



## Agenda Report

23-138

Agenda Date: 5/9/2023

### REPORT TO COUNCIL

#### SUBJECT

Waive First Reading and take Action on the Introduction of an Ordinance to Repeal Chapter 15.45 (Prevention of Flood Damage Code) and Adopt the New Floodplain Management Ordinance Establishing a New Chapter 15.45 (Floodplain Management Regulations) of the Santa Clara City Code. (CEQA: Exempt Pursuant to CEQA Guidelines Section 15061(b)(3), Projects Which Do Not Have the Potential for Causing a Significant Effect on the Environment)

#### COUNCIL PILLAR

Promote Sustainability and Environmental Protection

#### BACKGROUND

In 1999, the City of Santa Clara (City) joined the National Flood Insurance Program (NFIP) administered under the Federal Emergency Management Agency (FEMA). The NFIP is implemented through affiliated insurance companies that provide flood insurance to property owners, renters and businesses. Participation in the NFIP requires local communities to adopt and enforce floodplain management regulations that help mitigate flooding effects. Participation in the NFIP allows Santa Clara property owners to purchase flood insurance at set rates, including those with properties within areas designated as Special Flood Hazard Areas (SFHAs). The SFHA designation is given to land areas that have the highest probability of flooding in any given year and for which the Floodplain Management provisions apply.

The City voluntarily participates in the Community Rating System (CRS) program of the NFIP. The CRS allows Santa Clara residents and businesses to earn flood insurance premium discounts by having the City promote flood-risk reduction practices, provide floodplain management, and encourage the purchase of flood insurance. These activities go above and beyond the normal enforcement of floodplain regulations. The City has maintained a CRS Class 7 rating (on a scale of 1 to 10, where a lower number is a more desirable rating), allowing property owners in SFHA to receive a 15% discount on flood insurance premiums for all new or renewed flood insurance policies.

Every five years, communities have a “cycle visit” by FEMA staff to confirm/determine their CRS rating. Communities have until their next scheduled cycle visit to update floodplain management ordinances to remain at their current CRS ratings. The City’s next cycle visit is scheduled for November 2023.

#### DISCUSSION

In advance of the upcoming cycle visit, FEMA reviewed the City’s current ordinances and communicated their finding to the City that to maintain the City’s CRS rating of Class 7, the City’s floodplain ordinance should be updated to incorporate specific language provided in the CRS guidelines related to FEMA floodplain requirements.

The CRS guidelines were updated in January 2021 to add the prerequisite requirement for Class 8 or better for communities to adopt a floodplain management ordinance enforcing a minimum one-foot freeboard for all residential buildings constructed, substantially improved or reconstructed in SFHA, due to the likelihood of substantial safety risk and damage. This freeboard requirement means the finished floor of a building must be constructed one-foot above the base-flood elevation, providing an additional measure of safety to those

residing in the buildings and lowering risk of property damage. This freeboard standard exceeds the minimum NFIP requirements for insurance purposes and thus allows for a rating of Class 8 or better.

It should be noted that the most substantive part of the FEMA floodplain requirements, the one-foot freeboard requirement, has already been incorporated into the City's ordinances. Every three years, the City adopts the most recent cycle of the California Building Standards Code (CBSC) (CCR Title 24; inclusive of the California Building Code and California Residential Code). On November 2, 2022, the City adopted the most recent version of the CBSC. This version includes the one-foot freeboard requirement for both residential and commercial buildings. However, there are some discrepancies between the language used in the CBSC and the language used in the FEMA requirements. Other provisions included within the CRS guidelines primarily address the City's enforcement process.

As the City has adopted the CBSC, which also regulates new construction within floodplains, the City is addressing two sets of standards with potential differences in wording and in minor details, but which generally are intended to achieve the same outcome. The California Department of Water Resources (DWR) prepared a FEMA CRS Model Floodplain Management Ordinance ("Model Ordinance") to resolve the potential issue of different wording between the FEMA CRS guidelines and the CBSC.

Adoption of the recommended Floodplain Management Ordinance (Attachment 1) will replace Chapter 15.45 (Prevention of Flood Damage Code), with similar standards that are based on the Model Ordinance and thus both align with the CBSC and the FEMA CRS guidelines. Using the Model Ordinance as the guide for the City's Floodplain Management Ordinance provides the following benefits:

- Meets the CRS requirements for the City to maintain a Class 7 rating;
- Clearly indicates that the Building Code sets the finished floor elevation of the building at the base-flood elevation plus 1' freeboard;
- Grants authority to the Floodplain Administrator to review development in the Special Flood Hazard Areas, issue permits, implement NFIP requirements, and enforce provisions of the City Code;
- Satisfies the NFIP;
- Eases the City's burden to draft new ordinance language on its own by comprehensively and inclusively addressing all requirements and guidelines with the benefit of already having approval from FEMA;
- Allows for specific language appropriate for the City; and
- Furthers the flood resiliency of the City and provides for the minimum standards necessary for the City's purpose in the implementation of floodplain management.

Adoption of the proposed Ordinance will also implement several General Plan goals and policies, including:

Goal 5.10.5 G4 City codes and regulations that are consistent with applicable regional, State and federal regulations for safety.

Policy 5.10.5 P12 Continue to participate in the National Flood Insurance Program and encourage all property owners within flood hazard areas to carry flood insurance.

For these reasons staff recommends that the City Council move forward with adoption of the proposed Amendment to Chapter 15.45 of the City Code.

### **ENVIRONMENTAL REVIEW**

The proposed ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3) as the activity is covered by the general rule that

CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. As the ordinance will strengthen floodplain protections for property within the City limits, there are no reasonably foreseeable adverse impacts from this ordinance and there is no possibility that the activity in question would have a significant effect on the environment.

**FISCAL IMPACT**

There is no fiscal impact to the City.

**COORDINATION**

This report has been coordinated with the City Manager's Office, the Community Development Department, City Attorney's Office and FEMA.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**ALTERNATIVES**

1. Repeal Chapter 15.45 (Prevention of Flood Damage Code) and adopt the new Floodplain Management Ordinance establishing a new Chapter 15.45 (Floodplain Management Regulations)
2. Provide alternative direction.

**RECOMMENDATION**

Alternative 1: Repeal Chapter 15.45 (Prevention of Flood Damage Code) and adopt the new Floodplain Management Ordinance establishing a new Chapter 15.45 (Floodplain Management Regulations).

Reviewed by: Andrew Crabtree, Director, Community Development Department

Approved by: Jōvan D. Grogan, City Manager

**ATTACHMENTS**

1. Floodplain Management Ordinance (Chapter 15.45 Floodplain Management Regulations)