



STAFF REPORT *for* **PROPOSED DEVELOPMENT CODE AMENDMENTS**

A. SUMMARY

Project Name: Amendments to MVMC 15.36; CA17-003

Project Manager: Rebecca Lowell, Senior Planner

Project Description: Proposed are amendments to Mount Vernon Municipal Code (MVMC) Chapter 15.36 (Floodplain Management Standards) to add, delete, and amend portions of the code as requested by the WA State Department of Ecology as part of their Community Assistance Visit (CAV).

Please see the attached amendments, labeled as **Exhibit A**, that were formatted in a tracking program, so that the proposed changes to the code are easily identifiable.

B. EXHIBITS

Exhibit A: Proposed Code Amendments Formatted in Tracking Program

Exhibit B: Procedural Items: Notice of Public Hearing, SEPA Determination, and Commerce materials

Exhibit C: CAV Report from the WA State Department of Ecology (DOE)

C. BACKGROUND

The National Flood Insurance Program (NFIP) provides federally backed flood insurance in exchange for communities enacting and enforcing floodplain regulations.

The NFIP's Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements by further reducing the risk of flooding and increasing the effectiveness of flood protection, by increasing community awareness of the flood risks and building requirements associated with living in a floodplain, and to encourage a more comprehensive and environmental approach to floodplain management.

The money saved through reduced flood insurance premiums stays in our community and helps our local economy. Every time residents of Mount Vernon pay their insurance premiums, they should be reminded that the City is working to reduce the cost of their flood insurance and protect them from flood losses.

City staff met with DOE on November 9, 2016 to discuss/review the City's participation in the NFIP in a meeting that is called a Community Assistance Visit (CAV).

The result of this meeting was the issuance of a CAV Report by DOE (this report is included herewith labeled as **Exhibit C**). The CAV Report, among other things, outlines changes in the City's development regulations with regard to floodplain management. The subject code amendments are a direct result of the requests by DOE as documented in the City's CAV Report.

D. PROCEDURAL ITEMS

- A SEPA threshold Determination of Non-Significance on a non-project action was issued on February 9, 2017; and published on February 13, 2017. The SEPA comment period ends on February 23, 2017 and the SEPA appeal deadline is March 6, 2017. Staff will not take the subject code amendments before City Council for their final approval until the SEPA appeal deadline as lapsed.
- Public Hearing Notices were published for both the Planning Commission and City Council hearings on February 13, 2017.
- The State Office of Commerce was notified of the proposed amendments on January 29, 2017, an acknowledgement letter was received from Commerce dated January 31, 2017, and Commerce granted the City expedited review on February 10, 2017 (their identification number for this amendment is: 23338).

E. RECOMMENDATION

Staff recommends that the Planning Commission make a recommendation to the City Council to approve the code amendments attached as **Exhibit A**, Mount Vernon Municipal Code (MVMC) Chapter 15.36 (Floodplain Management Standards).

Proposed motion for the Mount Vernon Planning Commission:

The Planning Commission has reviewed the proposed "Findings of Fact and Conclusions of Law" and the recommendations of staff and hereby recommends to the City Council that the amendments to the Mount Vernon Municipal Code, attached as **Exhibit A** be adopted and codified.

**CITY OF MOUNT VERNON
PLANNING COMMISSION & CITY COUNCIL
PROPOSED AMENDMENTS TO**

THE MOUNT VERNON MUNICIPAL CODE

FINDINGS OF FACT, CONCLUSIONS OF LAW and RECOMMENDATION

On February 21, 2017 the City of Mount Vernon Planning Commission held a public hearing to consider amendments to the Municipal Code; and on March 8, 2017 the City Council held a public hearing to consider the same amendments to the Municipal Code.

All persons present at the hearings wishing to speak were heard and all written comments were considered, along with the written staff report submitted by Rebecca Lowell. Based on the testimony and other evidence, the Planning Commission and City Council hereby adopt the following:

A. FINDINGS OF FACT

1. The hearings of February 21, 2017 and March 8, 2017 were both preceded with appropriate notice, published on February 13, 2017
2. Notice of adoption of the proposed amendments has been duly transmitted in compliance with RCW 36.70A.106 (1).
3. A SEPA Threshold Determination of Non-significance, non-project action, was issued on February 9, 2017, and published on February 13, 2017. The SEPA appeal period lapsed on March 8, 2017 with no appeals filed (if an appeal is filed this item would be amended to reflect this fact).

Based on the foregoing Findings of Fact, the Planning Commission and City Council hereby makes the following:

B. CONCLUSIONS OF LAW

1. The proposed amendments ensure that the City's development regulations are internally consistent.
2. The proposed amendments to MVMC Chapter 15.36 ensure that the City remains consistent and compliant with NFIP rules and expectations.
3. The requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.
4. The proposed amendment is found to be in compliance with the State Growth Management Act.
5. The City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including

RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum has discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).