

## ORDINANCE 1221

### AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 9.52 (FLOODPLAIN REGULATIONS), SECTIONS 9.52.050 AND 9.52.060 OF THE TRACY MUNICIPAL CODE

WHEREAS, The City Council adopted its General Plan on February 1, 2011 (Resolution No 2011-029) It includes goals, policies and implementation measures to guide future land use, development and environmental protection decisions, and which is comprised of nine elements, including the Safety Element, which addresses the issue of Flooding, and

WHEREAS, In 2007, five interrelated pieces of legislation were enacted to address the problem of flood protection and liability. They primarily focus on flood requirements for the Sacramento-San Joaquin Valley within an area defined as the Sacramento-San Joaquin Hydrologic Regions, which includes the City of Tracy, and

WHEREAS, Adoption of a General Plan amendment and the amendment to Chapter 9.52 of the Tracy Municipal Code are required to comply with recent State legislation, including Senate Bill (SB) 5, enacted in 2007 and Senate Bill (SB) 1278 enacted in 2012. These bills require cities and counties within the floodplain areas of the Sacramento-San Joaquin Valley to adopt documentation, policies, and flood improvement requirements for development applications, and

WHEREAS, The project is exempt from the California Environmental Quality Act (CEQA) under the “general rule” that CEQA applies only to projects that have the potential for causing significant environmental effects, as specified in CEQA Guidelines Section 15061(b)(3). All future applications for discretionary approvals relating to a project would be required to comply with the General Plan and applicable sections of the Municipal Code (i.e. Zoning and Floodplain Regulations) and would be subject to compliance with CEQA based upon the individual project characteristics and potential for environmental impacts, and

WHEREAS, The Planning Commission considered the amendments at a regular meeting held on May 25, 2016, and recommended approval to the City Council, and

WHEREAS, The City Council considered the amendments at a regular meeting of the Council held on June 21, 2016.

NOW, THEREFORE, The Tracy City Council does ordain as follows:

**SECTION 1.** Section 9.52.050—Definitions, of Chapter 9.52 of Title 9 of the Tracy Municipal Code is amended to add or replace certain definitions as follows:

“Department of Water Resources (DWR)” means the California Department of Water Resources (DWR), a State agency which is part of the California Natural Resources Agency. The DWR is responsible for the State of California’s management and regulation of water usage. The California Department of Water Resources was charged under SB 5 and SB 1278 with the development of the 2013 Urban Level of Flood Protection criteria.”

“Federal Flood Standard” is the 100-year flood or 1 percent annual chance flood. See “100-year floodplain” definition.”

“Flood Hazard Zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.”

“Non-urbanized area” means a developed area or an area outside a developed area in which there are fewer than 10,000 residents (Government Code Section 65007(f).”

“Urban Area” is defined as a developed area in which there are 10,000 residents or more (Government Code Section 65007(l).”

“Urbanizing Area” means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the 10 years (Government Code Section 65007(m).”

“Urban Level of Flood Protection” means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources. Urban Level of Flooding shall not mean shallow flooding or flooding from local drainage that meets the criteria of the national Federal Emergency Management Agency standard of flood protection.”

SECTION 2: Section 9.52.060 of Chapter 9.52 of Title 9 of the Tracy Municipal Code is amended to read, in its entirety, as follows:

“9.52.060 - Applicability; Required Findings.

(a) Applicability. This chapter applies to all areas of special flood hazard areas within the jurisdiction of the City. Special flood hazard areas are those identified by the Federal Emergency Management Agency in the scientific and engineering report entitled The Flood Insurance Study of the City of Tracy, dated January 24, 1991, and all subsequent amendments and/or revisions, which are adopted by reference and declared to be a part of this chapter. This Flood Insurance Study and Flood Insurance Rate Map is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study and maps are on file in the office of the Development Services Director, 333 Civic Center Plaza, Tracy, California.

(b) Required findings. Under California Government Code section 65962, if a proposed project is located within a flood hazard zone, the City may not approve:

- (1) a Development Agreement; or
- (2) a discretionary permit or other discretionary entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building; or
- (3) a ministerial permit that would result in the construction of a new residence; or
- (4) a tentative map, or a parcel map for which a tentative map was not required unless the City finds, based on substantial evidence in the record, one of the following:

- (A) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban or urbanizing areas; or, the national Federal Emergency Management Agency (FEMA) standard of flood

protection in non-urbanized areas.

(B) The City has imposed conditions on the permit or entitlement that will protect the project to the urban level of flood protection in urban and urbanizing area; or, the national Federal Emergency Management Agency (FEMA) standard of flood protection in non-urbanized areas.

(C) If the property is intended to be protected by project levees, the City has made adequate progress on the construction of as flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban and urbanizing areas; or, the national Federal Emergency Management Agency (FEMA) standard of flood protection in non-urbanized areas the urban level of flood protection shall be achieved by 2025.

(D) The City has imposed conditions on the permit or entitlement that will protect the project to the National FEMA Standard of Flood Protection in an urban or urbanizing area where the project is subject to shallow flooding or local drainage.

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. A summary of this ordinance shall be published in the Tri-Valley Times and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1)).

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The foregoing Ordinance 1221 was introduced at a regular meeting of the Tracy City Council on the 21<sup>st</sup> day of June, 2016, and finally adopted on the 5th day of July, 2016, by the following vote:

AYES: COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, RICKMAN, MACIEL  
NOES: COUNCIL MEMBERS: NONE  
ABSENT: COUNCIL MEMBERS: NONE  
ABSTAIN: COUNCIL MEMBERS: NONE

Signed: Michael Maciel, Mayor  
Attest: Nora Pimentel, City Clerk