

(5) The city manager or the manager’s designee may impose administrative civil penalties on property owners who fail to comply with the requirements of subsections (1) and (2) of this section, as provided in section 2.018 of this code.

(6) In addition to any other penalties that may be imposed, any campsite used for overnight sleeping in a manner not authorized by this section or other provisions of this code shall constitute a nuisance and may be abated as such. As used in this section, “campsite” has the meaning given in section 4.815 of this code.

(7) The city manager may adopt administrative rules in the manner provided in section 2.019 of this code to implement this section.

(8) With authorization from the city manager or designee in connection with a specific special event, persons may sleep overnight on public property which has a community center, swimming pool, or other city-operated athletic facility located thereon at which the special event is being held. The authorization shall be limited to no more than eight days in any two-week period.

(9) Nothing in section 4.815 or 4.816 of this code creates any duty on the part of the city or its agents to ensure the protection of persons or property with regard to permitted overnight sleeping.

(10) *Permitted overnight sleeping rest stop program.*

(a) Up to 15 persons may sleep overnight in vehicles, as that term is defined in subsection (1)(a) of this section, on property authorized pursuant to subsection (c) below. However, for rest stop sites that have been operating in good standing for at least six months, the operator of the rest stop may request, and the city manager may approve, that up to 20 persons may sleep overnight at a specified site under this program.

(b) No site may be used for overnight sleeping pursuant to subsection (a) above unless one or more entities enters into the agreement with the city referenced in subsection (c) below and one or more entities provides adequate garbage, toilets and supervision. The entity providing supervision shall work with surrounding and nearby neighbors (businesses or residences) to address any concerns.

(c) The city manager shall recommend to the city council one or more proposed sites authorized by subsections (a) and (b) above. Any such site may not be located in a residential area or close to a school unless the city council determines that any potential impacts to the surrounding residences or to the school can be effectively mitigated. Before a proposed site may be used, the site must be approved by the city council by motion and an agreement must be executed between the city and the entity referred to in subsection (b) above. Such an agreement may include but is not limited to provisions concerning:

1. Supervision;
2. Selection of the individuals who may camp at the site;
3. Number of continuous days that someone may camp at the site;
4. Hours that people may stay at the site in addition to 9:00 p.m. to 7:00 a.m.;
5. Structures and other items that may be placed on the site; and

6. Closure of the site for non-compliance with the terms of the agreement.

**Enrolled
House Bill 3115**

Sponsored by Representative KOTEK; Representatives DEXTER, MARSH, MCLAIN, POWER, REYNOLDS, WILDE, Senators DEMBROW, MANNING JR, RILEY

CHAPTER

AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "City or county law" does not include policies developed pursuant to ORS 203.077 or 203.079.

(b)(A) "Keeping warm and dry" means using measures necessary for an individual to survive outdoors given the environmental conditions.

(B) "Keeping warm and dry" does not include using any measure that involves fire or flame.

(c) "Public property" has the meaning given that term in ORS 131.705.

(2) Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.

(3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.

(4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.

(5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

(6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:

(a) Was not seeking to vindicate an interest unique to the plaintiff; and

(b) At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law.

(7) Nothing in this section creates a private right of action for monetary damages for any person.

SECTION 2. Section 1 of this 2021 Act becomes operative on July 1, 2023.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 9, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

.....
Shemia Fagan, Secretary of State

Regulatory Examples from Oregon Cities

Below is a list of prohibited camping provisions compiled from other cities throughout Oregon. Each of the cities had only a few of the bulleted items; the combination of a city's regulations depended on the city's overall regulatory approach/focus and the city's permitted overnight sleeping options.

Examples of Time (When) Regulations.

- No vehicle or recreational vehicle camping on any publicly owned property during the hours of 6:00 a.m. to 8:00 p.m.
- No storing personal property, including camp facilities and camp paraphernalia, on any public property during the hours of 6:00 a.m. to 8:00 p.m.
- No placement or utilization of any bedding materials on any publicly owned property for more than 24 hours consecutively in a particular location.
- No camping or maintaining a campsite on any publicly owned property during the hours of 6:00 a.m. to 10:00 p.m.
- No camping for longer than a 24-hour period, after which the campsite must move at least one block from the location.

Examples of Manner (How) Regulations.

- No fire or open flame.
- No blocking access to building doors or stairs.
- Campsite cannot exceed 12'x12'
- No constructing any structures.

Examples of Place (Where) Regulations.

No camping allowed in the following locations:

- All publicly owned and maintained parking lots.
- All publicly owned property located within and adjacent to the following residential zoning districts
 - Low density residential
 - Small lot residential
 - Medium density residential
- All publicly owned property within certain city-specific geographic areas (identified by streets).
- Within a certain proximity to rivers, waterways, floodplains, and environmentally sensitive areas.
- All city rights-of-way, including sidewalks, medians, and parking strips.
- Any publicly owned property except for City Hall's front plaza between the hours of 8:00 p.m. and 7:00 a.m. and city parks after the park has closed to other users.
- On railroad tracks or within 15 feet of railroad tracks.

- On sidewalks if doing so obstructs pedestrian traffic along the sidewalk or into private property and businesses adjacent to the sidewalk.
- Within 20 feet of a privately-owned parcel zoned for residential uses, or within 20 feet of a residential structure regardless of zoning.
- All park, trail, and open space areas.
- All public property located within 100 feet of a residential zone district.
- All public property within the downtown area.
- All public property along a state highway.
- Within 1,000 feet of a shelter or permitted overnight sleeping sites.

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

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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 uncodified 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 uncodified 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 general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

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

ORAR 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 DLCDC 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 DLCDC 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