

ORDINANCE NO. 24-739-O

AN ORDINANCE SUSPENDING PROCESSING AND ISSUANCE OF FLOODPLAIN DEVELOPMENT PERMITS FOR A PERIOD OF 180 DAYS; DECLARING AN EMERGENCY; EFFECTIVE DECEMBER 1, 2024.

WHEREAS, on April 4, 2016, the National Marine Fisheries Services (NMFS) issued a Biological Opinion that found the National Flood Insurance Program (NFIP) jeopardized the existence of 16 anadromous fish species and the Southern Resident Killer Whale; and

WHEREAS, in 2021, the Federal Emergency Management Agency (FEMA) issued a draft implementation plan designed to incorporate Endangered Species Act protections into the NFIP; and

WHEREAS, FEMA initiated the National Environmental Policy Act (NEPA) review process in 2023 with an understanding that local jurisdictions would not need to implement the policies from the NMFS Biological Opinion until the review was completed and the final Environmental Impact Statement was issued; and

WHEREAS, on July 15, 2024, FEMA notified the City of Columbia City of the requirement to select and apply a Pre-Compliance Implementation Measure (PICM) to all floodplain development which would necessitate revisions to the City's flood hazard management ordinance codified in Chapter 7.75 Flood Hazard Overlay of the Columbia City Development Code; and

WHEREAS, FEMA has mandated that the PICM be implemented by December 1, 2024; and

WHEREAS, FEMA has failed to provide local jurisdictions with timely information and technical support needed to choose and implement a PICM. FEMA did not release the Model Ordinance and Habitat Assessment Guide until August 14, 2024, giving staff little time to research and review all of the available information for each individual PICM to make an informed recommendation to the Council; and

WHEREAS, the City of Columbia City cannot enforce any of the PICM requirements until the City's Flood Damage Prevention Ordinance is amended or the City Council passes an ordinance entering into a floodplain development moratorium; and

WHEREAS, the City of Columbia City is unable to comply with the FEMA deadline due to the requirements of the Oregon Statewide Land Use Planning system, which stipulates specific public notice requirements and adoption procedures; and

WHEREAS, failure to comply with FEMA requirements may result in the City of Columbia City being removed from the National Flood Insurance Program; and

WHEREAS, during this time the Council desires to temporarily suspend the processing of floodplain development permits as set forth in this ordinance until sufficient information is provided to enable the City to choose a PICM and fully understand how to implement the PICM, and until amendments to the Flood Damage Prevention Ordinance have been adopted; and

WHEREAS, the proposed suspension of floodplain development permitting would apply to all areas under the jurisdiction of the City of Columbia City that are within the SFHA identified on adopted FEMA Flood Insurance Rate Maps; and

WHEREAS, pursuant to ORS 197.520(3)(a) for urban or urbanized land, the City Council finds:

1. That application of existing development ordinances or regulations and other applicable laws are inadequate to prevent irrevocable public harm from continued issuance of floodplain development permits until the City has chosen and implemented a PICM;
2. The City's current floodplain development regulations do not sufficiently protect the species listed under the NMFS Biological Opinion. Issuing additional development permits under these inadequate regulations poses a risk of irrevocable harm to these species;
3. The City's existing regulations as of December 1, 2024, will no longer comply with the requirements of the NFIP, thereby jeopardizing the ability of property owners to obtain flood insurance and rendering the City potentially ineligible for federal emergency assistance should the need arise;
4. The City is unable to implement two of the three PICMs required by FEMA's new guidelines effective December 1, 2024, under its current ordinances. Imposing the moratorium ensures compliance with FEMA's PICM requirements, while the City develops and adopts permanent measures that will be in alignment with federal and state law.
5. Due to the compressed timeframe established by FEMA and limited information and technical assistance supplied to local jurisdictions by FEMA, and due to the state-mandated requirements for public notice and process for adopting Post Acknowledgment Plan Amendments, it is not possible to amend the City's codes to implement a PICM before the December 1, 2024, deadline;
6. As of December 1, 2024, the City's regulations will no longer meet the NFIP requirements. Without compliance, local property owners may lose access to

federally-backed flood insurance, and the City will be ineligible for federal disaster aid. While this moratorium may temporarily impact housing and economic development within the SFHA, many properties are already subject to other significant development constraints, such as wetlands, estuary setbacks, and geological hazard zones.

7. The moratorium would apply only to properties located within the Special Flood Hazard Area identified on adopted FEMA Flood Insurance Rate Maps and will not affect any properties outside of this affected geographical area; and
8. The City's staff is preparing amendments to the Flood Damage Prevention Ordinance, which will address the necessary FEMA PICM requirements and bring Columbia City into compliance with the NFIP. A work plan and schedule have been developed to facilitate ordinance adoption before the moratorium expires.

NOW, THEREFORE, the City of Columbia City ordains as follows:

SECTION 1. SUSPENSION OF FLOODPLAIN DEVELOPMENT PERMIT PROCESSING AND ISSUANCE

1. The City of Columbia City Planning Commission, shall temporarily suspend the acceptance, processing, and issuance of floodplain development permits, except as noted below.
2. The following activities are exempted from this temporary suspension:
 - a. Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;
 - b. Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include the expansion of paved areas.
 - c. Routine maintenance of landscaping that does not involve grading, excavation, or filling;
 - d. Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;

- e. Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;
- f. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;
- g. Normal maintenance of above-ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;
- h. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.
- i. Habitat restoration activities.

SECTION 2. SEPARABILITY

The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. CONFORMANCE OF STATE LAW

This Ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the state of Oregon, or its agencies, or any ordinance, rule, or regulation of the City of Columbia City.

SECTION 4. INCONSISTENT PROVISIONS

This Ordinance shall supersede, control, and repeal any inconsistent provision of any County Ordinance as amended or any other regulations made by the City of Columbia City.

SECTION 5. APPLICABILITY

This Ordinance shall apply to all areas under the jurisdiction of the City of Columbia City.

SECTION 6. EMERGENCY

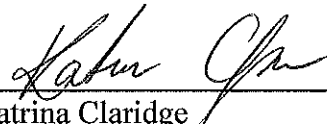
Time is of the essence to avoid noncompliance with the enforcement requirements of the National Flood Insurance Program (NFIP), which becomes effective May 31, 2025. Noncompliance places the residents of the City of Columbia City at risk of losing flood

insurance and may result in the City being ineligible for emergency relief funds. Therefore, an emergency is declared to exist and this Ordinance will take effect on December 1, 2024, and terminate on May 30, 2025, pursuant to Chapter IV, Section 17 of the Columbia City Charter effective July 1, 2014, unless further extended or terminated by action of the Council or replaced with amendments to the City's ordinances.

ADOPTED by the City Council of the City of Columbia City on this 21st day of November, 2024, by the following roll call vote:

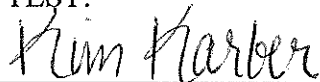
AYES: 5 NAYS: 0 ABSENT: 0 ABSTAIN: 0

SUBMITTED to and **APPROVED** by the Mayor on this 22nd day of November, 2024.



Katrina Claridge
Mayor

ATTEST:



Kim Karber
City Administrator/Recorder

Effective date: December 1, 2024