

**CITY OF SPRINGFIELD, OREGON**  
**ORDINANCE NO. 6434 (GENERAL)**

**AN ORDINANCE AMENDING THE SPRINGFIELD DEVELOPMENT CODE (SDC) SECTION 3.3-400 – FLOODPLAIN OVERLAY DISTRICT REGARDING REGULATION OF DEVELOPMENT WITHIN THE FLOODPLAIN; AMENDING SDC SECTION 6.1-100 – DEFINITIONS; ADOPTING SEVERABILITY AND ABROGATION CLAUSES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the State of Oregon has in ORS 197.175 delegated responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry;

**WHEREAS**, the flood hazard areas of the City of Springfield 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;

**WHEREAS**, these flood losses may be caused by the cumulative effect of obstructions 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 protected from flood damage also contribute to flood loss;

**WHEREAS**, the City of Springfield participates in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA) and is thus required to adopt and enforce a floodplain management ordinance regulating development in the community's floodplain;

**WHEREAS**, the Springfield City Council adopted Ordinance No. 5366 on March 16, 1987 which repealed and replaced the adopted floodplain management regulations in Article 27 of the Springfield Development Code (SDC);

**WHEREAS**, the City Council subsequently amended the floodplain regulations seven times;

**WHEREAS**, the Springfield Development Code was reformatted through Ordinance 6206 adopted on September 17, 2007 which resulted in the Floodplain Overlay District being codified as Section 3.3-400 which contains the standards and regulations to be applied to development within the Floodplain Overlay District;

**WHEREAS**, the Oregon Department of Land Conservation and Development (DLCD), which is the designated NFIP coordinating agency for the state, completed an audit of Springfield's floodplain regulations which resulted in recommendations to update the City's floodplain management program to comply with FEMA's current minimum floodplain development standards contained in the Code of Federal Regulations Title 44, a requirement for participation in the NFIP;

**WHEREAS**, to bring the City into compliance with minimum requirements, it is necessary to amend SDC 3.3-400 regulating development in the Floodplain Overlay District so that it aligns with the State of Oregon Model Flood Hazard Management ordinance produced by DLCD and approved by FEMA Region X, effective October 23, 2020;

**WHEREAS**, notice was sent to the Department of Land Conservation and Development on August 4, 2021, 35 days prior to the first evidentiary hearing as required under OAR 660-018-0040(8);

**WHEREAS**, on September 8, 2021 the Planning Commission held a duly noticed public hearing regarding this proposal, Planning File #811-21-000210-TYP4, and kept the written record open through October 15, 2021, for submission of additional information to consider in its recommendation; and

**WHEREAS**, after review of the staff report, evidence in the record, and testimony of those who spoke at the public hearing, the Planning Commission recommended approval of the changes to the Springfield Development Code on October 19, 2021;

**WHEREAS**, on December 13, 2021 the Springfield City Council and Lane County Board of Commissioners held a duly noticed joint public hearing regarding this proposal, Planning File #811-21-000210-TYP4, and after review of the Planning Commission recommendation, staff report, evidence in the record, and testimony of those who spoke at the public hearing, the Springfield City Council and Lane County Board of Commissioners;

**WHEREAS**, these regulations are adopted through the City of Springfield's broad home rule authority under the Chapter II of Springfield City Charter, which provides the following:

Section 4. Powers of the City. The City has all powers that the constitutions, statutes and common law of the United States and of the State of Oregon now or hereafter expressly or impliedly granted or allowed the City, as fully as though this Charter specifically enumerated each of those powers.

Section 5. Construction of Powers. In this Charter no specification of power is exclusive or restricts authority that the City would have if the power were not specified. The Charter shall be liberally construed, so that the City may exercise as fully as possible all powers possible for it under this Charter and under United States and Oregon law. A power of the City continues unless the grant of the power clearly indicates the contrary.

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF SPRINGFIELD ORDAINS AS FOLLOWS:

Section 1. The findings of fact set forth in **Exhibit A** are adopted.

Section 2. Sections 3.3-400 and 6.1-100 of the Springfield Development Code are amended as provided in **Exhibit B**, attached hereto and incorporated by reference.

Section 3. Savings Clause. Except as specifically amended herein, the Springfield Development Code shall continue in full force and effect.

Section 4. Severability Clause. This ordinance and the various parts thereof are hereby declared to be severable. 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 said holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Abrogation Clause. 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 6. Effective date of Ordinance. This Ordinance will take effect as provided in Section 2.110 of the Springfield Municipal Code, or upon the date that an ordinance is enacted by the Lane County Board of Commissioners adopting the same amendments as described in Section 2 of this Ordinance, or upon acknowledgement of this Ordinance under ORS 197.625, whichever occurs last.

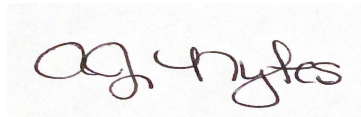
ADOPTED by the Common Council of the City of Springfield this 3rd day of January, 2022, by a vote of 6 for and 0 against.

APPROVED by the Mayor of the City of Springfield this 3rd day of January, 2022.



\_\_\_\_\_  
Mayor

ATTEST:



\_\_\_\_\_  
City Recorder

REVIEWED & APPROVED  
AS TO FORM

*Kristina Kraag*

DATE: 1/3/2022

SPRINGFIELD CITY ATTORNEY'S OFFICE

## STAFF REPORT and FINDINGS OF FACT

### TYPE IV – LEGISLATIVE AMENDMENT TO THE SPRINGFIELD DEVELOPMENT CODE

**CASE NUMBER:** Springfield 811-21-000210-TYP4; Lane County File NO. 509-PA21-05870  
**HEARING DATE:** December 13, 2021  
**REPORT DATE:** December 20, 2021  
  
**PROJECT NAME:** Floodplain Overlay District Code Amendments  
**AFFECTED AREA:** Properties within the Floodplain Overlay Zone

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#### I. NATURE OF THE REQUEST

The City of Springfield seeks approval of amendments to the Springfield Development Code (SDC) Sections 3.3-400 Floodplain Overlay District and 6.1-100 Definitions to incorporate federal requirements as shown in the State of Oregon Model Flood Hazard Management Ordinance (effective October 2020). Updating Springfield's Development Code to align with current federal requirements will allow the City to continue to participate in the National Flood Insurance Program (NFIP).

#### II. BACKGROUND

The City of Springfield participates in the NFIP which is run by the Federal Emergency Management Agency (FEMA). The objectives of the NFIP are to: (1) ensure that new buildings will be free from flood damage; (2) prevent new development from increasing flood damages on existing properties; and (3) ensure the natural and beneficial functions of the floodplain are maintained. NFIP was created by the U.S. Congress in 1968 to help minimize the costs of disaster relief and reduce the loss of life and property caused by flooding. Participation in the NFIP allows members of the Springfield community to access federally backed flood insurance. Flood insurance is required for federally backed loans to purchase or build structures located within the floodplain. Participation also ensures the City remains eligible for Federal disaster assistance in identified floodplain areas.

Participation in the NFIP requires communities to adopt and enforce a floodplain management ordinance that regulates development within their floodplain. SDC 3.3-400 includes the City of Springfield's regulating language. To ensure that a community is in compliance with FEMA requirements, a flood insurance coordinator periodically makes Community Assistance Visits (CAVs) to participating communities to evaluate their local floodplain management program in relation to the regulations that govern the NFIP. In Oregon, the Department of Land Conservation and Development (DLCD) conducts these visits on behalf of FEMA. The City of Springfield's most recent CAV visit resulted in the City being required to update its floodplain code provisions to meet current minimum standards for continued participation in the NFIP.

The City of Springfield entered into the NFIP in 1985. Floodplain regulations were adopted as Article 27 (Floodplain Special Purpose District) of the Comprehensive Zoning Code through Ordinance 5304 on September 3, 1985. The Springfield Development Code (SDC) was adopted by Ordinance 5326 on May 5, 1986, and the floodplain management regulations were included as Article 27. FEMA revised its floodplain management regulations after the SDC was adopted, which necessitated that the City adopt revised regulations consistent with FEMA provisions by

April 1, 1987 in order remain eligible for continued participation in the NFIP. These updated regulations were adopted by Ordinance 5366 on March 16, 1987, which repealed Article 27 and replaced it with a revised Article 27. Ordinance 5366 also amended Article 2 (Definitions) to comply with required Federal definitions for the NFIP.

The floodplain management regulations of Article 27 were revised seven more times up through 1999; most amendments were very minor, such as changes to the dates of the regulating floodplain maps or cross-referencing other code sections. Ordinance 5858, adopted June 5, 1997, made specific amendments to the floodplain regulations to again bring the City into compliance with current NFIP requirements by adopting several additional provisions including permitting procedures, substantial damage inspections, and enforcement language. SDC was reformatted through Ordinance 6206, adopted September 17, 2007; this resulted in the Floodplain Overlay District being codified as Section 3.3-400 of the SDC. Staff is unaware of any amendments to Section 3.3-400 Floodplain Overlay District that have occurred since that time.

### **III. SITE INFORMATION**

Affected properties are those which are located within the City of Springfield's Floodplain Overlay District. This includes 938 tax lots. The Floodplain Overlay District encompasses areas within Springfield's Urban Growth Boundary (UGB) along the McKenzie and Willamette Rivers, as well as around other streams and channels within the City.

### **IV. PROCEDURAL REQUIREMENTS AND CITIZEN INVOLVEMENT**

Under SDC 5.6-110, amendments of the Development Code text are reviewed under a Type IV procedure as a legislative action. Type IV procedures, as defined in SDC 5.1-140, require a review and recommendation by the Planning Commission and adoption of ordinance by City Council. As the floodplain regulations apply outside the city limits, per the Urban Transition Agreement with Lane County, the Lane County Board must co-adopt the code amendments for them to apply outside the city limits. The Planning Director for the City of Springfield initiated the development code amendments on August 4, 2021 on behalf of the City of Springfield as is allowed under SDC 5.6-105 B.

In accordance with the City of Springfield Citizen Involvement Program, the Committee for Citizen Involvement (CCI) reviewed and approved a Citizen Engagement Strategy for this proposal on August 3, 2021. Per this strategy and other requirements (as noted) the City has completed the following:

- Submitted notice of the proposed amendments to the Department of Land Conservation and Development (DLCDD) on August 4, 2021, 35 days in advance of the first evidentiary hearing as required by ORS 197.610(1) and OAR 660-018-0020.
- Mailed notice of the September 8, 2021 Planning Commission Hearing and December 13, 2021 City Council Joint Hearing with the Lane County Board of Commissioners to property owners who own property within the Floodplain Overlay District on August 18, 2021.
- Emailed notice of the proposed amendments to stakeholder groups per the Citizen Engagement Strategy on August 23, 2021.

- As required by SDC 5.1-140 C, provided agency referrals to the Development Review Committee regarding the proposed amendments via email on August 23, 2021 (Springfield Utility Board Water and Electric Division Directors, Northwest Natural, CenturyLink, Comcast, Rainbow Water and Fire District, Emerald People's Utility District, and Willamalane Park and Recreation).
- Published notice of the proposed amendments in the Register Guard on August 25, 2021 as required by SDC 5.1-140.
- Posted notice of the proposed amendments and the dates of the public hearings on the City of Springfield website which routinely posts public hearing notices.
- Social media post about the floodplain development code updates as part of the National Preparedness Month outreach campaign. Post published Sunday, September 26, 2021
- Creation of a floodplain webpage that includes project information. <https://springfield-or.gov/city/development-public-works/floodplain-management/>. Webpage was first available October 5, 2021 and is updated periodically.

#### Planning Commission public hearing

The Planning Commission held a public hearing on September 8, 2021 and left the record open through October 15, 2021 for additional comment to be included in their consideration. (Comments received after October 15, 2021 will be provided to the City Council and Board of County Commissioners for their public hearing).

There were multiple inquiries about the proposed code language and the location of the floodplain. Two people submitted written testimony prior to the public hearing. Mr. Finley expressed concerns with 1) the requirements for structures partially located in the floodplain must meet the floodplain development standards and 2) requirements pertaining to the installation of new electrical, mechanical, plumbing, and other equipment. He stated that the requirements were too much for someone who was 88 and on a fixed income.

Mr. Carpenter requests that an applicant be able to obtain a variance when the Floodplain Overlay Zone is based on an out-of-date map when conditions on the ground have changed to the extent that the floodplain map is no longer accurate. He also requests that instead of having to show an "exception hardship" that the applicant only be required to show a "hardship".

The code provisions cited by these two people are required as put forth by the state's model code in order to maintain compliance with federal requirements for NFIP participation. Findings have been added to address these comments under Statewide Planning Goal 10.

For this request, the Planning Commission made a recommendation to the Springfield City Council and Lane County Board of Commissioners which are the Approval Authorities for the final local decision (SDC 5.1-140 F.). Per the *Urban Transition Intergovernmental Agreement* and SDC 5.6-115 B., development code amendments which impact areas outside the City limits must be co-adopted by the Lane County Board of Commissioners in order to apply to urbanizable areas within the Springfield UGB. Decisions of the Springfield City Council and Lane County Board of Commissioners may be appealed to the Oregon Land Use Board of Appeals within 21

calendar days of the date the decision becomes final as specified in ORS 197.830 (SDC 5.1-140 G.).

#### City Council and Lane County Board of Commissioners

The Lane County Board of Commissioners conducted a first reading of Ordinance 21-08 on November 30, 2021. The Springfield City Council and Lane County Board of Commissioners held a joint public hearing on the amendments to Springfield's floodplain regulations on December 13, 2021. Notice of the public hearing was published in the Register-Guard on November 23 and mailed to the parties of record and those who had requested notice. The City sent out a media release that resulted in articles in the Springfield Chamber of Commerce newsletter and the Chronicle and was posted on front page of city's website. The Springfield Board of Realtors submitted written comment the afternoon of the public hearing. The Realtors expressed concern that the City is requiring more free board clearance than required for participation in the NFIP. They are also concerned that the elevation increase for replacements in mobile home parks and subdivisions would split neighborhood fabric and drive up costs. The City is not adopting standards more than the minimum required by the NFIP in either of these areas.

## **V. APPROVAL CRITERIA & FINDINGS**

The request is subject to approval criteria in SDC 5.6-115, which covers adoption or amendment of refinement plans, plan districts and the development code. The following approval criteria are listed under SDC 5.6-115:

*A. In reaching a decision on the adoption or amendment of refinement plans and this Code's text, the City Council shall adopt findings that demonstrate conformance to the following:*

1. *The Metro Plan;*
2. *Applicable State statutes; and*
3. *Applicable State-wide Planning Goals and Administrative Rules.*

Findings showing that the proposed amendments to the development code meet the applicable criteria of approval appear in regular text below. Direct citations or summaries of criteria appear in *italics* and precede or are contained within the relevant findings.

### ***Conformance with the Metro Plan***

The *Eugene-Springfield Metropolitan Area General Plan* (Metro Plan) includes policy direction relevant to floodplain regulations. Per SDC 3.3-100, references for the Floodplain Overlay District are contained in the Environmental Resources Element of the Metro Plan. The following policies from the Natural Hazards subsection apply to this request:

*"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."*

**Finding 1:** The amendments bring the City of Springfield's floodplain regulations into compliance with current FEMA requirements for circumstances under which development is

allowed in the floodway. This includes requirements applicable to garages and appurtenant (accessory) structures when proposed to be located within the floodway (SDC 3.3.430(B)(2)(a)(i) and 3.3.430(B)(3)(f)(i)).

Finding 2: The amended standards specifically require the City of Springfield to review all development permit applications to determine if development is proposed to be located in the floodway (SDC 3.3.425(C)(1)(c)). If so, the amended standards require the City to assure certain provisions are met as described in Findings 4-6.

Finding 3: Under the amendments, the City requires applicants to obtain a Conditional Letter of Map Revisions (CLOMR) from FEMA prior to issuing a floodplain development permit for development that proposes encroachment in the floodway which would increase the base flood elevation (the *flood level*) per SDC 3.3.425(C)(3)(c)(i)(aa). A CLOMR is FEMA's comment on a proposed project that would affect hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of an existing floodway.

Finding 4: The standards prohibit fill, new construction, substantial improvements, and other development within the floodway unless an applicant obtains certification from a registered civil engineer demonstrating through specified studies that the proposed encroachment will not increase flood levels during a base flood, or the applicant has applied for and been approved for a CLOMR (SDC 3.3.430(B)(4)(a)(i)-(ii)).

Finding 5: The amendments remove an exception from the currently adopted standards which allows existing manufactured homes and other structures already in the floodway to be replaced if located in the same site and of the same size without certification. This exception is not compliant with current FEMA requirements.

Finding 6: The amendments maintain a higher standard that prohibits subdivision and partitioning of land for residential purposes if land is located entirely in the floodway (SDC 3.3.430(B)(4)(c)).

Finding 7: The standards maintain approval criteria prohibiting the City from issuing a variance within the floodway if any increase in flood levels during base flood discharge would result (SDC 3.3.440(C)(3)).

*"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. . ."*

Finding 8: In this case "floodway fringe" is interpreted by the City to mean the floodplain. The Metro Plan defines floodplain as, *"The area adjoining a river, stream, or watercourse that is subject to 100-year flooding. A 100-year flood has a one-percent chance of occurring in any one year as a result of periods of higher-than-normal rainfall or stream flows, high winds, rapid snowmelt, natural stream blockages, tsunamis, or combination thereof."*

Finding 9: The purpose of the Floodplain Overlay District is to control development in the floodplain, including the floodway, in such a way as to minimize potential danger to life and

property. Bringing SDC 3.3-400's provisions into compliance with current NFIP minimum requirements will allow the City to better protect areas within the floodplain from flood hazard. The amendments add or update standards which specify how development within the floodplain must be built. These standards, such as anchoring, elevation, floodproofing, and flood opening requirements, are intended to ensure development in the floodplain is better able to withstand the impacts of flooding to minimize the potential danger during a flood event.

**Finding 10:** The amendments do not prevent in-filling of partially developed land within the UGB, rather, they require that development be done in a specified manner and meet certain standards when done in the Floodplain Overlay District.

### ***Conformance with Applicable State Statutes***

*ORS 227.186 requires local governments to mail individual notice ('Ballot Measure 56 Notice') to real property owners of pending land use changes that could limit or prohibit previously allowed uses. This notice must be mailed at least 20 days but not more than 40 days before the first evidentiary hearing on the proposed ordinance changes.*

**Finding 11:** On August 18, 2021, the City mailed Ballot Measure 56 notice for the first hearing on September 8, 2021 to all owners of property within the Floodplain Overlay District, in compliance with ORS 227.186. This notice also included the date and time of the public hearing before the City Council and Board of County Commissioners.

*ORS 197.610 and OAR 660-018-0020 require local jurisdictions to submit proposed land use regulation changes to the Department of Land Conservation and Development.*

**Finding 12:** As noted in Section IV, the City provided notice of the proposed amendments to DLCD on August 4, 2021, 35 days in advance of the first evidentiary hearing in conformance with ORS 197.610(1) and OAR 660-018-0020.

*ORS 195.305 requires public entities to provide just compensation to property owners when enacting land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property.*

**Finding 13:** The amendments do restrict development under certain circumstances in the Floodplain Overlay District, but do not require compensation due to the restriction of real property because they satisfy two exceptions noted in that statute. First, the amendments satisfy the exception under ORS 197.305(3)(c), which provides that the requirement does not apply to land use regulations that "are required to comply with federal law." The amendments are required by federal law to comply with the FEMA NFIP minimum standards for participation. Second, the amendments satisfy the exception under ORS 195.305(3)(b), which exempts payment of just compensation when the regulations "restrict or prohibit activities for the protection of public health and safety." Flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, and other adverse effects on the public health, safety, and general welfare. The proposed amendments mitigate these adverse effects and therefore are necessary to protect public health and safety.

### ***Conformance with Applicable State-wide Planning Goals and Administrative Rules***

*Statewide Planning Goal 7- Areas Subject to Natural Disasters and Hazards: Requires local governments to protect people and property from natural hazards, including flooding. In part, it requires local governments to adopt comprehensive plans that reduce risk from natural hazards.*

Finding 14: The Metro Plan contains a section entitled Natural Hazards which covers protection of life and property from natural hazards and disasters. Findings 1-10 detail how the amendments comply with the Metro Plan's policies for reducing risk from flood hazard.

Finding 15: Goal 7 includes a "safe harbor" provision based on the implementation of the minimum requirements of the National Flood Insurance Program: *"Local 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."* The amendments make changes to the SDC that are required to bring the City's regulations into compliance with current minimum requirements for participation in the NFIP. The amendments are intended to align SDC 3.3-400 more closely with the state's model floodplain ordinance, which has been approved by FEMA.

Finding 16: The Goal 7 Guidelines encourage local governments to consider additional provisions that go beyond the safe harbor approach: *"Local governments should consider measures that exceed the National Flood Insurance Program (NFIP)".* The amendments retain all currently adopted higher standards. They also include new provisions that go beyond the minimum requirements of the model floodplain ordinance. These amendments regulate the storage of environmentally hazardous materials in crawl spaces and garages. They require an agreement between the City and owners of recreational vehicle parks or recreational vehicle storage to ensure compliance with the City's floodplain regulations and to create an emergency plan specifying how flood warnings will be received and how vehicles, trailers and occupants will be safely evacuated in the event of a flood.

Finding 17: The Goal 7 Guidelines also state, *"Local governments should give special attention to emergency access when considering development in identified hazard areas."* The amendments retain adopted standards which require ingress and egress on streets for emergency vehicles and services during flood events, and also retain adopted standards which prohibit any new street from being at an elevation of less than one foot below the base flood height to ensure streets are drivable during a base flood event (SDC 3.3.430(A)(6)).

Finding 18: The Goal 7 Guidelines also state, *"When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties."* The amendments remove an exception that allowed structures located within the floodplain to be replaced without a study if on the same site and of the same size. Removal of this exception now requires a site-specific report be generated for all development proposed in the floodway, which is a high hazard area. The amendments add a requirement to the Floodways section that requires hydrologic and hydraulic analyses be performed to ensure proposed encroachments in the floodway would not result in an increase in flood levels (SDC 3.3.430 (B)(4)(a)(i)). The amendments also add language to multiple sections specifying that information and certification

must be provided by licensed professionals, such as in the provisions for Non-residential Construction where the language of “registered professional” is added (SDC 3.3.430 (B)(3)(c)(i)(ca)).

*Statewide Planning Goal 9- Economic Development: Requires local governments to maintain a working inventory of buildable lands suitable for economic growth and opportunity. In part, the comprehensive plan must, “Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.”*

Finding 19: The amendments are more restrictive in terms of what development is allowed within the floodway; however, the City does not count areas within the floodway in its industrial or commercial lands inventory. Outside of the floodway within other areas of the Floodplain Overlay District, the amendments do not regulate if development can occur, but rather how development is done. These new regulations add specific standards for tanks (SDC 3.3.430 (A)(5); for electrical, mechanical, plumbing and other equipment (SDC 3.3.430 (A)(4)(a)); and require conformance with floodplain regulations when converting a building to a commercial or industrial use. These design requirements do not have a material effect on the size or type of development allowed. Thus, the amendments do not reduce the development potential of Springfield’s industrial or commercial land inventories in a manner inconsistent with Goal 9.

*Statewide Planning Goal 10- Housing: Requires local governments to inventory buildable lands that are suitable and available for residential use. Cities must develop plans “in a manner that insures the provision of appropriate types and amounts of land within urban growth boundaries.” The amount of land planned for residential development should be adequate for a 20-year supply.*

Finding 20: The amendments are more restrictive in terms of what development is allowed within the floodway; however, the City does not count areas within the floodway in its housing lands inventory. Outside of the floodway within other areas of the Floodplain Overlay District, the amendments do not regulate if development can occur, but rather how development is done. The new regulations add specific standards for electrical, mechanical, plumbing and other equipment (SDC 3.3.430 (A)(4)(a)); specifically require that a manufactured dwelling park greater than 5 acres in size establish a base flood elevation if it is not already known; affects the height at which a manufactured dwelling must be elevated (SDC 3.3.430 (A)(8)(b) and SDC 3.3.430 (b)(3)(d)); changes anchoring standards for manufactured dwellings (SDC 3.3.430 (A)(2) and 3.3.430 (B)(3)(d)); creates design requirements specific to garages and appurtenant structures (SDC 3.3.430 (B)(2) and SDC 3.3.430 (B)(3)(f); and require conformance with floodplain regulations when converting a building to a residential use. These design requirements do not have a material effect on the density of residential development. Thus, the amendments do not reduce the development potential of Springfield’s housing land inventories in a manner inconsistent with Goal 10.

Finding 21: In his written testimony, William Carpenter identifies a Statewide Planning Goal to encourage Affordable Housing as the criterion he addresses in support of revisions to the variance language. He notes two problems with the variance section. One is that an out-of-date FIRM shows an “Impossible Floodway” exists where the past open drainage channels have been filled in and their flows directed into underground piping systems that no longer present a

channeled pathway for floodwaters to reach the property. The example he provides is actually an area of special flood hazard, Zone A, rather than a floodway. The process that FEMA has set up to address this situation which is referenced in the code language is the Letter of Map Revision. As stated in the definition, LOMRs are “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 LOMR process appropriately addresses the situation described and therefore no changes are needed to the Variance Section.

Finding 22: The second problem Mr. Carpenter identified in the Variance section is the “exceptional hardship” language, asserting that it should be amended to just “hardship”. While the City is in need of affordable housing and supports the implementation of Goal 10, it seeks to do so while maintaining compliance with federal requirements. The “exceptional hardship” language is from the model code. Not including that language could result non-compliance with the National Flood Insurance Program requirements which could eventually lead to the loss of ability to access the flood insurance necessary to obtain a federally backed mortgage when purchasing a house in the regulatory floodplain. That outcome would have a much broader and long-lasting negative impact on the ability of households to purchase homes in all areas of the community planned for residential development.

Finding 23: Joseph Finley submitted written testimony. Although he didn’t cite an approval criterion, he cited that certain requirements are too much for an 80-year-old on fixed income. The most relevant criterion is the Statewide Planning Goal for Housing. The two requirements Mr. Finley identifies (1 – require that new electrical, mechanical, plumbing, and other equipment be installed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, and 2 – specify that structures partially located in the floodplain comply with the Development Standards) are minimum requirements of the model code. As with the Finding above, compliance with the National Flood Insurance Program requirements enables community members to access the flood insurance required to obtain a federally backed mortgage when purchasing a house in the regulatory floodplain, thus allowing homeowners to purchase homes in areas of the community planned for residential development.

Finding 24: The Springfield Board of Realtors submitted testimony that two provisions would increase housing costs. The Realtors stated that the City is requiring two feet of free board clearance which is more than required by the NFIP. For residential construction, the code amendments do not change the existing requirement to elevate the lowest floor to one foot above the Base Flood Elevation (one foot of free board). In these situations, the City is not requiring two feet of free board, nor is it requiring a height beyond what is required by the model code. In areas where the Base Flood Elevation is unknown (unnumbered A zones), the model code does require that the development proposal be a minimum of two feet above the highest adjacent grade to be reasonably safe from flooding. This safety measure may increase development costs, but is necessary for the City to conform with the requirements of the NFIP.

Finding 25: The Realtors’ second issue involves the new requirement that replacement manufactured dwellings in existing Mobile Home Parks and Subdivisions be elevated in conformance with the requirements for new manufactured dwellings. The City agrees that this requirement may increase costs and result in the replacement dwellings being elevated higher

than their neighbors, but it is a requirement of the model code and therefore will ensure Springfield's continued participation in the NFIP. It will also enable the purchasers of these new homes access to federally backed mortgages should the owners need to finance the purchase of replacement dwellings.

*Statewide Planning Goal 12- Transportation: Requires jurisdictions to create a transportation system that supports a variety of transportation modes so as not to limit residents in the way they can access various aspects of their community. The Transportation Planning Rule (OAR 660-012-0060) implements Goal 12.*

Finding 26: OAR 660-012-0060 requires a local government to establish mitigation measures if an amendment to a land use regulation would *"significantly affect an existing or planned transportation facility."* Subsections (1)(a)-(c) determine whether the requested land use regulations amendments significantly affect a transportation facility.

Finding 27: A land use regulation amendment "significantly affects" transportation under Subsection 1(a) if it *"Change[s] the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan)."* The amendments do not change any functional classification under OAR 66-012-0060(1)(a).

Finding 28: A land use regulation amendment "significantly affects" transportation under Subsection 1(b) if it *"Change[s] standards implementing a functional classification system."* The amendments do not change the City's standards for implementing its functional classification system under OAR 66-012-0060(1)(b).

Finding 29: Under Subsection (1)(c), a land use regulation amendment "significantly affects" transportation if it results in *(A) types or levels of travel or access inconsistent with the functional classification of a transportation facility; (B) degrades the performance of a transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan; or (C) degrades the performance of a transportation facility that is otherwise projected to not meet the performance standards in the TSP or comprehensive plan.* To determine whether the amendments "significantly affect" a transportation facility within the meaning of (1)(c) a local government should compare the most traffic-generative use reasonably allowed in the current zone with the most traffic-generative use reasonably allowed in the new zone. The amendments to the Floodplain Overlay District do not change the underlying zoning districts or materially change the uses that are allowed outright, conditionally allowed, or prohibited. Accordingly, the amendments do not change the most traffic-generative uses reasonably allowed on impacted properties and therefore do not result in any of the effects described under (A)-(C).

Finding 30: The amendments to the code will not "significantly affect" an existing or planned transportation facility under OAR 660-012-0060(1)(a), (b), or (c) and thus complies with OAR 660-012-0060 and Goal 12 requirements.

## **VI. CONCLUSION**

Based upon the evidence above and the criteria of SDC 5.6-115 for approving amendments to the Springfield Development Code, the text amendments to SDC 3.3-400 and SDC 6.1-100 are consistent with these criteria.



## Legislative Version of Amendments to the Springfield Development Code Section 3.3-400 Floodplain Overlay District to Incorporate Federal Requirements

### AMENDMENTS

Section 3.3-400 of the Springfield Development Code (SDC) has been re-organized to more closely match the structure of the Oregon Model Hazard Ordinance (version October 2020) that was developed to incorporate requirements of the Federal Emergency Management Agency. The recommended amendments are shown in legislative format (deleted text with strike-thru red font and new text with double underline red font). For ease of review, this legislative format does not show where code language was moved from one place to another. Commentary is shown in purple italics font, preceding the text to which it is referring; commentary is provided for explanatory purposes and is not adopted as code.

*Commentary: The existing structure of Section 3.3-400 is shown in purple. A table of contents outlining the new structure of the Floodplain Overlay District section will be added (shown in red) to match the layout used in the upcoming Development Code updates. Throughout, numbering has also been formatted to match the upcoming Development Code updates.*

### **Section 3.3-400      Floodplain Overlay District**

3.3-405      Purpose  
3.3-410      Applicability  
3.3-415      Review  
3.3-420      Development Standards  
3.3-425      Emergency Approval  
3.3-430      Variance Procedures  
3.3-435      Post-Flood Substantial Damage Procedures  
3.3-440      Periodic Floodplain Inspections and Enforcement Actions  
3.3-445      Land and Drainage Alteration Permits—Enforcement of Requirements and Penalties

### **3.3.400      Floodplain Overlay District**

**3.3.405      Statutory Authority and Interpretation**  
**3.3.410      Purpose**  
**3.3.415      Definitions**  
**3.3.420      Applicability**  
**3.3.425      Administration**  
**3.3.430      Development Standards**  
**3.3.435      Floodplain Development Permits**  
**3.3.440      Variances**  
**3.3.445      Periodic Floodplain Inspection, Enforcement of Requirements and Penalties**

*Commentary: Creates new section on Statutory Authority and Interpretation that adds required language from model code.*

### **3.3.405      Statutory Authority and Interpretation**

(A) Statutory Authorization.

The 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.

(B) Interpretation. In the interpretation and application of this Section, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

*Commentary: Matches language from model code by making minor changes to wording and adds (9) and (10). Adds language to (7) stating a purpose is also to inform potential buyers of approved variances in the floodplain.*

**3.3.410 Purpose**

**3.3-405 Purpose**

(A). The Floodplain (FP) Overlay District is established to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this Section are designed to:

(1). Protect human life and health.

(2). Minimize expenditure of public money on 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, including, but not limited to: water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards.

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

(7). ~~Provide information to~~Notify potential buyers ~~of that the~~ property is in a special flood hazard area in areas of special flood hazard, and as applicable, notify potential buyers when development has been approved under a variance to the Floodplain Overlay District standards.

(8). Minimize the threat to persons, property, and urban water quality from flooding, and inadequate or improper drainage resulting from uncontrolled development or redevelopment of land to include filling, grading, excavation, removal; earthwork

construction including berms and dikes; stockpiling of materials; or other ~~Land and Drainage Alterations~~ land and drainage alterations.

(9) Notify those who occupy special flood hazard areas that they assume responsibility for their actions.

(10) Participate in and maintain eligibility for flood insurance and disaster relief.

*Commentary: Matches language from model code by making minor changes to wording. Updates title of permit issued in floodplain to Floodplain Development Permit to clarify that it is a separate permit from the Land and Drainage Alteration Permit (LDAP).*

(B) In order to accomplish the purpose, this Section includes methods and provisions for:

(1) Restricting or prohibiting uses and development which are 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 uses and development vulnerable to floods, including facilities which serve such ~~these~~ uses, be protected against flood damage at the time of initial construction.

(3) Controlling the alteration of natural floodplains, stream channels, and protective barriers, which help accommodate or channel flood waters.

(4) Controlling filling, grading, dredging, and other development, which may increase flood damage.

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase special flood hazards in other areas.

(6) Issuing a ~~Land and Drainage Alteration~~ Floodplain Development Permit.

*Commentary: Adds a definitions section. Defines terms as required or recommended by model code. Clarifies definitions in this Section apply to the Floodplain Overlay District. Definitions specific to the management of floodplains removed from SDC 6.1-110, as described below.*

### 3.3.415 Definitions

For the purposes of the Floodplain Overlay District only, the following definitions apply. Where the definitions in this Section conflict with a definition provided in SDC 6.1-105 or SDC 6.1-110, the definition in this Section will prevail. Unless specifically defined below or in SDC 6.1-110, words or phrases used in this Floodplain Overlay District shall be interpreted so as to give them the meaning they have in common usage.

#### A

**Appeal.** A request for a review of the interpretation of any provision of this Section or a request for a variance.

**Area of shallow flooding.** 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.** The land in the floodplain within a community subject to a 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, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

**B**

**Base flood.** The flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE).** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

**Building.** See "Structure."

**C**

**Community.** The City of Springfield and the area within Springfield's planning and building safety jurisdiction which extends out to Springfield's urban growth boundary.

**D**

**Development.** 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.

**E**

**Flood or Flooding.**

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

**(a)** The overflow of inland or tidal waters.

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

**(c)** 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.

**(2)** 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)(1) of this definition.

**Flood elevation study.** See "Flood Insurance Study".

**Flood Insurance Rate Map (FIRM).** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas 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).** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood proofing.** 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.

**Floodplain or flood prone area.** Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

**Floodplain administrator.** The community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain management regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance), and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodway.** 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 a designated height. Also referred to as "Regulatory Floodway."

**Functionally dependent use.** 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.

**H**

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure.** Any structure that is:

**(1) 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;**

**(2) 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;**

**(3) 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**

**(4) Individually listed on a local inventory of historic places in 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.**

## **L**

**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. The following are categories of LOMCs:

**(1) 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.

**(2) 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.

**(3) 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.

**(4) 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.

**(5) 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.

**(6) 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.

**(7) PMR.** 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.** 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 Section.

## **M**

**Manufactured dwelling.** 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 dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

**Manufactured dwelling park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

**Mean sea level.** For purposes of the National Flood Insurance Program, 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.

## **N**

**New construction.** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Springfield and includes any subsequent improvements to such structures.

## **R**

**Recreational vehicle.** 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.

**Regulatory floodway.** See "Floodway".

## **S**

**Special flood hazard area.** See "Area of special flood hazard" for this definition.

**Start of construction.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start 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 dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or 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.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Substantial damage.** 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.

**Substantial improvement.** Any 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 before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**V**

**Variance.** A grant of relief by the City of Springfield from the terms of a flood plain management regulation.

**Violation.** 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 Section is presumed to be in violation until such time as that documentation is provided.

**W**

**Water surface elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**3.3.420 Applicability**

**3.3-410 Applicability**

*Commentary: Adds clarifying language.*

**(A.)** The FP Overlay District applies to all areas of special flood hazard within the Springfield urban growth boundary.

*Commentary: Adds required language from model code identifying FIRM panel numbers applicable to Springfield and physical location of flood maps.*

**(B.)** The areas of special flood hazard are identified as follows:

**(1.)** Those areas identified by the Federal Insurance Administration in scientific and engineering reports entitled "THE FLOOD INSURANCE STUDY (FIS) FOR THE CITY OF SPRINGFIELD, LANE COUNTY, OREGON", dated June 2, 1999 and any revision thereto, and "THE FLOOD INSURANCE STUDY FOR LANE COUNTY, OREGON, UNINCORPORATED AREAS," dated June 2, 1999 and any revisions thereto, with accompanying Flood Insurance Maps; Flood Insurance Rate Map (FIRM) panels 1133, 1134, 1135, 1141, 1142, 1144, 1153, 1154, 1158, 1161, 1162, 1165, 1166, 1167, and 1170 are hereby adopted by reference and declared to be a part of this Section. The FIS and FIRM panels are on file at the Development Center located in Springfield City Hall;

*Commentary: Makes wording changes to accurately reflect process for designation of additional flood hazard areas. These areas would be designated through a zoning process rather than by the City Engineer.*

**(2.)** Areas of special flood hazard designated as within the FP Overlay district because they are by the City Engineer as susceptible to inundation of water from any source where the above-referenced maps have not identified any special flood areas.

*Commentary: Makes minor wording additions as required to comply with model code.*

~~(C-)~~ The flood insurance studies and accompanying Flood Insurance Rate Maps specified above are ~~hereby~~ adopted by City Ordinance and filed with the City Engineer. These studies and their accompanying maps shall form the basis for the administration and implementation of this Section.

~~(D-)~~ Warning and Disclaimer of Liability. The degree of flood protection required by this Section in the areas designated in Subsection ~~(B)~~, above is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within these areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Springfield, ~~or~~ any officer or employee of the City, or the Federal Insurance Administrator, for any flood damages that may result from reliance on this Section or any administrative decision lawfully made under this Section.

*Commentary: Adds required language from model code.*

(E) Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Springfield administers and enforces the State of Oregon Specialty Codes, the City of Springfield does hereby acknowledge that 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 Section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

*Commentary: Renames Section to better match model code layout and intent of language added to the Section.*

### **3.3.425 Administration** **3.3-415 Review**

*Commentary: Makes minor wording changes to clarify review process.*

~~(A-)~~ Floodplain Development proposals within the FP Overlay District ~~shall be~~ reviewed under Type ~~I-1~~ procedure found in SDC 5.1-125. (~~See Section SDC 4.3-145~~ for siting standards and review process for certain wireless telecommunications systems facilities). Floodplain Development approval within the FP Overlay District, ~~and including~~ a Land and Drainage Alteration Permit, ~~shall must~~ be obtained before construction or development begins within any area of special flood hazard established in ~~Section SDC 3.3-424(B)~~. Approval is required for all structures, manufactured homes and development as defined in this Code.

*Commentary: Adds language required by model code and identifies the job title within the City responsible for administering the floodplain management program.*

(B) Designation of the Floodplain Administrator. The Development and Public Works Director is hereby appointed to administer, implement, and enforce this Section by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

*Commentary: Adds Subsection (C) which is required language from model code and explains the City's duties in administering the floodplain management program. Deletes Subsection B, and moves bullets 1-10 under Subsection (1) Permit Review and rewords or deletes as described below to match required language from model code.*

~~**B. Special Review Procedures.** The Director shall administer this Section in consultation with the Building Official and the City Engineer. They shall:~~

**(C) Duties and Responsibilities of the Floodplain Administrator.** Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

**(1) Permit Review.** Review all development permit applications to determine that:

*Commentary: Subsections 1.-4. are reworded to match required model code language and renumbered to (a)-(c) and (e). Subsection (d) is required language from model code that is added and requires the City to determine if proposed development is located with an area of the floodplain where Base Flood Elevation (BFE) has been determined.*

~~**(a) 1.** Review all development applications to determine that t~~**he application permit**  
requirements of this Section have been satisfied;~~;~~

~~**(b) 2.** Review all development applications to determine that A~~**all other required local,**  
**state, and federal permits have been obtained.**~~necessary permits have been~~  
~~obtained from those Federal, State or local governmental agencies for which prior~~  
~~approval is required;~~

~~**(c) 3.** Review all development permit applications to determine if the proposal~~  
~~proposed development~~is located in the floodway. If the proposal is located in the  
floodway, assure that the floodway provisions in SDC 3.3.430(B)(4) encroachment  
provisions of Section 3.3.420C. are met; and.

~~**(d)** Review all development permit applications to determine if 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. If BFE data is not available, then ensure compliance with the~~  
~~provisions of SDC 3.3.430(A)(8); and~~

~~**(e)** Provide to the bBuilding eOfficials the Base Flood Elevation (BFE) applicable to~~  
~~any building requiring a development permit. 4.~~When base flood elevation data has  
not been provided as specified in Section SDC 3.3.4240(B)(1), the Floodplain  
Administrator-City Engineer w~~ill~~shall obtain, review and utilize any base flood  
elevation data and floodway data available from a Federal, State or other source in  
order to administer this Section.

*Commentary: Adds required language from model code which outlines responsibilities of the City in administering the floodplain regulations.*

**(f)** Review all development permit applications to determine if the proposed  
development qualifies as a substantial improvement as defined in SDC3.3.415.

~~(g) Review all development permit applications to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in SDC 3.3.430(A)(1)~~

~~(h) Review all development permit applications to determine if the proposed development activity includes the placement of fill or excavation.~~

*Commentary: Language deleted from this Subsection to match model code layout. Covered by Subsection (2)(a) of this Section 3.3.425(C).*

~~5. Where base flood elevation data is provided through the Flood Insurance Study or as specified in Subsection B.4., above, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;~~

*Commentary: Language deleted from this Subsection to match model code layout. Substantial Improvement requirements are covered by Section 3.3.425 (D).*

~~6. For all new or substantially improved flood-proofed structures:~~

- ~~a. Verify and record the actual elevation (in relation to mean sea level); and~~
- ~~b. Maintain the flood-proofing certifications required in Section 3.3-420B.2.a.iii.;~~

*Commentary: Language deleted from this Subsection to match model code layout. Covered by Subsection (2)(k) of this Section 3.3.425(C).*

~~7. Maintain for public inspection all records pertaining to the provisions of this Section;~~

*Commentary: Language deleted from this Subsection to match model code layout. Requirements covered by Subsection (3)(b) Watercourse Alterations of this Section 3.3.425(C). and Subsection (A)(1) of Section 3.3.430.*

~~8. Notify adjacent communities and the Division of State Lands prior to any alteration or relocation of a watercourse, and submit evidence of this notification to the Federal Insurance Administration;~~

~~9. Require that a program of periodic inspection and maintenance be provided with the altered or relocated portion of a watercourse so that the flood carrying capacity of the watercourse is not diminished; and~~

*Commentary: Language deleted from this Subsection as this is now done through a FEMA process (LOMA, LOMR).*

~~10. Make interpretation, where needed, as to exact location of the boundaries of areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary may appeal the interpretation as specified in Section 5.3-100.~~

*Commentary: Adds required language from model code. Subsection (2) clarifies the information related to floodplain management that the City must keep and make available for the public. Subsection (3) describes circumstances under which the City must provide information to other entities. This includes: requiring the City to notify the Federal Insurance Administrator of annexations to the City and urban growth boundary expansions), notify DLCD and relevant agencies and adjacent communities prior to altering a watercourse, providing information to the Federal Insurance Administrator when the base flood elevation changes.*

(2) Information to be Obtained and Maintained. The following information shall be obtained and maintained, and shall be made available for public inspection as needed:

(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 SDC 3.3.430(A)(8).

(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 SDC 3.3.430(B)(4) and SDC 3.3.425(C)(1)(b) 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 Section and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with SDC 3.3.430(A)(8).

(g) Maintain all floodproofing certificates required under this Section:

(h) Record and maintain all variance actions, including justification for their issuance:

(i) Obtain and maintain all hydrologic and hydraulic analyses performed as required under SDC 3.3.430(B)(4).

(j) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under SDC 3.3.425(D).

(k) Maintain for public inspection all records pertaining to the provisions of this Section.

(3) Requirement to Notify Other Entities and Submit New Technical Data.

(a) Community Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever there is an annexation to the City of Springfield, when the boundary of the community has been modified by an expansion of the urban growth boundary, 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 community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating annexed area or the new urban growth boundary or new area for which the community has assumed or relinquished floodplain management regulatory authority.

(b) Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

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

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

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under SDC 3.3.425(C)(3)(c). Ensure compliance with all applicable requirements in SDC 3.3.425(C)(3)(c) and SDC 3.3.430(A)(1).

(c) Requirement to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the City 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. The City may require the applicant to submit such data and review fees required for compliance with this Section through the applicable FEMA Letter of Map Change (LOMC) process.

(i) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(aa) Proposed floodway encroachments that increase the base flood elevation; and

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

(ii) 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).

(iii) 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.

(iv) The Floodplain Administrator shall be 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 or has met the requirements of this Section and all applicable state and federal permits.

*Commentary: Moves Section 3.3-435 to Subsection (D) of this Section 3.3.425 and renames to better align with layout of model code. Subsection A. is reworded to match required language from model code. Changes require City to now make damage inspections for any event, natural or other causes, not just post-flood. Wording in Subsection C. is updated to accurately reflect timing of reporting damage. A determination of Substantial Improvement (which includes a determination of Substantial Damage) triggers requirements for the structure to be brought into compliance with current code requirements, including the development standards of Section 3.3.430. This means a property owner wishing to substantially improve a structure within the Floodplain Overlay District will need to comply with the floodplain development standards.*

**(D) Substantial Improvement and Substantial Damage Assessments and Determinations.**  
**3.3-435 Post-Flood Substantial Damage Procedures**

(1)A. Building inspectors from the Development ~~Services and Public Works~~ Department shall conduct Substantial Improvement (SI) (as defined in SDC 3.3.415) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with SDC 3.3.425(C)(2); and shall conduct Substantial Damage (SD) (as defined in SDC 3.3.415) assessments when structures are damaged due to a natural hazard event or other causes; and shall make SD determinations whenever structures within the special flood hazard area (as established in SDC 3.3.420(B)) are 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.  
~~make post flood inspections immediately after a flood event to determine damage to structures by the flooding.~~

(2)B. A list of damaged structures, which are not in compliance with the provisions of this Section, ~~shall~~ will be reported to FEMA.

(3)C. The City ~~shall~~ will notify affected property owners ~~prior to~~ when submitting the damage report to FEMA.

**3.3.430 Development Standards**

### ~~3.3-420 Development Standards~~

*Commentary: Minor wording changes to match model code language and to use UGB rather than "city and its urbanizable area."*

(A.) General Standards. In all ~~areas of~~ special flood hazard areas within the ~~City and its urbanizable area~~ UGB, the following standards ~~apply~~shall be adhered to:

*Commentary: Adds required model code language. Some of this language was contained in 3.3-415 B.9.. If development alters or relocates a watercourse, requires that the flood carrying capacity not be diminished and requires that maintenance be provided to ensure this.*

(1) Alteration of Watercourse. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with SDC 3.3.425(C)(3)(b) and SDC 3.3.425(C)(3)(c).

*Commentary: Updates to comply with required model code language. These changes remove the use of two anchoring standards and removes anchoring requirements for manufactured homes from this Subsection. Anchoring requirements for manufactured homes are contained in 3.3.430(B)(3)(d) Manufactured Dwellings and have been updated to match required model code language and comply with current requirements.*

(2) 1. Anchoring. All new construction, ~~manufactured homes~~ and substantial improvements ~~subject to less than 18 inches of flood water during a 100-year flood~~ shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. All manufactured dwellings shall be anchored per SDC 3.3.430(B)(3)(d) and shall be installed using methods and practices that minimize flood damage. Anchoring methods for manufactured homes 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). ~~If subject to 18 inches or more of flood water, or located in the floodway, manufactured homes, apart from manufactured homes in Mobile Home Parks and Subdivisions, shall be anchored to prevent flotation or lateral movement and the design shall be certified by an engineer or architect. Manufactured homes in an existing Mobile Home Park or Subdivision may use the ties to ground anchors and additional techniques specified above.~~

*Commentary: Minor revisions for consistency with model code language.*

(3) 2. —Construction Materials and Methods.

(a.) All new construction and substantial improvements shall be constructed with ~~approved~~ materials and utility equipment resistant to flood damage.

(b.) All new construction and substantial improvements shall be constructed using ~~approved~~ methods and practices that minimize flood damage.

*Commentary: Moves Subsection 2. c. to this Subsection. Renames 3. Utilities to (b) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems and makes it a subsection of (4)*

*Utilities to match model code layout. Under (a): adds duct systems, provides more specific requirements for how equipment must be designed and installed to resist flooding and more explicit requirements for where equipment must be elevated to. Requires equipment to meet these standards if replaced as part of a substantial improvement. Minor changes to wording in (b) to comply with required model code language.*

#### (4) Utilities and Equipment.

(a) Electrical, Mechanical, Plumbing, and Other Equipment. ~~e.~~ Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and air-conditioning equipment and other equipment and service facilities shall be ~~designed and/or otherwise~~ elevated at or above the base flood elevation or shall be designed and installed located 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. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this Section if replaced as part of a substantial improvement.

#### (b) ~~3.~~ Utilities Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.

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

(ii) 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; ~~and~~.

(iii) 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.

*Commentary: Adds Subsection with required language from model code. Subsection covers specific development standards for tanks including anchoring requirements. Adds a reference to the Springfield's locally adopted fire code.*

#### (5) Tanks.

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

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

(c) Above-ground and underground storage tanks, piping, pumps, and related equipment shall meet the requirements of the City of Springfield's locally adopted fire code.

*Commentary: Moves Subsection 3.3-420 B. 5. to this subsection to better align with new layout of Section 3.3.430 and makes minor updates to wording.*

~~(6)5.~~ Streets.

~~(a).~~ Adequate provisions ~~shall-must~~ be made for accessibility during a base flood to ensure ingress and egress for ordinary and emergency vehicles and services during potential future flooding.

~~(b).~~ No street or surface of any new street ~~shall-may~~ be at an elevation of less than ~~4 one~~ foot below the base flood height.

~~(7)4.~~ Subdivision Proposals.

*Commentary: Adds language to comply with model code layout and required language. This language is similar to the standard contained in 3.3-420 A. 4. f.*

(a) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data;

*Commentary: Changes formatting of a. and b. to match model code layout and wording of a.-c. to align with required model code language. Expands requirements to include other large developments, including manufactured dwelling parks.*

(b) b. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

(i)a. All subdivision proposals shall bBe consistent with the need to minimize flood damage;

(ii) hHave public utilities and facilities such as, including, but not limited to: sewer, gas, electrical and water systems located, constructed, and maintained to minimize or eliminate flood damage;

(iii)c. All subdivision proposals shall hHave adequate drainage provided to reduce exposure to flood hazards, damage; and

*Commentary: Minor wording changes to make terminology consistent with other Sections.*

(c)d. One hundred-yearBase flood elevation data ~~shall-must~~ be provided and shown on final and subdivision plats. The boundaries of the 100-yearbase flood and floodway ~~shall-must~~ be shown on the final subdivision plat;

(d)e. A permanent monument ~~shall-must~~ be established and maintained on land subdivided, showing the elevation in feet above mean sea level. The location of the monument ~~shall-must~~ be shown on the final partition map or subdivision plat;

*Commentary: Deleted to match model code. Language contained in Subsection (a) above.*

~~f.—Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be prepared by the applicant's engineer for~~

~~subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).~~

*Commentary: Subsection renamed to align with model code layout. Language added and deleted to comply with required model code language. Requires Base Flood Elevation to be determined for large-scale development in any A zone if there is not an established base flood elevation. Now requires development proposals within unnumbered A zones to be elevated a minimum of two feet if no base flood elevation data is available. Removes the exemption for manufactured homes in existing mobile home parks and subdivisions.*

**(8) 5. Review of Building Permits Use of Other Base Flood Data.**

(a) When ~~Where~~ base flood elevation data has not been provided in accordance with SDC 3.3.420(B) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer SDC 3.3.430. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of SDC 3.3.430(A)(7).

(b) Base Flood Elevations shall be determined for development proposals that are five 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 an unnumbered A zone shall be reasonably safe from flooding. ~~is not available either through the Flood Insurance Study or from another authoritative source, applications for Building Permits including those for manufactured home placement shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall include~~ without limitation the ~~but not be limited to the~~ use of historical data, high water marks, FEMA provided Base Level Engineering data, or photographs of past flooding, where available. When no base flood elevation data is available, the elevation requirement for development proposals within an unnumbered A zone is a minimum of two (2) feet above the highest adjacent grade to be reasonably safe from flooding. Failure to elevate at least 2 ~~two~~ feet above (the exterior) grade in these zones may result in higher insurance rates. ~~This requirement does not apply to manufactured homes in existing Mobile Home Parks and Subdivisions.~~

*Commentary: Adds language required by model code. Requires structures that are partially located in the floodplain to comply with the Floodplain Overlay District standards, and requires structures located in multiple flood zones to comply with the more restrictive requirements.*

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

(a) 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.

(b) 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.

*Commentary: Makes changes to wording to comply with required model code language.*

~~(B.)~~ Specific Standards. In all ~~areas of special flood hazard~~flood zones within the City and its urbanizable area ~~where base flood elevation data has been provided as specified in Sections 3.3-410A. and B. or 3.3-415B.4.,~~ the following ~~provisions are required:~~specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in SDC 3.3.430(A).

*Commentary: Adds required model code language. Some of these standards for flood openings were applied to residential construction in 3.3-420 B. 1. B. i.-iv.. The new required language applies flood opening standards more broadly to all development with fully enclosed areas below the lowest floor. Adds a higher standard that limits the storage of toxic materials in crawl space areas.*

(1) 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:

(a) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters.

(b) Be used solely for parking, storage, or building access; however, storage of toxic material, oil, gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality is not allowed unless confined to a tank installed in compliance with SDC 3.3.430(A)(5) and the City of Springfield's locally adopted fire code.

(c) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

(i) A minimum of two openings.

(ii) The total net area of non-engineered openings shall not be less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.

(iii) The bottom of all openings shall be no higher than one foot above grade.

(iv) 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.

(v) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

*Commentary: Adds required language from model code. Subsection covers specific development standards for garages. Allows attached garages to be constructed below base flood elevation as long as certain standards are met including that the garage is only used for*

*parking, building access, or storage. Clarifies that detached garages must follow standards for appurtenant structures as described in Section 3.3.430(B)(3)(f). Adds a higher standard that limits the storage of toxic materials in garages.*

**(2) Garages.**

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

**(i) If located within a floodway the proposed garage must comply with the requirements of SDC 3.3.430(B)(4).**

**(ii) The floors are at or above grade on not less than one side;**

**(iii) The garage is used solely for parking, building access, and/or storage; however, storage of toxic material, oil, gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality is not allowed unless elevated one foot above base flood elevation or confined to a tank installed in compliance with SDC 3.3.430(A)(5) and the City of Springfield's locally adopted fire code.**

**(iv) The garage is constructed with flood openings in compliance with SDC 3.3.430(B)(1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.**

**(v) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;**

**(vi) The garage is constructed in compliance with the standards in SDC 3.3.430(A); and**

**(vii) The garage is 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.**

**(b) Detached garages must be constructed in compliance with the standards for appurtenant structures in SDC 3.3.430(B)(3)(f) or non-residential structures in SDC 3.3.430(B)(3)(c) depending on the square footage of the garage.**

*Commentary: Adds required model code language and language recommended by DLCD.*

**(3) For Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in SDC 3.3.430(A) the following specific standards shall apply in special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE, and in other flood zones where Base Flood Elevations are available or required to be determined under Sections 3.3.430(7) and (8).**

*Commentary: Moves Section 3.3-420 D. to align with model code layout, renamed and language revised to comply with required model code language. Language now specifies zones in which the requirement applies and affirmatively prevents development in the floodplain unless the stated standard is met.*

~~(a)D. Encroachment. 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 that the cumulative effect of the any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 4-one foot at any point within the community.~~

*Commentary: Subsection moved from 3.3-420 B. 1. to align with the model code layout. Wording changes made to align with required model code language and to delete flood opening requirements which are now contained in 3.3.430(B)(1). Adds that conversion of a building to residential use must elevation requirements.*

**4.(b) Residential Construction. a.** New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 4-one foot above the Base Flood Elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in SDC 3.3.430(B)(1).

~~b. 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 shall either be certified by an engineer or architect or shall meet or exceed the following minimum criteria:~~

~~i. A minimum of 2 openings of equal size having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.~~

~~-~~

~~ii. The bottom of all openings shall be no higher than 1 foot above grade.~~

~~-~~

~~iii. Openings shall be located to allow unrestricted cross-flow of flood waters through the enclosed area from one side to the other.~~

~~-~~

~~iv. Openings may be equipped with screens, louvers, or other coverings or devices if certified by an engineer or architect, provided that they permit the automatic entry and exit of flood waters.~~

*Commentary: Subsection moved from 3.3-420 B. 2. and language revised to comply with model code layout and required language. Adds conversions nonresidential uses must comply with these standards. Adds requirement than certification be done by a registered professional.*

**(c)2. Non-residential Construction.**

**(i)a.** New construction, conversion to, and substantial improvement of any commercial, industrial or other nonresidential structure shall have ~~either~~ the lowest floor, including basement, elevated to ~~a level~~ at least 4-one foot above the

base flood elevation (BFE); ~~or Or~~ together with attendant utility and sanitary facilities ~~shall~~:

~~(aa)i-~~ Be flood-proofed to 4-one foot above the base flood elevationlevel, so that the structure is watertight with walls substantially impermeable to the passage of water;

~~(ba)ii-~~ Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

~~(ca)iii-~~ Be certified by a registered professionaln 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. The Such certifications shall be provided to the Floodplain Administrator as set forth in SDC 3.3.425(C)(2)Building Official as specified in Section 3-415B.6.b.

~~(ii)b-~~ Nonresidential structures that are elevated, not flood-proofed, shall ~~meet~~ comply with the ~~same~~ standards for enclosed areas below the lowest floor in SDC 3.3.430(B)(1). ~~space below the lowest floor as specified in Subsection B.1.b., above.~~

~~(iii)c-~~ Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are 4-one foot below the flood-proofed level (e.g., a building ~~constructed floodproofed~~ to the base flood elevationlevel will be rated as 4-one foot below ~~that level~~).

*Commentary: Subsection moved from 3.3-420 B. 3., renamed, and language revised to comply with model code layout and required language. Requirements remove the two different standards that were in place for elevation and replace with one standard for all manufactured dwellings regardless of location. Requirements change how elevation from base flood elevation is measured for manufactured dwellings from lowest floor to bottom of longitudinal chassis frame and electrical crossover. Adds anchoring requirements specific to manufactured dwellings to this Subsection. Some of this language was previously contained in 3.3-420 A. 1. Removes c. regarding Recreational Vehicles to its own subsection to match model code layout.*

**(d)3- Manufactured ~~Homes~~Dwellings.**

~~(i)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 SDC 3.3.420(B)(1);All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation where the lowest floor of the manufactured home is elevated to a height of 1 foot above the base flood elevation:

~~i. On sites outside of a manufactured home park or subdivision;~~

~~ii. On sites in a new manufactured home park or subdivision;~~

~~iii. On sites in an expansion to an existing manufactured home park or subdivision; and~~

~~iv. On sites within an existing manufactured home park or subdivision and upon which manufactured homes have incurred substantial damage as the result of flood.~~

(ii) The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation:

~~(iii)b. All m~~Manufactured homes 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 (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). ~~and on sites in an existing manufactured home park or subdivision within Zones A1-30, AH or AE that are not subject to the provisions of Subsection a., above shall be elevated so that:~~

~~i. The lowest floor of the manufactured home is at or above the base flood elevation, or~~

~~ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.~~

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

*Commentary: Creates new Subsection specific to recreational vehicles (RVs) to match model code layout. Language from 3.3-420 B. 3. c. moved and revised to comply with required language from model code. Changes further clarify what is considered temporary siting of an RV and requires that if an RV does not meet temporary siting requirements it must comply with the development standards for manufactured dwellings. Clarifies that RV's get a Floodplain Development Permit if not temporarily sited. Adds a higher standard for recreational vehicles in Recreational Vehicle Parks or Vehicle Storage.*

~~(e)e. Recreational Vehicles.~~ Recreational vehicles placed on sites are required to:  
within Zones A1-30, AH or AE shall:

~~(i).~~ Be on the site for fewer than 180 consecutive days, and

~~(ii) Band 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

~~(iii).~~ Satisfy Meet the review procedure requirements of Section SDC 3.3.430(B)(3)(d)-445, including the anchoring and elevation requirements for manufactured dwellings; and

(iv) Obtain a Floodplain Development Permit per SDC 3.3.425.

(v) Recreational Vehicle Parks and Recreational Vehicle Storage. Owners of a Recreational Vehicle Park and/or Recreational Vehicle Storage must enter into an agreement with the City stating that the Recreational Vehicle Park/Storage will be operated in compliance with the City's floodplain regulations; stipulate that prior to flood season the manager check to ensure that the recreational vehicles comply with the requirements above; and create an emergency plan that specifies how flood warnings will be received and how vehicles, trailers, and occupants will be safely evacuated in the event of a flood.

*Commentary: Adds Subsection with required language from model code. Subsection covers specific development standards for appurtenant structures. Requires certain development standards be met including limiting uses and size, requiring flood-resistant materials and design.*

(f) Appurtenant (Accessory) Structures. Relief from elevation or floodproofing requirements for residential and non-residential structures in flood zones may be granted for appurtenant structures that meet the following requirements:

(i) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in SDC 3.3.430(B)(4).

(ii) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

(iii) In compliance with FEMA's policy issued in 2021 for appurtenant (accessory) structures within special flood hazard areas, appurtenant structures are limited to one-story structures less than 600 square feet.

(iv) The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;

(v) The appurtenant structure must 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.

(vi) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in SDC 3.3.430(B)(1);

(vii) Appurtenant structures shall be located and constructed to have low damage potential;

(viii) 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 SDC 3.3.430(A)(5).

(ix) 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.

*Commentary: Makes changes to comply with required model code language. Adds Subsection clarifying conditions under which the City may permit encroachment in the floodway resulting in an increase in base flood elevation. Removes an existing exception which is not compliant with current requirements.*

~~(4)C.~~ Floodways. Located within ~~the areas of~~ special flood hazard area established in Section SDC 3.3.420(B)-410A. and B. are areas designated as floodways. Since the 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:

~~(a)1.~~ Encroachments, including fill, new construction, substantial improvements, and other development is prohibited within the adopted regulatory floodway unless:

~~(i) 1.~~ Certification by ~~a~~ registered professional civil engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge-; or

(ii) The City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, 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.

~~EXCEPTION: Manufactured homes as well as other structures already in the floodway may be replaced if they are located in the same site and are the same size without the certification.~~

~~(b)2.~~ If the requirements of Subsection SDC 3.3.430(B)(4)C.1., above are satisfied, all new construction, and substantial improvements, and other development shall comply with all other applicable ~~special~~ flood hazard reduction provisions of SDC Subsection 3.3.430-B., above.

~~(c)3.~~ Subdivision and partitioning of land for residential purposes is prohibited if land is located entirely within the floodway.

*Commentary: Adds Subsection with language from model code that is required if a community has any shallow flooding areas (designated as AH or AO) on their FEMA flood maps. Although Springfield does not currently have any areas designated as such, FEMA is updating the maps covering Springfield and may add AO or AH zones. Inclusion of this language allows the City to have provisions in place should FEMA designate areas of shallow flooding or should the City designate areas as such. Subsection covers specific development standards in areas of shallow flooding for development, including new construction, conversions, substantial improvements and RVs.*

(5) 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.

(a) Standards for AH Zones. Development within AH Zones must comply with the standards in SDC 3.3.430(A), SDC 3.3.430(B), and SDC 3.3.430(B)(5).

(b) Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirements in SDC 3.3.430(A) and SDC 3.3.430(B)(5):

(i) 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, at minimum 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.

(ii) New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

(aa) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum 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

(ba) 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 SDC 3.3.430(B)(3)(c)(i)(ca).

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

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

(ba) 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

(ca) Meet the elevation requirements of SDC 3.3.430(B)(5)(b)(i), and the anchoring and other requirements for manufactured dwellings of SDC 3.3.430(B)(3)(d).

(iv) In AO zones, new and substantially improved appurtenant structures must comply with the standards in SDC 3.3.430(B)(3)(f).

(v) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in SDC 3.3.430(B)(1).

*Commentary: Adds section with required model code language. Makes clear that a Floodplain Development Permit must be obtained before any development-related activity begins and describes the required elements of a permit application.*

### **3.3.435 Floodplain Development Permits**

(A) Floodplain Development Permit Required. A Floodplain Development Permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in SDC 3.3.420(B). The permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in SDC 3.3.415, including fill and other development activities.

(B) Application for Floodplain Development Permit. Application for a permit may be made on forms furnished by the Floodplain Administrator and includes plans drawn to scale showing the nature, location, dimensions, and elevations of the development area; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) In 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; in accordance with the requirements of SDC 3.3.425(C)(2).

(2) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

(3) 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 SDC 3.3.430(B)(3)(c).

(4) Description of the extent to which any watercourse will be altered or relocated.

(5) Base Flood Elevation data for subdivision proposals or other development when required per SDC 3.3.425(C)(1) and SDC 3.3.430(A)(7).

(6) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

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

*Commentary: Updates Section title to reflect model code layout and adds required model code language.*

**3.3.440 Variances**  
**~~3.3-430 Variance Procedures~~**

(A) The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

*Commentary: Makes minor wording changes to align with terminology to be used in the development code updates.*

(B)A. A Variance from the provisions of this Section, with respect to the provisions for special flood hazard reduction, ~~shall~~will be reviewed as a Type ~~III-procedure~~3 decision as specified in ~~Section-SDC~~SDC 5.1-135.

*Commentary: Adds required model code language covering the conditions under which the City may grant a variance. (2) and (3) were covered by 3.3-430 E. and F. and were moved here and reworded to match model code.*

(C) Conditions for Variance

(1) Generally, variances may be issued 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 elevation, in conformance with the provisions of SDC 3.3.440(C)(3) and SDC 3.3.440(C)(5), and SDC 3.3.440(D). 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.

*Commentary: Adds required model code language. 3.3-430 B. 1.-3. and 9.-10. are covered by required model code language (c), 4.-5. are added to (a) as examples of good and sufficient cause.*

(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; and

(c) A determination that the granting of a variance will not result in:

(i) Increased flood heights.

(ii) Additional threats to public safety (such as potential danger that materials may be swept onto other lands to the injury of others; potential danger to life and

property due to flooding, debris, or erosion damage; inability for emergency vehicles to safely access the property in times of flood).

(iii) Extraordinary public expense (such as the costs of providing government services during flood conditions including the maintenance and repair of public utilities and facilities including but not limited to sewer, gas, electrical, and water systems, and streets and bridges).

(iv) Create nuisances (based on expected heights, velocity, rate of rise, sediment, debris transported by the floodwaters and the effects of hydrodynamic forces, if applicable, expected at the site).

(v) Cause fraud on or victimization of the public, or

(vi) Conflict with existing laws or ordinances.

*Commentary: Adds required model code language. Allows the City to grant variances for new construction and substantial improvements if certain requirements are met.*

(5) Variances may be issued by the City for new construction and substantial improvements, and for other development necessary for the conduct of a functionally dependent use provided that the criteria of SDC 3.3.440(C)(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.

*Commentary: Adds required model code language. Requires the City to provide certain disclaimers when a variance is granted and keep records of variances granted.*

(D) 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. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with SDC 3.3.425(C)(2).

*Commentary: Deletes approval criteria. The criteria below are either removed or covered by (4)(a)-(c) of the above subsection as noted.*

~~**B.**—The Approval Authority shall consider all technical evaluations, all relevant factors and standards specified elsewhere in this Section. A Variance shall be granted if the proposal is determined by the Approval Authority to meet each of the following criteria:~~

~~1. —There is no potential danger that materials may be swept onto other lands to the injury of others;~~

~~-~~

~~2. —There is no potential danger to life and property due to flooding, debris or erosion damage;~~

~~3. —There is no significant susceptibility of the proposed facility and its contents to flood damage and the effect of that damage on the individual owner;~~

- ~~4. The facility necessitates a waterfront location, where applicable;~~
- ~~5. There are no other alternative locations for the proposed use, which are not subject to flooding or erosion damage;~~
- ~~6. The proposed use is compatible with existing and anticipated development;~~
- ~~7. The proposed use is consistent with the Metro Plan and Floodplain management program for that area;~~
- ~~8. There is adequate and safe access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~9. There has been adequate consideration of expected heights, velocity, duration, rate of rise, sediment, debris transported by the floodwaters and the effects of wave action, if applicable, expected at the site; and~~
- ~~10. There are no substantial costs of providing governmental services during or after flood conditions, including maintenance and repair of public utilities and facilities, including, but not limited to: sewer, gas, electrical and water systems, and streets and bridges.~~

*Commentary: Makes language changes to update the process to be used for recording a variance to ensure it aligns with Lane County practice and expands requirement for this to be done to include a variance of any kind.*

~~(E)C. Reasonable conditions may be established in connection with a Variance if necessary to comply with the purpose and requirements standards of this Section. If approved, n cases where a Variance is granted to allow residential construction with a lowest floor elevation below the required minimum elevation, or nonresidential flood proofing below the required minimum elevation, the applicant shall must record a deed covenant that notice of variance with Lane County Deeds and Records, the cost of flood insurance will be commensurable with the increased risk resulting from the reduced floor elevation flood proofing.~~

*Commentary: Deletes language which is covered by the required definition for Substantial Improvement in Section 3.3.415(34)(b).*

~~D. Variances may be issued for the reconsideration, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to procedures specified in the remainder of this Section.~~

*Commentary: Deletes language which is covered by required model code language in Section 3.3.440 (C)(2)-(3).*

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

~~F. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the special flood hazard, to afford relief.~~

*Commentary: Creates new Section combining 3.3-440 and 3.3-445 and making language edits to comply with required model code language.*

### **3.3.445-440- Periodic Floodplain Inspections, and Enforcement of Requirements and Penalties**

*Commentary: Updates to clarify departments and roles responsible for floodplain inspection, updates name of required permit, removes language that does not align with City practice.*

(A) Field staff from the Development Services Department and/or the Public Works Department shall will make periodic inspections of floodplain areas both within the city limits and outside the city limits, but within the City's urban services area UGB to establish that any activity involving the fill and/or removal of materials within the floodplain is being performed in compliance with an approved Floodplain Development Permit Land and Drainage Alteration Permit. The staff shall prepare a field report listing non-complying conditions to be delivered to the Director. Upon receipt of the a report listing non-complying conditions, the Floodplain Administrator Director shall will proceed with enforcement actions including, but not limited to: the issuance of a Stop Work Order; the issuance of a citation; and the commencement of civil legal proceedings.

### **3.3-445 Land and Drainage Alteration Permits—Enforcement of Requirements and Penalties**

*Commentary: Adds required model code language stating requirement to comply with the requirements of the Floodplain Overlay District and clearly stating the consequences of a violation.*

(B) All development within special flood hazard areas is subject to the terms of this Section and required to comply with its provisions and all other applicable regulations.

(C) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations. Violations of the provisions of this Section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction subject to the applicable procedures and penalties for abatement and civil infractions in the Springfield Municipal Code (SMC). Nothing contained herein shall prevent the City of Springfield from taking such other lawful action as is necessary to prevent or remedy any violation, nor preclude the City from using any other remedies available by law.

*Commentary: Updates language to comply with required model code language and relevant enforcement procedures within the City. Updates name of permit required to reflect that the Floodplain Development Permit is the permit required in the floodplain.*

**A. Within Springfield's city limits:**

**(1) Within City limits. 4.E** enforcement of the provisions of this Section is through commencement of civil legal proceedings the applicable procedures for abatement and civil infractions as provided in the Springfield Municipal Code. Violation of the

~~provisions of this Section including the failure to obtain a Land and Drainage Alteration Permit and the failure to comply with the requirements of a Land and Drainage Alteration Permit shall be punished by a fine not exceeding \$250.00 or imprisonment, not exceeding 100 days, or both fine and imprisonment. Every day of the violation shall constitute a separate offense.~~

~~(2).~~ Within the UGB (including within City limits). Enforcement of the provisions of this Section may also be through commencement of legal proceedings in Lane County Circuit Court. Upon determination that a violation has occurred, the court may:

~~(a).~~ Require the person responsible and/or the property owner to cease the violation of the provisions of this Section and bring the property into conformance with this Section;

~~(b).~~ Require the person responsible and/or the property owner to take action to return the property to its original condition action before any work initiated without a Floodplain Development ~~Land and Drainage Alteration~~ Permit;

~~(c).~~ If the person responsible and/or the property owner does not return the property to its original condition within the prescribed time period, authorize the City to take whatever action is necessary to return the property to its original condition prior to the initiation of any work without a ~~Land and Drainage Alteration Permit~~ Floodplain Development Permit, or otherwise bring the property into conformance with the provisions of this Section;

~~(d).~~ Authorize the City to charge the costs for restoring the property to its original condition or for bringing the property into conformance with the provisions of this Section either against the property itself, the person responsible, or the property owner; and/or

~~(e).~~ Order the person responsible and/or the property owner to pay to the City its attorney fees and costs incurred in pursuing its civil legal remedies.

*Commentary: Delete language that is not applicable to enforcement of a Floodplain Development Permit. Existing code does not clearly explain the difference between a Floodplain Development Permit (which is required by the Development Code) and Land Drainage and Alteration Permit (which is required by the Municipal Code). Updated language in this Section 3.3.445 focuses on enforcement provisions for the Floodplain Development Permit which is within the City's jurisdiction to enforce, even outside of city limits.*

~~3. Enforcement of the provisions of this Section may also be through the use of nuisance abatement procedures of Sections 5.000 to 5.018 of the Springfield Municipal Code, 1997.~~

~~B. Beyond Springfield's city limits but within Springfield's urban services area. Enforcement of the provisions of this Section may also be through commencement of legal proceedings in Lane County Circuit Court. Upon determination that a violation has occurred, the court may:~~

~~1. Require the person responsible and/or the property owner to cease the violation of the provisions of this Section and bring the property into conformance with this Section;~~

~~2. Require the person responsible and/or the property owner to take action to return the property to its original condition before any work initiated without a Land and Drainage Alteration Permit;~~

~~3. If the person responsible and/or the property owner does not return the property to its original condition within the prescribed time period, authorize the City to take whatever action is necessary to return the property to its original condition prior to the initiation of any work without a Land and Drainage Alteration Permit, or otherwise bring the property into conformance with the provisions of this Section;~~

~~4. Authorize the City to charge the costs for restoring the property to its original condition or for bringing the property into conformance with the provisions of this Section either against the property itself, the person responsible, or the property owner; and/or~~

~~5. Order the person responsible and/or the property owner to pay to the City its attorney fees and costs incurred in pursuing its civil legal remedies.~~

*Commentary: This Subsection was deleted from 3.3-420 Development Standards B. 4.. The model code does not have any requirements specific to foundations as that is covered by Section 3.3.430 (B)(3)(d) and the Building Code.*

~~4. Foundations. Foundations for all new construction, substantial improvements and manufactured homes subject to 18 inches or less of flood water during a 100-year flood shall be as specified in the Springfield Building Safety Codes. Foundations for all new construction, substantial improvements and manufactured homes not in a Mobile Home Park or Subdivision subject to 18 inches or more of flood water during a 100-year flood or located within a designated floodway shall be certified by an engineer to meet the following foundation requirements:~~

~~a. Concrete footings sized for 1000 psf soil pressure unless data to substantiate the use of higher values are submitted;~~

~~b. Footings shall extend not less than 18 inches below the undisturbed natural grade or engineered fill and in no case less than the frost line depth; and~~

~~c. Reinforced concrete, reinforced masonry, or other suitably designed supporting systems to resist all vertical and lateral loads which may reasonably occur independently or combined.~~

*Commentary: This section was removed from the Floodplain Overlay District Section. SDC 5.1-110 B. covers emergency situations within the City.*

### **~~3.3-425 Emergency Approval~~**

~~Where there is an emergency, the Director may issue development approval, including a Land and Drainage Alteration Permit either orally or in writing:~~

~~A. If issued orally, written approval shall follow within 5 days setting forth the conditions of operation.~~

~~B. Emergency approval may be issued to protect existing shorelines or structures under immediate threat by flood or storm waters or for the prevention of channel changes that threaten immediate and significant loss of property.~~

~~C. A representative of the City may inspect the project site to verify that an emergency condition exists and that the emergency action will not adversely impact water resources.~~

~~D. Emergency approval shall be in effect for the time required to complete the authorized emergency action and shall not exceed 60 days.~~

~~E. Any emergency approval shall be circulated for public information within 10 days of issuance.~~

## Legislative Version of Amendments to the Springfield Development Code Section 6.1-110 Meaning of Specific Words and Terms to Remove Language Specific to Section 3.3.400 Floodplain Overlay District

### AMENDMENTS

The amendments to the section are shown in legislative format (deleted text with strike-thru red font). Only definitions that are changed or deleted are shown below. Commentary is show in purple italics font. Commentary is provided for explanatory purposes and is not adopted as code.

*Commentary: The changes to the definitions in this chapter remove any of the specific language related to the floodplain. They also remove words that are only used in the Floodplain Overlay District Section. The required definitions for the Floodplain Overlay District are contained in the proposed amendments to Section 3.3-415 as shown above.*

**Building.** Any structure used or intended for sheltering any use or occupancy. ~~As used in Section 3.3-400 Floodplain Overlay District, the terms “building” and “structure” are synonymous, and are framed, erected, constructed or placed to stand temporarily or permanently on a tract of land. This definition specifically includes a mobile home, manufactured home and any accessories, and gas or liquid storage tanks principally above ground.~~

**Building Official.** The person responsible for the administration and enforcement of the Building Safety Codes; ~~the duly authorized representative of the Director responsible, in consultation with the City Engineer, for the interpretation of Section 3.3-400 Floodplain Overlay District.~~

**Development.** Any human-made change to improved or unimproved real estate, including, but not limited to, a change in use; construction, installation or change of a structure; subdivision and partition; establishment or termination of a right of access; storage of materials, equipment or vehicles on the land; drilling and site alteration due to land surface mining, filling, grading, dredging, paving, excavation or clearing of trees and vegetation. Agricultural uses (including agricultural structures), when otherwise permitted by the base zoning district, are exempt from this definition. ~~unless agricultural structures are placed within adopted special flood hazard zones. As used in Section 3.3-400, Floodplain Overlay District, any human-made change to improved or unimproved real estate located within the area of special flood hazard, including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. As used in Section 3.4-280C., any activity within the Glenwood Riverfront portion of the Willamette Greenway Overlay District that would alter the elevation of the land; remove or destroy plant life; cause structures of any kind to be installed, erected, or removed; or result in a measurable change of any kind.~~

**Flood/Flooding.** ~~A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of run-off of surface waters from any source.~~

**Flood, Base.** 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.

**Flood Hazard, Area of Special.** The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

**Flood Insurance Rate Map (FIRM).** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the applicable risk premium zones.

**Flood Insurance Study.** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

**Flooding, Area of Shallow.** A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and intermediate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that is reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Lowest Floor.** 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 the enclosure is not built to render the structure in violation of the applicable non-elevation design requirements.

**Structure.** Anything constructed or built, any edifice or building or any kind or any piece of work artificially built up or composed of parts joined together in some definite manner. ~~As used in Section 3.3-400, Floodplain Overlay District, a walled or roofed building including a gas or liquid storage tank that is principally above ground.~~