

ORDINANCE NO. 015, 2007  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF FORT COLLINS  
CONCERNING STANDARDS FOR DEVELOPMENT IN THE POUFRE  
RIVER FLOODPLAIN IN THE CITY OF FORT COLLINS

WHEREAS, properties in the Poudre River floodplain in the City of Fort Collins are subject to different regulations than properties located outside of Fort Collins in Larimer County; and

WHEREAS, approved developments in the County are sometimes unbuildable after they annex into the City, because the City's regulations for the Poudre River floodplain are more stringent than the County's in a number of respects; and

WHEREAS, the East Mulberry Corridor Plan identified the need to make City and County floodplain regulations for the Poudre River as consistent as possible; and

WHEREAS, City and County staff met and identified the ways in which the City and County Poudre River floodplain regulations are similar and the ways in which they are different; and

WHEREAS, some current regulations are not based on a national standardized methodology and some current regulations have not achieved their intended purposes and therefore need to be revised; and

WHEREAS, a great deal of the Poudre River corridor is preserved as open space and provides flood protection because of limited development subject to flooding; and

WHEREAS, based on this information, City and County staff developed recommendations intended to establish common criteria while still balancing risk with regulation and recognizing the natural features of the river corridor; and

WHEREAS, the City and County conducted outreach activities with the public and affected property owners concerning the proposed revisions to the floodplain regulations; and

WHEREAS, the proposed revisions to the floodplain regulations have been reviewed by the City's Water Board, Planning and Zoning Board, Natural Resources Advisory Board and Land Conservation and Stewardship Board, and comments received from these boards have been considered in the final preparation of the proposed revisions; and

WHEREAS, County staff has reviewed the proposed changes with the County's Board of County Commissioners and County Planning Commission; and

WHEREAS, City and County staff jointly held an open house for the general public and affected property owners about the proposed floodplain revisions and solicited their input; and

WHEREAS, as a result of the input from the various boards and commissions, as well as from the public and affected property owners during the outreach, City and County staff have proposed new floodplain regulations for the Poudre River, and the revisions to the City's Poudre River floodplain are contained in this Ordinance; and

WHEREAS, the Water Board took formal action recommending that the City Council adopt the proposed floodplain revisions; and

WHEREAS, staff presented the proposed changes to the floodplain regulations to the Council at a work session on December 12, 2006 and at that time received direction to present the same to the Council for approval; and

WHEREAS, staff is also recommending certain format changes to existing portions of Article II of Chapter 10 to make the Code language consistent in form and easier to understand; and

WHEREAS, some of the additional changes are also necessary in order to conform to current Federal Emergency Management Agency (FEMA) terminology; and

WHEREAS, for the foregoing reasons, the Council wishes to amend the City Code to adopt the proposed revisions to the City's Poudre River floodplain regulations; and

WHEREAS, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the city that Article II of Chapter 10 of the Code of the City be amended as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 10-16 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-16. Definitions.**

...

...

*Floodway* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood by more than five-tenths (.5) foot.

*Floodway modification* shall mean any alteration to a channel thalweg, bed or banks of a floodway that would change the delineation of the floodway.

...

...

*Redevelop or redevelopment* shall mean:

- (1) To construct any substantial improvement that will result in the removal or replacement of more than fifty (50) percent of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased; or
- (2) To repair or reconstruct any structure that has sustained substantial damage, which damage has caused the removal or replacement of more than fifty (50) percent of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased.

...

Section 2. That Section 10-19 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-19. Flood hazard area designation.**

...

(b) The additional floodplain studies or reports listed in this Subsection, together with the delineated floodplains, flood fringe areas, floodways and erosion buffer zones delineated therein, together with any other delineations of flood areas, flood elevations or physical characteristics, are hereby declared to be part of this Article. Any differences in floodplain or floodway delineation between such additional studies or reports and the Flood Insurance Rate Map shall be resolved by applying those provisions which result in a broader floodplain or floodway delineation, or a higher base flood elevation. To the extent that additional technical analysis results in the refinement of the floodplain, flood fringe, floodway, erosion buffer zone or other delineations contained in the plans listed below, or to the extent that the completion of a capital improvement project results in a modification of any such delineations, the General Manager shall, pursuant to his or her duties as set forth in Paragraph 10-26(9), document the associated change in the delineation, which modified delineation shall control the application of the requirements set forth in this

Article. A copy of the studies or reports shall be on file in the permanent records of Utility Services. Documentation of any modification of any delineation pursuant to this Subsection shall be on file in the permanent records of Utility Services. The floodplain studies or reports incorporated herein by this reference are as follows:

...

Section 3. That Section 10-27 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-27. Floodplain use permit.**

(a) A floodplain use permit shall be obtained from the General Manager before any construction or development begins within any floodway, flood fringe or erosion buffer zone established pursuant to this Article. A floodplain use permit shall also be required for any construction or development of or affecting a critical facility in the Poudre River five-hundred-year floodplain or a zone X shaded area, if that critical facility is regulated pursuant to § 10-46 or § 10-81. Application for a floodplain use permit shall be made on forms furnished by the General Manager and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the areas in question; structures already present and proposed, fill, storage of materials and drainage facilities; and the location of the foregoing.

...

(c) The following information is also required for a floodplain use permit:

(3) A surface view plan showing elevations and contours of the ground; fill and storage elevations; sizes, locations and spatial arrangement of all proposed, anticipated and structures present on the site; location and elevations of streets, water supplies and sanitary facilities; boundaries of all applicable floodplains, flood fringe areas, floodways and erosion buffer zones, or other applicable delineated areas in which the proposed development is to be located; and cross-section locations and base flood elevation contours;

...

(d) The General Manager may require the applicant to furnish such additional information as the General Manager deems necessary to evaluate the effects of the proposed construction upon any flood hazard areas, which information may include, but shall not be limited to, the following:

(3) A floodplain analysis of the flood profile, base flood elevation and velocity, and floodplain, flood fringe, floodway and erosion buffer zone boundaries, along with boundaries of any other delineated areas, using floodplain modeling guidelines established or approved by the General Manager, which

analysis shall include existing and anticipated uses and shall show the impact the proposed construction or development will have on the elevation of the water-surface of the one-hundred-year flood;

- (5) A stability analysis for any proposed development within an erosion buffer zone or for any floodway encroachment or modification.

...

Section 4. That Section 10-29 of the Code of the City of Fort Collins is hereby amended by the deletion of subparagraph (f) and subsequent paragraphs to be relettered accordingly.

**Sec. 10-29. Conditions for variances.**

...

...

Section 5. That Section 10-42 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-42. Specific standards for recreational vehicles.**

- (a) Any recreational vehicle located on property in residential use in the Poudre River floodway or flood fringe shall be fully licensed and ready for highway use when located on such property.

...

Section 6. That Section 10-45 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-45. Floodway evaluations.**

Where otherwise permitted, any development, obstruction or activity that will result in an encroachment in or modification to the floodway shall be permitted only if the following requirements are met, using floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the General Manager, including but not limited to the considerations and requirements set forth in § 10-27:

- (1) Required demonstrations for floodway encroachments and/or modifications. At least one (1) of the following requirements must be met for any floodway encroachment or modification:
  - a. No rise. The development, obstruction or activity

must be shown by appropriate floodplain modeling to result in no increase in base flood elevations, also referred to as *no rise*, as defined in § 10-16, and:

1. A certification signed by a registered professional engineer accurately documenting that no increase in base flood elevations will result from the proposed development, obstruction or activity, in a form approved by the General Manager, must be submitted prior to issuance of a floodplain permit, and
  2. A certification signed by a registered professional engineer accurately documenting the as-built base flood elevations after completion of the development, obstruction or activity as resulting in no increase in base flood elevations must be submitted prior to the issuance of a certificate of occupancy, or, in the event no certificate of occupancy is required, upon completion of the improvements; or
- b. No rise except on applicant land or easement. The development, obstruction or activity must be shown by appropriate floodplain modeling to result in no increase in base flood elevations or change in floodway or flood fringe boundaries, except on the applicant's contiguous property or on property for which the applicant has obtained and recorded easements sufficient to allow for the associated changes, and:
1. A certification signed by a registered professional engineer accurately documenting that no increase in the floodway or base flood elevations on other than the applicant's contiguous property or on property for which the applicant has obtained and recorded easements sufficient to allow for the associated changes will result from the proposed development, obstruction or activity, in a form approved by the General Manager, must be submitted prior to issuance of a floodplain permit; and
  2. A certification signed by a registered professional engineer accurately documenting

the as-built floodway and base flood elevations after completion of the development, obstruction or activity as resulting in no increase in the floodway or base flood elevations on other than the applicant's contiguous property or other than provided by recorded easements must be submitted prior to the issuance of a certificate of occupancy, or, in the event no certificate of occupancy is required, upon completion of the improvements.

(2) Map revisions.

- a. Conditional map revisions. If any development or activity in the floodway results in a change to base flood elevations, floodway or flood fringe boundaries, a Conditional Letter of Map Revision must be approved by FEMA, or, for a City basin floodplain, a preliminary map revision must be approved by the General Manager prior to issuance of a floodplain permit or initiation of construction or permitted activities.
- b. Final map revisions. Upon completion of development or other activities for which a floodplain permit and Conditional Letter of Map Revision are required pursuant to this § 10-45, a Letter of Map Revision or Physical Map Revision must be approved by FEMA, or, for a City basin floodplain, a final map revision must be approved by the General Manager, prior to issuance of a certificate of occupancy, or, in the event no certificate of occupancy is required, upon completion of the improvements.

Section 7. That Section 10-71 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-71. Specific standards for development in Poudre River floodway.**

In addition to complying with all other applicable provisions of this Article, all development in the floodway of the Poudre River, as designated pursuant to § 10-19, shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

(4) Redevelopment. Redevelopment of any structure is prohibited.

...

(7) Accessory structures.

...

b. Reconstruction of an accessory structure that has been substantially damaged, or that constitutes redevelopment, is prohibited.

...

(8) Floodway modifications. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

...

Section 8. That Section 10-72 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-72. Specific standards for nonstructural development in Poudre River floodway.**

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the floodway of the Poudre River, as designated pursuant to § 10-19, shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Construction of new fencing is prohibited, unless the fencing is designed to break away, and is cabled together so as to not float downstream. As an alternative to a break-away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwaters to pass freely.
- (2) Detention ponds. Construction of new detention ponds is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (3) Hard surface paths, trails and walkways. Construction of new hard surface paths, trails and walkways is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.



- (4) Fill. Placement of fill is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (5) Outdoor storage/storage of floatable materials.
  - a. Outdoor storage of materials associated with a nonresidential use that are not defined as floatable materials in § 10-16, whether permanent or temporary, is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
  - b. Storage of floatable materials associated with a nonresidential use, whether permanent or temporary, is prohibited, except for that storage of floatable materials that was occurring as of July 1, 2000, which storage shall be allowed to continue until but only until the development of a new structure or addition or the cumulative substantial improvement of any existing structure, at which time such storage must be discontinued.
- (6) Driveways and parking areas. Construction of new driveways and parking areas is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

...

Section 9. That the title of Section 10-73 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-73. Floodway encroachments in Poudre River floodway.**

Section 10. That Section 10-74 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-74. Change of use in Poudre River floodway.**

No person shall change the use of any structure or property, or any portion thereof, located in the Poudre River floodway so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

Section 11. That Section 10-75 of the Code of the City of Fort Collins is hereby amended by the deletion of subparagraph (9) in its entirety as follows:

**Sec. 10-75. Specific standards for residential development in Poudre River flood fringe.**

...

Section 12. That Section 10-76 of the Code of the City of Fort Collins is hereby amended by the deletion of subparagraph (9) in its entirety as follows:

**Sec. 10-76. Specific standards for nonresidential development in Poudre River flood fringe.**

...

Section 13. That Section 10-77 of the Code of the City of Fort Collins is hereby amended by the deletion of subparagraph (8) in its entirety as follows:

**Sec. 10-77. Specific standards for mixed-use development in Poudre River flood fringe.**

...

Section 14. That Section 10-80 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-80. Removal of property from Poudre River flood fringe.**

(a) Property located in the flood fringe of the Poudre River may be removed from the flood fringe if one (1) of the following conditions is satisfied, but shall remain subject to the provisions of subsection (b) of this Section:

- (1) LOMR/PMR. FEMA has issued a Letter of Map Revision (LOMR) or Physical Map Revision (PMR) removing the property from the flood fringe based on revised floodplain modeling and technical analysis; or
- (2) LOMR-F. FEMA has issued a Letter of Map Revision based on Fill (LOMR-F) removing the property from the flood fringe. If FEMA has issued a LOMR-F removing the property from the flood fringe, the following requirements and restrictions shall remain applicable:
  - a. Any new structure, accessory structure, attached garage, or addition, substantial improvement or redevelopment must meet all applicable requirements, including but not limited to the requirements of § 10-37, except that:
    1. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of subsection 10-37(b).

- b. Critical facilities and expansions of critical facilities are prohibited.
- c. Manufactured homes and mobile buildings other than a nonconforming manufactured home or mobile building are prohibited, except that:
  - 1. A manufactured home or mobile building may be replaced, provided that the replacement manufactured home or mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
  - 2. Manufactured home parks and mobile building developments, other than nonconforming manufactured home parks and mobile building developments are prohibited.
  - 3. Expansion of a manufactured home park or a mobile building development is prohibited.

(b) If the property removed from the flood fringe pursuant to Subsection (a) of this Section remains in the five-hundred-year floodplain after such removal, any development on the property shall comply with all requirements and prohibitions of this Article pertaining to the five-hundred-year floodplain.

Section 15. That Section 10-81(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-81. Specific standards for Poudre River five-hundred-year floodplain and zone X shaded areas.**

(a) Critical facilities. In any portion of the Poudre River five-hundred-year floodplain or a zone X shaded area, as designated pursuant to § 10-19, critical facilities are prohibited, except that, for the purpose of this Section only, critical facilities shall not include structures or facilities that constitute critical facilities solely because they produce, use or store hazardous, flammable, explosive, toxic and/or water reactive materials, liquids, gases and solids as such are defined in §9-1 and §9-2 of the Uniform Fire Code as adopted.

Section 16. That Section 10-102 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-102. Specific standards for residential development in floodways of FEMA basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all residential development in the floodway of a FEMA basin floodplain shall comply

with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

- (8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45 are met.

...

Section 17. That Section 10-103 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-103. Specific standards for nonresidential development in floodways of FEMA basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the floodway of a FEMA basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

- (8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

...

Section 18. That Section 10-104 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-104. Specific standards for mixed-use development in floodways of FEMA basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the floodway of a FEMA basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

- (7) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

...

Section 19. That Section 10-111 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-111. Specific standards for nonstructural development in flood fringe of FEMA basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the flood fringe of a FEMA basin floodplain shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR or Physical Map Revision in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 20. That Section 10-113 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-113. Removal of property from flood fringe of FEMA basin floodplains.**

(a) Property located within that portion of a FEMA basin floodplain that has been designated by FEMA pursuant to Subsection 10-19(a) (FEMA designations) may be removed from the flood fringe if one (1) of the following conditions is satisfied:

- (1) LOMR/PMR. FEMA has issued a Letter of Map Revision (LOMR) or Physical Map Revision (PMR) removing the property from the flood fringe based on revised floodplain modeling and technical analysis; or
- (2) LOMR-Fill. FEMA has issued a Letter of Map Revision based on Fill (LOMR-F) removing the property from the flood fringe. If FEMA has issued a LOMR-F removing the property from the flood fringe, the following requirements and restrictions shall remain applicable:

...

Section 21. That Section 10-132 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-132. Specific standards for residential development in floodways of City basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all residential development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

- (8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

...

Section 22. That Section 10-133 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-133. Specific standards for nonresidential development in floodways of City basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

- (8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

...

Section 23. That Section 10-134 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-134. Specific standards for mixed-use development in floodways of City basin floodplains.**

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

- (7) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

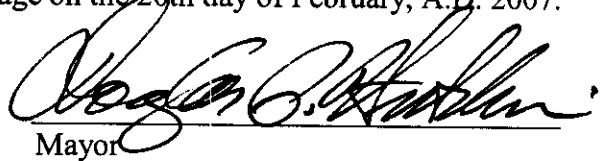
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Section 24. That Section 10-201 of the Code of the City of Fort Collins is hereby amended to read as follows:

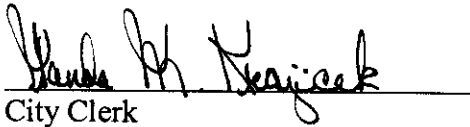
**Sec. 10-201. Designation of erosion buffer zones.**

In accordance with § 10-19, the erosion buffer zones designated by the General Manager for the Fossil Creek basin, Boxelder Creek basin, the Mail Creek basin and McClellands Creek basin, as described therein, shall be considered erosion buffer zones and shall be subject to the requirements of this Division, and all other requirements of this Article applicable to erosion buffer zones. Property within an erosion buffer zone that has also been determined to be a floodway or flood fringe and designated as such in accordance with § 10-19, shall be subject to the requirements and restrictions of this Article applicable to said property by virtue of said separate designation in addition to the requirements and restrictions set forth in this Division.

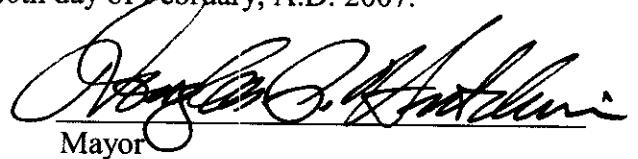
Introduced, considered favorably on first reading, and ordered published this 16th day of January, A.D. 2007, and to be presented for final passage on the 20th day of February, A.D. 2007.

  
Mayor

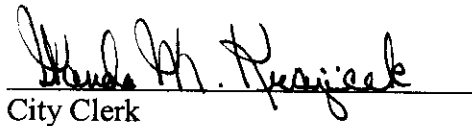
ATTEST:

  
City Clerk

Passed and adopted on final reading on the 20th day of February, A.D. 2007.

  
Mayor

ATTEST:

  
City Clerk