ORDINANCE NO. 2079

AN ORDINANCE AMENDING CENTRAL POINT MUNICIPAL CODE CHAPTER 8.24 FLOOD DAMAGE PREVENTION

Recitals:

A. Words ~~lined through~~ are to be deleted and words **in bold** are added.

B. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.

C. The revisions to this ordinance are being made to bring the code into compliance with to comply with National Flood Insurance Program (NFIP) standards and the Community Rating System (CRS) program requirements.

D. On June 1, 2021, the Central Point Planning Commission recommended approval of code amendments to various sections in Chapter 8.24 Flood Damage Prevention.

E. On June 24, 2021, the City of Central Point City Council held a properly advertised public hearing; reviewed the Staff Report (herein incorporated by reference) and findings (Exhibit 1); heard testimony and comments, and deliberated on approval of the Municipal Code Amendment.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

Section 1. Chapter 8.24 of the Central Point Municipal Code is amended to read:

Chapter 8.24
Flood Damage Prevention

8.24.010 Statutory Authorization.

The ~~Legislature of the state~~ **State of Oregon** has **in ORS 197.175** delegated the responsibility to local governmental units to adopt **floodplain management** regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city ordains and sets out the provisions of this chapter.

8.24.030 Statement of Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;

B. Minimize expenditure of public money on costly flood damage and control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize unnecessary disruption of commerce, access and public service during times of flood;

E. Minimize damage to public facilities and utilities such as water, sanitary sewer, storm drain and gas mains; electric, telephone, and television cable lines; and streets, bridges, and other appurtenances which are located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas;

G. Ensure that potential buyers are notified that property is in an area of special flood hazard;

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

I. Manage the alteration of flood hazard areas, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

J. Participate in and maintain eligibility for flood insurance and disaster relief.

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

"Accessory structure" means a structure on the same or adjacent parcel as a principal structure, the use of which is incidental and subordinate to the principal structure.

"Appeal" means a request for review of the floodplain administrator's interpretation of provisions of this chapter.

"Area of shallow flooding" means a designated AO or AH zone on the flood insurance rate map (FIRM) with base flood depths ranging from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. AO zones are characterized as having sheet flow, and AH zones indicate ponding. **For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.**

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. ~~Zones designating areas of special flood hazard on flood insurance rate maps always include the letters A or V~~ **It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR.** Also known as the special flood hazard area (SFHA).

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base flood elevation (BFE)" means the water surface elevation **to which floodwater is anticipated to rise** during the base flood ~~in relation to a specified datum~~. The BFE is depicted on the flood insurance rate map (FIRM) to the nearest foot and in the flood insurance study (FIS) to the nearest tenth of a foot.

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Below-grade crawlspace" means an enclosed area below the BFE in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point. Below-grade crawlspaces are allowed subject to the conditions found in FEMA Technical Bulletin 11-01 and in Section 8.24.250(E)(3).

"City" means the city of Central Point.

"Conditional letter of map revision (CLOMR)" means a formal review and comment by FEMA as to whether a proposed project complies with minimum National Flood Insurance Program (NFIP) floodplain management criteria. A CLOMR does not amend or revise effective flood insurance rate maps, flood boundary and floodway maps or flood insurance studies, nor does a CLOMR constitute a formal project approval by the city.

"Critical facility" or "essential facility" means a facility that is critical for the health and welfare of the population and is especially important following hazard events. "Critical facilities" or "essential facilities" include:

1. Hospitals and other medical facilities having surgery and emergency treatment areas;

2. Fire and police stations;

3. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

4. Emergency vehicle shelters and garages;

5. Structures and equipment in emergency preparedness centers;

6. Standby power generating equipment for essential facilities; and

7. Structures and equipment in government communication centers and other facilities required for emergency response.

"Datum" means the vertical datum. The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of 1929 (NGVD 1929). The vertical datum currently adopted by the federal government as a basis for measure heights is the North American Vertical Datum of 1988 (NAVD 1988)

"Development" means any manmade 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 and materials located within the area of special flood hazard. Exemptions to the definition of development, for the purpose of administering this chapter, include:

1. Signs, ~~markets~~ **markers**, aids, etc., placed by a public agency to serve the **public provided the encroachment in the special flood hazard area is no larger than a standard utility pole**; and

2. Residential gardens; provided, that they do not result in unauthorized, substantial alteration of topography; and provided, that gardening methods do not include the use or application of pesticides, herbicides, fertilizers or other toxic materials.

"DFIRM" means digital flood insurance rate map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

"Elevated building" means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

"Encroachment" means the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a floodway, which may impede or alter the flow capacity of a floodplain.

Essential Facility. See "Critical facility."

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map (FIRM)" means the official map of a community issued by FEMA delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood insurance study (FIS)" means the official report provided by FEMA evaluating flood hazards and containing flood profiles, regulatory floodway boundaries and water surface elevations of the base flood.

"Floodway" or "regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ **a designated height**.

"Functionally Dependent Use" means 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" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means a structure that is:

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

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

"Letter of map change (LOMC)" means an official FEMA determination by letter, to amend or revise effective flood insurance rate maps and flood insurance studies. LOMCs are issued in the following categories:

1. "Letter of map amendment (LOMA)" means a revision based on technical data showing that a property was inadvertently included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property or structure is not located in a special flood hazard area;

2. "Letter of map revision (LOMR)" means a revision based on technical data showing, due to human-made alterations, changes to flood zones, flood elevations, or floodplain and regulatory floodway delineations. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the BFE and is excluded from the special flood hazard area.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure (used 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 nonelevation design requirements found in Section 8.24.250(B)(2) and (3).

"Manufactured dwelling" or "manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and

is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

"New construction" means structures for which the start of construction commenced on or after the effective date of the adopted flood damage prevention requirements codified in this chapter, including subsequent substantial improvements to the structure.

"NFIP" means National Flood Insurance Program.

"Reasonably safe from flooding" means ~~base flood waters will not inundate the land or damage structures and~~ that ~~any subsurface waters related to the base flood will not damage existing or proposed buildings~~ **development is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practical means, reasonably safe from flooding means that the lowest floor is at least two feet above Highest Adjacent Grade.**

"Recreational vehicle" means a vehicle that is:

1. Built on a single chassis;

2. Four hundred 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. Not primarily designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

"Start of construction" means the date the development permit (which includes development, public works and building permits) was issued, provided the actual start of construction, repair, reconstruction, placement or other substantial improvement was within one year of the permit issuance date. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation or blocks. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; the erection of temporary forms; or the installation of the property or accessory buildings (i.e., garages or sheds) not occupied as dwelling units or which are not 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" means a walled and roofed building, manufactured dwelling, a modular or temporary building, or liquid storage tank that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure on at least two separate occasions during a ten-year period whereby the cost of restoring the structure for which the cost of repairs to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, construction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure within the course of a ten-year period either:

1. Before the improvement or repair is started; or

2. 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. The term does not, however, include:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or the Oregon State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means 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 evidence of compliance, such as a FEMA elevation certificate, floodproofing certificate or other certification, is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake river, creek, stream, wash, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

~~"Water dependent use" means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term does not include long-term storage, manufacture, sales or service facilities.~~

"Water surface elevation" means the height, in relation to a specified datum of floods of various magnitudes and frequencies in the floodplains of riverine areas.

8.24.060 Lands to which this chapter applies.

A. Applicability. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. **All development within special flood hazard areas is subject to the terms of this chapter and other applicable regulations.** Nothing in this chapter is intended to allow uses or structures that are otherwise prohibited by the zoning regulations or specialty codes.

B. Community Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community 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 community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

8.24.200 Development in Regulatory Floodways.

Located within areas of special flood hazard established in Section 8.24.070 are areas designated as regulatory floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential, development will not normally be allowed within the floodway except when it can be demonstrated the following provisions are satisfied:

A. Except as provided in subsections E and F of this section, encroachments including fill, new construction, substantial improvements, and other development are prohibited unless certification by an Oregon registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge;

B. Provided that the conditions in subsection A of this section are met, the following additional provisions shall apply:

1. Floodplain development construction standards provided in Sections 8.24.250 and 8.24.260 are met;

2. Any fill allowed to be placed in the floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood related erosion and scour;

3. No manufactured dwelling shall be placed in a floodway except in an existing mobile home park or an existing mobile home subdivision, as conditionally approved by the local administrator or designee in consideration of the conditions of Section 8.24.250(G);

C. The following activities are prohibited in the regulatory floodway:

1. Fences and walls as provided in Section 8.24.260(A)(1) and 17.57.030; and

2. Accessory structures as provided in Section 8.24.250(I);

D. In limited circumstances encroachments associated with functionally dependent uses (i.e., bridges, roads, culverts); historic structure reconstruction, restoration and rehabilitation; and stream restoration projects as provided in subsection F of this section and Section 8.24.270(B)(2)(f), that cause an increase to the BFE are allowed; provided, that the applicant demonstrate that no other alternative is available. In such circumstances, applicants shall obtain a CLOMR from FEMA before an encroachment, including fill, new construction, substantial improvement, and other development in the floodway, is permitted that will cause any increase in the BFE, unless the development causes a temporary encroachment and conditions in subsection E of this section and the floodplain development construction standards provided in Sections 8.24.250 and 8.24.260 are satisfied;

E. Temporary encroachments in the regulatory floodway for the purposes of capital improvement projects, including bridges and culverts, ~~shall be allowed even~~ **may be permitted** if the encroachment results in an increase in flood levels during the occurrence of the base flood discharge, ~~and without obtaining~~ **provided that** a **Conditional Letter of Map Revisions** (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. Temporary encroachments shall comply with all other applicable flood hazard reduction provisions of this chapter and may be permitted** when:

1. The project is limited as to duration with the days and dates that the structure or other development will be in the regulatory floodway, as specified in the floodplain development permit;

2. Accessory structures (i.e., construction trailers) are restricted from the regulatory floodway;

3. The project limits placement of equipment and material in the regulatory floodway to that which is absolutely necessary for the purposes of the

project. Justification that demonstrates compliance with this requirement will be documented by the applicant in the required floodplain development permit application submittal documentation;

4. The applicant identifies any insurable structures affected by temporary changes to the area of special flood hazard or BFE and notifies owners of any increased risk of flooding. Documentation demonstrating compliance with this provision shall be provided to the city as part of the floodplain development application; and

5. The project applicant is provided with written notification that they may be liable for any flood damages resulting from the temporary encroachment.

F. Projects for stream habitat restoration may be permitted in the floodway, provided:

1. The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023);

2. The project does not result in a potential rise in the flood elevation;

~~2~~ **3**. A ~~qualified professional (a registered professional engineer, or staff of NRCS, the county, or fisheries, natural resources or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep~~ **Conditional Letter of Map Amendment (CLOMR) is applied for and approved by the Federal Insurance Administrator for any rise in the base flood levels,** ~~as close to zero as practically possible given the goals of the project~~ **and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled; and**

~~3. No structures would be impacted by a potential rise in the flood elevation; and~~

4. An agreement to monitor the project, correct problems and ensure that flood carrying capacity remains unchanged is included as part of the local floodplain development approval

8.24.250 Floodplain Development Standards for Construction.

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 must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (refer

to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques and details).

B. 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.

3. Electrical, heating, ventilation, plumbing, ~~and~~ air-conditioning, **duct systems, and** equipment and other service facilities shall be elevated **at least one foot above** the BFE.

a. **An exception is allowed for equipment and service facilities that are** ~~and/or~~ designed ~~or located~~ **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 conditions of flooding **to the BFE. Utilities permitted below the BFE are those specifically designed to be located in areas of flooding and may include:**

i. **Electrical systems, equipment and components;**

ii. **Heating, ventilation, air conditioning;**

iii. **Plumbing, appliances, and plumbing fixtures;**

iv. **Duct systems; and**

v. **Other services facilities.**

b. **In addition, electrical, heating, ventilation, plumbing, air conditioning, duct systems, and other equipment and services that are replaced as part of a substantial improvement shall meet all requirements of this section.**

Refer to FEMA Technical Bulletin 02-08 for more information about the flood resistant materials requirement.

C. 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.

~~C.~~ **D**. 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 mitigate or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

3. 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.

4. Storm drain systems shall be designed to adequately and completely drain all flood waters, when the flood levels diminish at the point of discharge. Discharge ends of storm drain systems shall be equipped with suitable devices which prevent the backflow of flood waters up through the storm drain collection and conveyance system.

Refer to FEMA Publication No. 348, "Protecting Building Utilities from Flood Damage" for more information about flood resistant utilities design and construction.

~~D.~~ **E.** Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. Critical facilities constructed within the special flood hazard area shall have the lowest floor elevated three feet above the BFE or base depth, or to the height of the two-tenths percent (five-hundred-year) flood level, whichever is higher. Access to and from the critical facility shall be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters.

~~E.~~**F.** Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the BFE or base depth; or, if no base depth is specified in an area of shallow flooding (flood zones AO and AH), shall be elevated at least two feet above the highest adjacent grade.

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 flood waters. Designs for meeting this requirement must be either certified by an Oregon registered professional engineer or architect and 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 in accordance with the following additional requirements:

i. Opening area must be located below the BFE to satisfy this requirement;

ii. Openings must be at least three inches wide. This requirement applies to the hole in the wall, excluding any device that may be inserted such as a typical foundation air vent device, mesh screens and hardware cloth;

iii. The bottom of all openings shall be no higher than twelve inches above the adjacent grade;

iv. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

3. Below-grade crawlspace foundations are allowed where BFE data are available; provided, that they conform to guidelines provided in FEMA Technical Bulletin 11, Crawlspace Construction for Structures Located in special flood hazard areas, building codes and the below-grade crawlspace provisions set forth in subsection J of this section.

~~F.~~ **G.** Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the BFE or base depth; or, if no base depth is specified in an area of shallow flooding, shall be elevated at least two feet above grade; and together with attendant utility and sanitary facilities shall:

1. Be floodproofed so that structures below one foot above base flood level, as specified above, are watertight with walls 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 an Oregon 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 written certifications shall be provided to the floodplain administrator or designee as set forth in Section 8.24.130(L); and

4. Nonresidential structures that are elevated and not floodproofed must meet the same standards for space below the lowest floor as described in subsections (E)(2) and (3) of this section.

~~G.~~ **H.** Manufactured Dwellings. In addition to subsections A and B of this section, new, replacement and substantially improved manufactured dwellings are subject to the following standards:

1. Manufactured dwellings shall be elevated on a permanent foundation, such that the lowest floor of the manufactured home is elevated a minimum of eighteen inches above the BFE or depth number specified on the FIRM; or if no base depth is specified in an area of shallow flooding (flood zones AO and AH), shall be elevated at least two feet above the highest adjacent grade;

2. Manufactured dwellings supported on solid foundation walls with enclosed areas below the BFE are prohibited unless the foundation walls are designed to automatically equalize hydrostatic forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect, or meet or exceed the minimum criteria set forth in subsections (E)(2)(a)(i) through (iii) of this section;

3. The bottom of the longitudinal chassis frame beam in A zones shall be at least twelve inches above the BFE;

4. The manufactured dwelling 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

5. Electrical crossover connections shall be a minimum of twelve inches above the BFE.

Refer to FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional information

~~H.~~ **I.** Recreational Vehicles. In all areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either:

1. Be placed on the site for fewer than one hundred eighty consecutive days;

2. Be fully licensed and ready for highway use; be on its wheels or jacking system; be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements of subsection ~~G~~ **H** of this section, Manufactured Dwellings, and including the elevation and anchoring requirements.

~~I.~~ **J.** Accessory Structures. Relief from the elevation or dry floodproofing ~~standards~~ **requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones** may be granted for an accessory structure

~~containing no more than two hundred square feet. Such a structure must~~ **that** meet**s** the following standards:

1. **In compliance with State of Oregon Specialty Codes, accessory structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed accessory structure will be located more than 20 feet from all property lines. Accessory structures on properties that are zoned as non-residential are limited in size to 120 square feet.**

~~1.~~ **2.** Be located and constructed to minimize flood damage;

~~2~~ **3**. Be designed so as to not impede flow of flood waters under base flood conditions;

~~3~~ **4.** Be prohibited in the regulatory floodway;

~~4~~ **5**. It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;

~~5~~ **6**. Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored ~~below BFE, or where no BFE is available lower than three feet above grade,~~ **in an accessory structure** unless confined in a tank installed in compliance with this chapter;

~~6~~ **7**. Be constructed of flood resistant materials;

~~7~~ **8**. Be firmly 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;**

~~8.~~**9**. Have electrical service and/or mechanical equipment elevated or flood-proofed ~~to or~~ **a minimum of one foot** above the BFE **as set forth in subsection (B)(3) of this section;** and

~~9.~~**10**. Be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or meet the minimum design criteria set forth in subsections (E)(2)(a)(i) through (iii) of this section.

8.24.270 Interpretations and Variances.

This section provides criteria and procedures for interpretations and variances to the application of provisions established in this chapter.

A. Interpretations. Requests for interpretation of the provisions of this chapter shall be made in writing to the floodplain administrator in accordance with the interpretation provisions set forth in Chapter 17.11.

1. It shall be the applicant's responsibility to provide sufficient scientific or technical documentation to support any appeals of the floodplain administrator's interpretation of this chapter filed in accordance with Section 17.11.200(E).

B. Variances. Exceptions to the standards and criteria of this chapter shall be made in writing to the floodplain administrator on the form provided by the city and include, at a minimum, the same information required for a floodplain development permit, a written explanation for the basis of the variance request and any necessary documentation to show the variance is warranted and meets the criteria established in subsection (B)(2) of this section.

1. Procedural Requirements. Variances shall be subject to the procedural requirements set forth in Section 17.05.400 for a Type III (quasi-judicial) review procedure.

2. Variance Criteria. The city shall approve, approve with conditions, or deny an application for a variance based on the following criteria:

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

b. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (B)(2)(i)(i) though (xi) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

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

d. Variances shall only be issued upon a:

i. Showing of good and sufficient cause;

ii. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create public nuisances, cause fraud

on or victimization of the public, or conflict with existing local laws or ordinances.

e. Variances may be issued for a ~~water~~ **functionally** dependent use; provided, that 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.

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

g. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, or 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.

h. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with the building codes.

i. In passing upon such applications, the city shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and the:

i. Danger that materials may be swept onto other lands to the injury of others;

ii. Danger to life and property due to flooding or erosion damage;

iii. Susceptibility of the proposed facility and its contents to flood damage on the individual owner;

iv. Importance of the services provided by the proposed facility to the community;

v. Necessity to the facility of a waterfront location, where applicable;

vi. Availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

vii. Compatibility of the proposed use with existing and anticipated development;

Passed by the Council and signed by me in authentication of its passage this 8th day of July, 2021.

Mayor Hank Williams

ATTEST:

City Recorder