

Planning Commission Findings and Decision Number 2025-XX

Recommend City Council approval of an ordinance amending the text of Forest Grove Development Code Articles 8 and 12 pertaining to floodplain management and related definitions

File Number 311-25-000005-PLNG

WHEREAS, the Federal Emergency Management Agency (FEMA) developed a mode flood hazard management model ordinance (Model Ordinance) in 2024; and

WHEREAS, the Model Ordinance addresses the requirements outlined in the draft implementation plan for the National Flood Insurance Program (NFIP); and

WHEREAS, in 2016, the National Marine Fisheries Service (NMFS) issued a biological opinion (BiOp) which recommended changes to the implementation of the NFIP in Oregon on listed endangered species under NMFS authority; and

WHEREAS, as a result of the BiOP issued by NMFS, communities are required to demonstrate how development in the floodplain is compliant with the Endangered Species Act while an Environmental Impact Statement is prepared; and

WHEREAS, the Model Ordinance provides the regulations necessary to implement the draft implementation plan and serves as one of three actions a community can take under pre-implementation compliance measures (PICM); and

WHEREAS, implementing the Model Ordinance is the preferred PICM action under Oregon land use planning law which requires clear and objectives development standards for certain types of development; and

WHEREAS, implementing the Model Ordinance also ensures the City's continuing eligibility for participation in the NFIP; and

WHEREAS, notice of the proposed amendments to the Development Code was provided to the Oregon Department of Land Conservation and Development and Metro on XXXXXX; and

WHEREAS, on XXXX, notice of the proposed amendments were also provided to potentially affected property owners as required by Oregon Ballot Measure 56; and

WHEREAS, notice of the proposed amendments was published in the Forest Grove News-Times on; and

WHEREAS, the Planning Commission held the duly noticed public hearing on the proposed amendments on XXXX.

The City of Forest Grove Planning Commission does hereby recommend to the City Council approval of an ordinance amending the Forest Grove Development Code to

incorporate as provided in Attachment 1 making the following specific findings in support of the decision:

Development Code Text Amendment Review Criteria (§17.2.630)

- A. The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan.

Finding: If adopted the proposed text amendment will amend Forest Grove Development Code Articles 8 (General Development Standards) and 12 (Definitions) to incorporate the FEMA Model Floodplain Management Ordinance. The text amendment is consistent with the Natural Resources and Natural Hazard Goals related to floodplains areas for the following reasons. The proposed text amendments protect floodplain areas from incompatible uses to reduce potential for property damage by imposing requirements for new construction and substantial improvements. The proposed amendments also include requirements for floodproofing to reduce potential for property damage. In addition, the proposed Development Code amendments require submittal of specific information, including basic environmental data such as base flood elevation data, to address hazard conditions.

- B. The text amendment is consistent with relevant statewide and regional planning goals, program and rules.

Finding: The proposed text amendment is consistent with the Oregon Statewide Land Use Planning Goal 7 (Natural Hazards) since the proposed Development Code amendments including measures to implement the Federal Emergency Management Agency's 2024 Model Ordinance for floodplain management. The Model Ordinance includes developments standards to protect people and property natural hazards consistent with the intent of Goal 7. In addition, incorporating the Model Ordinance into the Development Code ensure that local floodplain regulations that meet minimum National Flood Insurance Program NFIP requirements. Under Goal 7 local governments are deemed to comply with Goal 7 for riverine flood hazard areas by adopting local floodplain regulations that minimum NFIP requirements.

Finding: The proposed Development Code amendments are consistent with Metro Regional Framework Plan flood mitigation policies. Metro Framework Plan Chapter 5 addresses regional natural hazards including flood hazards. Chapter 5 encourages local governments to implement approaches for mitigating flood hazards including changing local development ordinances related to height requirement above base flood elevation. The FEMA Model Ordinance and proposed Development Code amendments includes development standards for minimum height required above base flood elevation for development and substantial improvements within special flood hazard areas.

Finding: The proposed Development Code amendments are consistent with Metro Urban Growth Management Plan Title 3 (Water Quality and Flood Management) since

the amendments include measures to protect the beneficial functions of flood management areas by requiring no net change from existing changes for floodplain storage, water quality, and vegetation.

Forest Grove Comprehensive Plan Natural Resources and Natural Hazards Goals

The Forest Grove Comprehensive Plan includes goals for natural resources and natural hazards:

Goal 1) All development shall consider, take into account and demonstrate suitability relative to the natural hazard limitations of the Forest Grove area; and

Goal 2) Flood plain areas shall be protected from incompatible uses to reduce potential for property damage.

Finding: The Model Ordinance and proposed Development Code amendments provide tools to demonstrate the suitability of development sites relative to the natural hazard limitations within Forest Grove including areas identified as areas of special flood hazard. Such tools include methods for reducing flood losses by restricting or prohibiting development which is dangerous to health, safety and property due to erosion hazards and requiring that development vulnerable to floods be protected against flood damage at the time of initial construction. These requirements are identified in Section 5.0 (Provisions for Flood Hazard Reduction) of the Model Ordinance and reflected in proposed Development Code §17.8.335.

Finding: The Model Ordinance and proposed Development Code amendments provide development standards for development subject to the floodplain management requirements to reduce potential for property damage. In addition, the Model Ordinance identifies methods for reducing flood losses including restricting or prohibiting development which is dangerous to health, safety and property due to water or erosion hazards or which could result in damaging increases in erosion or in flood heights or velocities. These requirements are identified in Section 5.0 (Provisions for Flood Hazard Reduction) of the Model Ordinance and reflected in proposed Development Code §17.8.335.

Forest Grove Comprehensive Plan Natural Resources and Natural Hazard Policies

Policy 2) Those involved in development will be required to address hazard conditions by the inclusion of basic environmental data (i.e. soil type, elevation of the flood plain, geological limitations, etc.) and related designs and engineering solutions in the submittal requirements for the development. The data requirements are identified in Model Ordinance Section 4.2.2 (Information to be Obtained and Maintained) and in proposed Development Code §17.8.330(B)(2).

Finding: The Model Code identifies required information for a floodplain development permit. Required information includes the base flood elevation and hydrologic and hydraulic analyses.

Policy 3) Adopt as a provision in both the zoning and subdivision ordinances that an environmental report be prepared and certified by a qualified engineer for all development proposals in areas having natural physical hazards and/or limitations. As part of the environmental report, the engineer shall identify the intensity of urban development to be permitted based upon the carrying capacity of the land. Open space may be required within the development in order to protect the public health and safety.

Finding: The Model Ordinance and proposed Development Code amendments requires analyses prepared by a qualified professional in areas the area of special flood hazard. The Model Ordinance defines the area of special flood hazard to include the land in the floodplain with a community subject to one 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, A9, AR (V, V1-30), VE).

Policy 4) Permanent structural improvements will not be permitted in areas delineated as being located within the floodway of the 100-year flood plain as indicated from floodplain surface elevations provided by the US Army Corps of Engineers.

Finding: The Model Ordinance and proposed Development Code amendments prohibits encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless certification by a registered civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase flood levels within the community during the occurrence of the base flood discharge. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application that all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net less standards in the Model Ordinance. These restrictions are deemed consistent with Policy 4.

Policy 5) The development of areas delineated as being within the 100-year flood plain as indicated from flood plain surface elevations provided in the most current Washington County, Oregon – US Army Corps of Engineers information shall be limited to appropriate open space uses.

Finding: The Model Ordinance identifies methods of reducing flood losses including employing a standard of “no net loss” of natural and beneficial floodplain functions including floodplain storage, water quality, and vegetation. The no net loss standards requires that adverse development impacts must be avoided or offset through adherence to certain requirements.

Policy 6) Fill and compensatory excavation of the flood plain shall be used only as a final design solution for development adjacent to the floodway. Developers shall be

required to spell out how development alternatives were evaluated, and conclusions were made.

Finding: The Model Ordinance identifies methods of reducing flood losses including employing a standard of “no net loss” of natural and beneficial floodplain functions including floodplain storage, water quality, and vegetation. The no net loss standard stipulates that adverse development impacts must be avoided or offset through to the development standards identified in the Model Ordinance.

Metro Framework Plan and Urban Growth Management Functional Plan

The Metro Framework Plan includes policies for flood hazard mitigation that are applicable to the proposed Development Code amendments:

Policy 5.2 Flood Hazard Mitigation Measures

5.2.1 Protect the function of floodplains to safely convey floodwaters in the region.

Finding: A purpose of the FEMA Model Ordinance and proposed Development Code amendments is to protect the three floodplain functions of floodplain storage, water quality, and vegetation. Therefore, the Model Ordinance is consistent with the intent of Policy 5.2.1 to protect the function of floodplains.

5.2.2 Encourage local governments to implement approaches for mitigating flood hazards.

Finding: The Model Ordinance includes implementation approaches for mitigating flood hazards including elevation structures and floodproofing. Standards are included in Model Ordinance Section 5.0 (Provisions for Flood Hazard Reduction) and proposed revisions to Development Code §17.8.335.

5.2.3 Encourage the avoidance of floodplain development and other non-structural flood mitigation measures instead of using levee and dike construction and other structural flood mitigation techniques.

Finding: The Model Ordinance and proposed Development Code amendments encourages avoidance of floodplain development. This is achieved through provisions for no net loss of floodplain functions and with no net loss of undeveloped space or impervious surface being the preferred approach to development. The Model Ordinance in Section 6.0 and proposed Development Code §17.3.350 states that no net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects.

Metro Urban Growth Management Plan Title 3: Water Quality and Flood Management

The purpose of Title 3 is to protect the beneficial water uses and functions and values of resources within the water quality and flood management areas by limiting or mitigating the impact on these areas from development activities and protecting life and property to dangers associated with flooding (§3.07.310).

Finding: the Model Ordinance advances requirements for development affecting flood management areas and addresses requirements outlined in the FEMA draft implementation plan for the National Insurance Flood Insurance program-Endangered Species Act integration in Oregon (aka the Oregon Implementation Plan). As stated in the NFIP Oregon Implementation Program Guidance, the Model Floodplain Management Ordinance provides a set of provisions to protect the built environment from flood damage and to minimize potential impacts of construction and reconstruction on public health and safety, property, water quality, and aquatic and riparian habitats. The requirements pertain to new development in Special Flood Hazard Areas which includes maintenance, repair, or remodel, of existing structures and utilities when the existing footprint is expanded and/or the floodplain is further encroached upon. This is consistent with the purpose of Title 3 stated above.

Oregon Statewide Land Use Planning Goal 7: Areas Subject to Natural Hazards

A.1 Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.

Finding: The FEMA Model Ordinance provides a set of development standards intended to reduce risk to people and property from natural hazards specifically flooding. The standards are consistent with Oregon building codes intended to protect structures from flood damage that are specified in Oregon Structural Specialty Code (OSSC), Section 1612 and Oregon Residential Specialty Code (ORSC), Section R322.

Finding: As stated in the NFIP Oregon Implementation Program Guidance, the Model Floodplain Management Ordinance is based on the minimum requirements of the National Flood Insurance Program found in 44 CFR 59 and 60, Oregon Statewide land use planning Goal 7.

A.2 Natural hazards for purposes of this goal are floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires.

Finding: The FEMA Model Ordinance addresses floods including coastal and riverine. Therefore, the Model Ordinance and commensurate Development Code amendments are subject to Goal 7.

Virginia "Ginny" Sanderson
Planning Commission Chair

Date