

ORDINANCE No. 177689

*Amend Title 33 to allow the City to use the most current Federal Emergency Management Agency flood maps (Ordinance; amend Title 33)

The City of Portland ordains:

Section 1: The Council finds:

General Findings

1. The City of Portland began working with the Army Corps of Engineers and the Federal Emergency Management Agency (FEMA) in August 1998 to update the flood maps for Johnson Creek and Crystal Springs. The remapping for the Johnson Creek portion was adopted by FEMA in December 2000 and was revised in December 2001. FEMA estimates that the Crystal Springs portion will be adopted in 2004.
2. Portland *Zoning Code*, Title 33, Chapter 537, Johnson Creek Basin Plan District, has special floodplain regulations for properties in the Johnson Creek Flood Plain subdistrict. The boundaries of the subdistrict are based on the old FEMA 100-year floodplain boundaries. There are approximately 928 tax lots no longer in the 100-year floodplain and approximately 39 tax lots that are newly included in the updated 100-year floodplain.
3. *Oregon Revised Statutes (ORS) 197.640* requires cities and counties to review their comprehensive plans and land use regulations periodically and make necessary changes to keep plans and regulations up-to-date and in compliance with Statewide Planning Goals and State laws. Portland is also required to coordinate its review and update of the *Comprehensive Plan* and land use regulations with State plans and programs.
4. The proposals of the *Johnson Creek Floodplain Zoning Code Maintenance* project will allow the City, now and in the future, to use the most current FEMA maps to regulate the floodplain in *Zoning Code*, Chapter 537, Johnson Creek Basin Plan District.
5. Code maintenance projects typically consist of technical amendments intended to improve the clarity and structure of the *Zoning Code* in order to improve its administration, without changing existing land use policy or intent. The *Johnson Creek Floodplain Zoning Code Maintenance* project will not change the content of the floodplain regulations or how they are applied to sites in the Johnson Creek Basin Plan District.
6. The proposals of the *Johnson Creek Floodplain Zoning Code Maintenance* project will amend Chapter 33.631, Sites in Flood Hazard Areas, Map 631-1, to reflect the most current FEMA 100-year floodplain boundaries for the Johnson Creek watershed.

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7. On June 10, 2003, the Planning Commission held a public hearing on the proposed *Johnson Creek Floodplain Zoning Code Maintenance* report. The Planning Commission unanimously voted to recommend that City Council adopt the proposed *Johnson Creek Floodplain Zoning Code Maintenance* report.
8. The *Johnson Creek Floodplain Zoning Code Maintenance* provisions implement, or are consistent with, the Statewide Planning Goals, the Oregon *Transportation Planning Rule*, the Metro *Urban Growth Management Functional Plan*, and the Portland *Comprehensive Plan*.
9. It is in the public interest to implement the amendments of the *Johnson Creek Floodplain Zoning Code Maintenance* project as soon as possible to ensure that the proper floodplain regulations will be applied to the 967 tax lots whose floodplain status has changed as a result of the updated FEMA flood maps.

Statewide Planning Goals Findings

10. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because of the limited scope of the amendments in this ordinance, only the state goals addressed below apply.
11. **Goal 1, Citizen Involvement**, requires opportunities for citizens to be involved in all phases of the planning process. The preparation of the *Johnson Creek Floodplain Zoning Code Maintenance* project, as well as the earlier floodplain remapping project, provided opportunities for public involvement. Portland *Comprehensive Plan* findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal.
 - a) The Portland Bureau of Environmental Services (BES) and/or the Federal Emergency Management Agency (FEMA) hosted the following public meetings as part of the Johnson Creek floodplain remapping project.
 - On October 29, 1998, approximately 85 people attended the first public meeting on the Johnson Creek floodplain remapping project.
 - On February 3, 1999, a public meeting addressing the Crystal Springs portion of the Johnson Creek floodplain remapping was held.
 - On October 21, 1999, FEMA presented the draft Johnson Creek floodplain maps at a public hearing attended by over 100 people.
 - On November 15, 2000, FEMA hosted a meeting to present the proposed floodplain maps and announce the beginning of the official public comment period. Over a hundred people attended this public meeting.
 - On March 27, 2001, the draft floodplain maps for Crystal Springs were presented at a public meeting.

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- On August 29, 2002, FEMA hosted a meeting to present the proposed floodplain maps for Crystal Springs and announce the beginning of the official public comment period.
- b) On January 19, 2001, the Portland Bureau of Environmental Services sent letters and maps to owners of properties whose floodplain status had changed as a result of the December 2000 FEMA flood map update. On March 5, 2002, BES sent letters and maps to owners of properties whose floodplain status had changed as a result of the December 2001 update. The floodplain status of approximately 967 tax lots was affected as a result of the FEMA flood map updates.
- c) The public review draft of the *Johnson Creek Floodplain Zoning Code Maintenance* project was available to the public on April 16, 2003. A notice announcing the availability of the public review draft and upcoming community meetings was sent on April 8, 2003. The notice was sent to all property owners within the Johnson Creek 100-year floodplain, all property owners whose property had been removed from the 100-year floodplain, interested persons, and the Bureau of Planning's legislative mailing list. A total of 2,327 notices were sent.
- d) There were two community meetings held to present the proposals of the public review draft of the *Johnson Creek Floodplain Zoning Code Maintenance* project. These meetings were held on April 16 and April 23, 2003, with a total attendance of approximately 25 people.
- e) The proposed *Johnson Creek Floodplain Zoning Code Maintenance*, report and recommendations to the Planning Commission was available to the public on May 19, 2003. Copies were available from the Bureau of Planning.
- f) Notice of the June 10, 2003 Planning Commission public hearing and the availability of the proposed report and recommendations to the Planning Commission were sent on May 9, 2003, to property owners and persons on the project's interested persons list. A total of 488 notices was sent.
- g) Notice of the proposed plan amendments was also sent to the Oregon Department of Land Conservation and Development (DLCD) 45 days prior to the hearing.
- h) The Planning Commission public hearing was held on June 10, 2003, providing opportunity for citizens to testify on the proposed *Johnson Creek Floodplain Zoning Code Maintenance* report.
- i) On June 24, 2003, notice of the City Council public hearing was mailed to those who presented oral and written testimony at the Planning Commission public hearing, persons on the project mailing list, and the Johnson Creek Floodplain Zoning Code Maintenance Technical Advisory Committee. A total of 37 notices was sent.

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- j) The recommended *Johnson Creek Floodplain Zoning Code Maintenance* report was available to the public on May 24, 2003. Copies were available from the Bureau of Planning.
- k) On July 9, 2003, City Council held a public hearing and received public testimony on the recommended *Johnson Creek Floodplain Zoning Code Maintenance* report.
12. **Goal 2, Land Use Planning**, requires the development of a process and policy framework which acts as a basis for all land use decisions and ensures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because they clarify existing language in Title 33, Planning and Zoning, and improve the implementation of the floodplain standards in the Johnson Creek 100-year floodplain by allowing the City to use the most current FEMA floodplain maps. Goal 1, Metropolitan Coordination, and its related policies and objectives also support this goal.
13. **Goal 3, Agricultural Lands**, requires the preservation and maintenance of the State's agricultural land, generally located outside of urban areas. The amendments do not affect the use of agricultural land so they are not applicable to this goal.
14. **Goal 4, Forest Lands**, requires the preservation and maintenance of the State's forest lands, generally located outside of urban areas. The amendments do not affect the use of forest lands, so they are not applicable to this goal.
15. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the open space, scenic and historic areas, and natural resources. The *Johnson Creek Floodplain Zoning Code Maintenance* amendments enhance the City's floodplain regulations by allowing the City, now and in the future, to use the most current FEMA floodplain maps to regulate property in the Johnson Creek 100-year floodplain. The City's floodplain regulations work together to provide safe development in, and adjacent to, the floodplain; protect against the loss of property; and improve the overall health of the watershed.
16. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality. The amendments are limited to word and structural changes that improve the clarity and implementation of existing floodplain regulations. The amendments of the *Johnson Creek Floodplain Zoning Code Maintenance* project ensures that the proper floodplain regulations will be applied to the 967 tax lots whose floodplain status has changed as a result of the updated FEMA flood maps. *Portland Comprehensive Plan* findings on Goal 8, Environment, and its related policies and objectives also support this goal.

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17. **Goal 7, Areas Subject to Natural Disasters and Hazards**, requires the protection of life and property from natural disasters and hazards. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to areas subject to natural disasters and hazards. The *Johnson Creek Floodplain Zoning Code Maintenance* amendments enhance the City's floodplain regulations by allowing the City, now and in the future, to use the most current FEMA floodplain maps to regulate property in the Johnson Creek 100-year floodplain. The City's floodplain regulations work together to provide safe development in, and adjacent to, the floodplain; protect against the loss of property; and improve the overall health of the watershed.
18. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs.
19. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to economic development. The *Johnson Creek Floodplain Zoning Code Maintenance* amendments support economic development by allowing properties that are no longer in the floodplain to develop their site without being subject to the floodplain regulations. For some sites the floodplain regulations may restrict development opportunities. Portland *Comprehensive Plan* findings on Goal 5, Economic Development, and its related policies and objectives also support this goal.
20. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing. The *Johnson Creek Floodplain Zoning Code Maintenance* amendments support housing development by allowing properties that are no longer in the floodplain to develop their site without being subject to the floodplain regulations. For some sites the floodplain regulations reduce residential potential. Portland *Comprehensive Plan* findings on Goal 4, Housing, and its related policies and objectives also support this goal.
21. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to public facilities and services. The *Johnson Creek Floodplain Zoning Code Maintenance* amendments ensure that the proper floodplain regulations will be applied to the 967 tax lots whose floodplain status has changed as a result of the updated FEMA flood maps. Portland *Comprehensive Plan* findings on Goal 11A and related policies and objectives also support this goal.
22. **Goal 12, Transportation**, requires provision of a safe, convenient and economic transportation system. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to transportation.

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23. **Goal 13, Energy Conservation**, requires development of a land use pattern that maximizes the conservation of energy based on sound economic principles. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to energy conservation.
24. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to urbanization.
25. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway.
26. **Goals 16, 17, 18, and 19 deal with Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources**, respectively, and are not applicable to Portland, as none of these resources is present within the City limits.

Metro Urban Growth Management Functional Plan Findings

27. State planning statutes require cities and counties within the Metropolitan Service District boundary to amend their comprehensive plans and land use regulations in compliance with provisions of the Metro *Urban Growth Management Functional Plan* (UGMFP).
28. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the urban growth boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1.
29. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. The amendments do not change policy or intent of existing regulations relating to the regional requirements for parking, and therefore, do not affect the City's ability to meet Title 2.

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30. **Title 3, Water Quality and Flood Management Conservation**, calls for the protection of the beneficial uses and functional values of resources within Metro-defined water quality and flood management areas by limiting or mitigating the impact of development in these areas. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation. The amendments allow the City to use the most current FEMA flood maps to regulate the 100-year floodplain in the Johnson Creek watershed. The City's floodplain regulations work together to provide safe development in, and adjacent to, the floodplain; protect against the loss of property; and improve the overall health of the watershed.
31. **Title 4, Retail in Employment and Industrial Areas**, calls for retail development that supports employment and industrial areas, and that does not serve a larger market area. The amendments are consistent with this title because they do not change policy or intent of existing regulations relating to retail in employment and industrial areas.
32. **Title 5, Neighbor Cities and Rural Reserves**, defines Metro's policy regarding areas outside of the urban growth boundary. The amendments are not inconsistent with this Title because they do not change policy or intent of existing regulations relating to neighbor cities and rural reserves.
33. **Title 6, Regional Accessibility**, recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the *2040 Growth Concept*. The amendments are not inconsistent with this Title because they do not change policy or intent of existing regulations relating to regional accessibility.
34. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. The amendments are not inconsistent with this Title because they do not change policy or intent of existing regulations relating to the development of affordable housing.
35. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are not inconsistent with this Title because they do not change policy or intent of existing regulations relating to compliance.

Portland Comprehensive Plan Goals and Policies

36. The Portland *Comprehensive Plan* was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) on May 1, 1981. On January 25, 2000, the Department of Land Conservation and Development issued a determination of satisfactory completion of periodic review (Order # 001132) reaffirming the plan's compliance with the Statewide Planning Goals.

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37. **Goal 1, Metropolitan Coordination**, calls for the *Comprehensive Plan* to be coordinated with federal and state law and to support regional goals, objectives and plans. Coordination with state and regional planning efforts has been undertaken with the development of the proposed amendments. *The Johnson Creek Floodplain Zoning Code Maintenance* proposals were developed with the review of representatives from city, regional, and state agencies, ensuring consistency with applicable local, regional, and state plans.
38. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to urban development. *The Johnson Creek Floodplain Zoning Code Maintenance* amendments support housing and employment development by allowing properties that are no longer in the floodplain to develop their site without being subject to the floodplain regulations. For some sites the floodplain regulations reduce residential and employment opportunities.
39. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing. *The Johnson Creek Floodplain Zoning Code Maintenance* amendments support housing development by allowing properties that are no longer in the floodplain to develop their site without being subject to the floodplain regulations. For some sites the floodplain regulations reduce residential potential.
40. **Goal 5, Economic Development**, calls for promoting a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to economic development. *The Johnson Creek Floodplain Zoning Code Maintenance* amendments support economic development by allowing properties that are no longer in the floodplain to develop their site without being subject to the floodplain regulations. For some sites the floodplain regulations may restrict development opportunities.
41. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the environment. *The Johnson Creek Floodplain Zoning Code Maintenance* amendments enhance the City's floodplain regulations by allowing the City, now and in the future, to use the most current FEMA floodplain maps to regulate property in the Johnson Creek 100-year floodplain. The City's floodplain regulations work together to provide safe development in, and adjacent to, the floodplain; protect against the loss of property; and improve the overall health of the watershed.

42. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. See findings for State Planning Goal 1.
43. **Goal 10, Plan Review and Administration**, requires that Portland's *Comprehensive Plan* undergo a periodic review. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to plan review and administration.
- a) **Policy 10.6, Amendments to the Comprehensive Plan Goals, Policies, and Implementing Measures**, requires that all proposed amendments to the *Comprehensive Plan* goals, policies, and implementing ordinances be reviewed by the Planning Commission prior to action by the City Council. The amendments support this policy because *Johnson Creek Floodplain Zoning Code Maintenance* proposals were reviewed by the Planning Commission at a public hearing on June 10, 2003, prior to City Council action.
- b) **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires that amendments to the zoning and subdivision should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. The amendments support this policy because they are limited to word and structural changes that improve the clarity and implementation of the existing floodplain regulations. The amendments of the *Johnson Creek Floodplain Zoning Code Maintenance* project ensures that the proper floodplain regulations will be applied, now and in the future, when there are updates to the FEMA flood maps.
44. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal. Service bureaus have reviewed the plan and have not indicated that services would be inadequate.
45. **Goal 11 C, Sanitary and Stormwater Facilities**, calls for an efficient, adequate, and self-supporting wastewater collection treatment and disposal system that will meet the needs of the public and comply with federal, state and local clean water requirements. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to sanitary and stormwater facilities.
- a) **Policy 11.26, Impervious Surfaces**, calls for, when necessary, limiting the increase of Portland's impervious surfaces without unduly limiting development in accordance with the *Comprehensive Plan*. The amendments are consistent with this policy because they do not change policy or intent of existing regulations to limit impervious surfaces.

46. The following goals do not apply because of the limited scope of these amendments: **Goal 3, Neighborhoods; Goal 6, Transportation; Goal 7, Energy; Goal 11 B, Public Rights-of-Way; Goal 11 D, Solid Waste; Goal 11 E, Water Service; Goal 11 F, Parks and Recreation; Goal 11 G, Fire; Goal 11 H, Police; Goal 11 I, Schools; and Goal 12, Urban Design.**

NOW, THEREFORE, the Council directs:

- a. Adopt the Planning Commission's recommended *Johnson Creek Floodplain Zoning Code Maintenance* report, dated June 2003, attached to and incorporated in this ordinance as Exhibit A;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, the Planning Commission's recommended *Johnson Creek Floodplain Zoning Code Maintenance* report, dated June 2003; and
- c. Adopt as legislative intent and as further findings the introduction and commentary in Exhibit A, the Planning Commission's recommended *Johnson Creek Floodplain Zoning Code Maintenance* report, dated June 2003.

Section 2: The Council declares that an emergency exists because since December of 2001 when FEMA adopted the updated floodplain maps for Johnson Creek there are 928 tax lots no longer in the 100-year floodplain that have continued to be subject to Johnson Creek Basin Plan District floodplain regulations. Some of these affected properties have not begun development plans due to the regulations of the floodplain; therefore this ordinance shall be in full force and effect 10 days after adoption by the City Council to allow property owners with proposed projects to take advantage of this year's building season.

Passed by the Council, JUL 09 2003

Mayor Vera Katz
Julia Gisler
June 25, 2003

GARY BLACKMER
Auditor of the City of Portland
By 
Deputy