

E X E C U T I V E S U M M A R Y

CASE PLANNER: Alex Eidam, Senior Planner

REVIEWED AND APPROVED BY: Cassie Tripard, Planning Supervisor, CFM

AGENDA ITEM: An ordinance to amend Title 18 City Floodplain Hazard Management Regulations to update Section 10.4.4, and update Appendix A with newly completed LOMRs, as shown in Exhibit #1, and provide for an effective date of June 15th, 2022.

PUBLIC HEARING LEGAL AD: Published in the Missoulian on 4/3/2022 and 4/10/2022

Public Hearing and Recommended Motions:

City Council consent agenda April 18 th , 2022	[First reading and preliminary adoption] Set a public hearing for May 9th, 2022 and preliminarily adopt an ordinance to amend Title 18, Missoula Municipal Code, the City Floodplain Hazard Management Regulations to incorporate revisions to Section 10.4.4 Agricultural Structures and Appendix A, as shown in Exhibit #1, and refer this item to the Land Use and Planning Committee on May 11 th , 2022.
City Council Public Hearing May 9 th , 2022	Presentation, public comment, and discussion on the proposal and staff recommended motions to approve an ordinance to amend Title 18 City Floodplain Hazard Management Regulations to update Section 10.4.4 Agricultural Structures, and update Appendix A with newly completed LOMRs, as shown in Exhibit #1.
Land Use and Planning Committee May 11 th , 2022	Discussion on the proposal and staff recommended motions to approve an ordinance to amend Title 18 City Floodplain Hazard Management Regulations to update Section 10.4.4 Agricultural Structures, and update Appendix A with newly completed LOMRs, as shown in Exhibit #1.
City Council Final Consideration May 16 th , 2022	[Second and final reading] Adopt an ordinance amending Title 18, Missoula Municipal Code, the City Floodplain Hazard Management Regulations, to incorporate revisions to Section 10.4.4 Agricultural Structures and Appendix A in response to FEMA Policy #104-008-03 regarding Floodplain Management Requirements for Agricultural Structures and Accessory Structures and to include map revisions. See Exhibit #1 – Draft Ordinance (April 2022).

I. OVERVIEW

Montana Department of Natural Resources and Conservation (DNRC) completed a Community Assistance Visit (CAV) with City of Missoula staff on July 23rd, 2021. Following the CAV visit, DNRC issued a letter on July 23rd, 2021 addressing outdated language in Section 10.4.4 Agricultural Structures of Title 18 Floodplain Hazard Management Regulations that needed to be updated. Additionally, two Letters of Map Revision (LOMR)

for the Rattlesnake Dam Removal and Middle Grant Creek projects were recently issued, which means Appendix A in the Floodplain Regulations also needs to be updated to reflect this information. DNRC provided a six-month deadline for completion, however, this letter was never received by the City of Missoula; therefore, an extension was granted from the DNRC via email on November 17th, 2021 with a six-month deadline of May 17th, 2022 to adopt changes.

DNRC is requiring the update in response to FEMA Policy #104-008-03, *Floodplain Management Requirements for Agricultural Structures and Accessory Structures*, issued February 2020. The purpose of the policy was to acknowledge the unique characteristics and uses of agricultural and accessory structures within the Special Flood Hazard Area (SFHA) to ensure sound development and promote public health, safety, and welfare.

The updates to Section 10.4.4 Agricultural Structures clarify the definition of agricultural structures. Additionally, the proposed language requires the lowest floor of agricultural structures be elevated to at least the base flood elevation or adequately dry floodproofed. Agricultural structures are required to comply with Section 9.11 Structures Accessory or Appurtenant.

A Letter of Map Revision (LOMR) is an official FEMA amendment to the currently effective FEMA Flood Insurance Rate Map based on a physical change to the floodplain of the Special Flood Hazard Area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA Flood Insurance Rate Map and may amend the FEMA Flood Insurance Study. Two LOMRs have been issued since the last Title 18 update and the associated changes to the Flood Insurance Rate Map must be listed in Appendix A. The LOMR effective April 27, 2022 was issued to revise the map in response to updated data for a portion of Grant Creek. The LOMR effective June 27, 2022 was issued to revise the map following the removal of Rattlesnake Dam.

II. REVIEW, PROCESS and NOTIFICATION

1. Section 1.14 of the City Floodplain Hazard Management Regulations and Montana ARM 36.15.204 provide that amendments to regulations must be found adequate and acceptable by DNRC and FEMA prior to adoption and require public notice in a newspaper of general circulation.
2. DNRC provided compliant language upon requiring the update and reviewed the proposed ordinance. Per DNRC's direction, FEMA delegates review and approval of this amendment to DNRC. Upon DNRC's determination that the amendment is found adequate and acceptable, the requirement for review by FEMA is also met.
3. This ordinance revision is scheduled for the City Council consent agenda on April 18th, 2022, City Council public hearing on May 9th, 2022, the post-public hearing information only item for this ordinance revision is scheduled for Land Use and Planning Committee on May 11th, 2022, and City Council final consideration on May 16th, 2022.
4. Legal notice was published in the Missoulian on April 3rd, 2022 and April 10th, 2022.

III. FEDERAL AND STATUTORY AUTHORITY

1. 44 Code of Federal Regulations (CFR) Section 60.3 requires that communities must adopt National Flood Insurance Program compliant regulations that meet or exceed minimum standards.
2. MCA 76-5-301 requires that local jurisdictions adopt regulations that meet or exceed the

minimum state standards within six months of notification by Montana DNRC.

3. DNRC issued the Community Assistance Visit letter on July 23rd, 2022 with a six-month deadline. However, this letter was never received by the City of Missoula; therefore, an extension was granted from the DNRC via email on November 17th, 2021 with a six-month deadline of May 17th, 2022 to adopt changes.
4. The proposed amendments meet the minimum state standards as well as the minimum federal standards.

IV. AGENCY COMMENT

1. Request for agency comment was sent on March 14th, 2022.
2. No agency comment was received.

V. STAFF RECOMMENDATION

Staff Recommends **APPROVAL** to adopt an ordinance amending Title 18, Missoula Municipal Code, the City Floodplain Hazard Management Regulations, to incorporate revisions to Section 10.4.4 Agricultural Structures and Appendix A in response to FEMA Policy #104-008-03 regarding Floodplain Management Requirements for Agricultural Structures and Accessory Structures and to include map revisions. See Exhibit #1 – Draft Ordinance (April 2022).

VI. ATTACHMENTS

1. Exhibit #1 – Draft Ordinance with amendments shown as Underline/strikethrough excerpts of Title 18, City Floodplain Hazard Management Regulations
2. Montana Department of Natural Resources Community Assistance Visit Letter
3. Email Correspondence extending six-month deadline RE_City of Missoula CAV report and follow-up letter