

ORDINANCE NO. 71, 2000  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 10 OF THE CITY CODE CONCERNING  
STANDARDS FOR DEVELOPMENT IN THE POUFRE RIVER FLOODPLAIN

WHEREAS, in July of 1997, the City of Fort Collins experienced a greater than five-hundred year flood in several of its stormwater basins; and

WHEREAS, as a result of the flood, concerns were raised about the adequacy of the City's existing floodplain regulations; and

WHEREAS, the City initiated a study to review its floodplain regulations as applied to its stormwater basins, beginning with the Poudre River Floodplain; and

WHEREAS, the Poudre River Floodplain Study was recently completed which delineates the boundaries of the Poudre River Floodplain; and

WHEREAS, the City also organized an advisory task force to provide input and advice concerning any needed new floodplain regulations for the City's stormwater basins, including the Poudre River Floodplain; and

WHEREAS, the City also conducted significant outreach activities with the public and affected property owners concerning any new floodplain regulations; and

WHEREAS, as a result of the various input received from the task force, as well as from the public and affected property owners during the outreach, City staff has proposed new floodplain regulations for the Poudre River Floodplain, which regulations are contained in this Ordinance; and

WHEREAS, these new floodplain regulations are needed for all of the purposes stated in City Code Section 10-17, including the additional purposes of minimizing pollution and erosion within the Poudre River Floodplain; and

WHEREAS, contained in this Ordinance are also changes to existing provisions of the City's floodplain regulations as applied to all of the City's stormwater basins which changes are necessary to clarify and strengthen such floodplain regulations consistent with the purposes of City Code Section 10-17; and

WHEREAS, some of these additional changes are also necessary in order to meet minimum standards imposed upon the City by the Federal Emergency Management Agency under its National Flood Insurance Program.

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 by amending the existing definitions of "*area of shallow flooding*," "*base flood*," "*basement*," "*critical facilities*," "*floodproofing*," "*floodway*," "*lowest floor*," "*manufactured home*," "*nonresidential structure*" and "*regulatory flood protection elevation*" to read as follows:

*Area of shallow flooding* shall mean a designated AH or AO zone as shown on the Flood Insurance Rate Map or as designated as a shallow flooding area by the city with a one-percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Base flood* or *one-hundred-year flood* shall mean the flood having a one-percent chance of being equaled or exceeded in any given year.

*Basement or crawl space* shall mean any area of a building having its floor subgrade (below ground level) on all sides.

*Critical facilities* shall mean structures or facilities that produce, use or store hazardous, flammable, explosive, toxic and/or water reactive materials, liquids, gases and solids as such are defined in the Uniform Fire Code as adopted in § 9-1 and as amended in § 9-2, but not including retail structures and facilities that only stock and store products containing such substances in factory sealed containers; hospitals, nursing homes, group homes, residential care facilities, congregate care facilities, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; schools; daycare facilities; cemeteries; police stations, fire stations, vehicle and equipment storage facilities and emergency operations centers that are needed for flood response activities before, during and after a flood; and public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

*Floodproof* shall mean to make a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a floodplain area.

*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 (5/10) foot; provided, however, with respect to the Poudre River

Floodplain as designated in § 10-60, *floodway* shall mean the channel of the Poudre River and adjacent land areas to the River 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 one-tenth (1/10) foot.

*Lowest floor* shall mean the lowest floor of the lowest enclosed area (including basement or crawl space). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

*Manufactured home or mobile home* shall mean a structure that is transportable in one (1) or more sections, built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

*Nonresidential structure* shall mean any structure or any portion of a structure that is not, in whole or in part, a residential structure. A *nonresidential structure* shall include, without limitation, any structure used, designed, or capable of being used, in whole or in part, for office, commercial, business, educational, industrial or governmental occupation.

*Regulatory flood protection elevation* shall mean an elevation of not less than eighteen (18) inches above the base flood elevation; provided, however, with respect to the Poudre River Floodplain as designated in § 10-60, *regulatory flood protection elevation* shall mean an elevation of not less than twenty-four (24) inches above the base flood elevation.

Section 2. That Section 10-16 of the Code of the City of Fort Collins is hereby amended by adding the following new definitions to read as follows:

*Dryland access* shall mean motor vehicle access to structures on and within a parcel of property located in whole or in part in a floodplain, which access is elevated above the base flood elevation so as to ensure the safe passage of motor vehicles on the property during times of a base flood affecting the property.

*FEMA* shall mean the Federal Emergency Management Agency.

*Five-hundred-year flood* shall mean a flood that has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year.

*Five-hundred-year floodplain* shall mean the land in a drainageway within a

community subject to a two-tenths (0.2) percent or greater chance of flooding in a given year.

*Floatable materials* shall mean any material on a nonresidential property that is not secured in place or completely enclosed in a structure, so that it could float off site during the occurrence of a flood and potentially cause harm to downstream property owners, or that could cause blockage of a culvert, bridge or other drainage facility. This includes, without limitation, lumber, vehicles, boats, equipment, trash dumpsters, tires, drums or other containers, pieces of metal, plastic, or any other item or material likely to float.

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

*Letter of map revision (LOMR)* shall mean a letter from FEMA officially revising the current National Flood Insurance Program Map to show changes to floodplains, floodways or flood elevations.

*Letter of map revision based on fill (LOMR-F)* shall mean a letter from FEMA stating that an existing structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

*Mixed-use structure* shall mean any structure that has only nonresidential uses in areas of the structure at or below the applicable regulatory flood protection elevation, but has residential uses in areas of the structure above the applicable regulatory flood protection elevation.

*Non-structural use* shall mean any use of property which does not: (a) involve a structure; (b) cause a rise in the base flood elevation; (c) involve the use or storage of floatable materials; (d) involve the placement of fill; or (e) have the potential for causing increased erosion of the thalweg, bed or banks of any watercourse. Such uses could include, without limitation, general farming, mining, pasturing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming, and industrial and commercial uses.

*Product corridor* shall mean the channel of a watercourse or other area of potential flooding, the boundaries of which are defined by the depth of water, as measured in feet, multiplied by the velocity of the water, as measured in feet per second, for a five-hundred-year flood such that the product is greater than or equal to six (6).

*Public infrastructure* shall mean: any facility, excluding structures, of a public or private utility providing electric, telephone, cable TV, fiber-optic, telegraph, water, wastewater, storm sewer or any other public utility service; stormwater improvements identified in any city-approved drainage master plan; public roads, bridges and culverts; and traffic signaling equipment that is provided, required or authorized by any governmental entity having jurisdiction.

Recreational facilities shall mean facilities or equipment that are used for private or public recreational or natural resource purposes that have a relatively low flood damage potential and do not involve a structure. This includes, without limitation: bicycle, equestrian or pedestrian trails and paths; gazebos; benches; ball fields; tennis and basketball courts; interpretive facilities; playground equipment; and golf courses.

*Recreational vehicle* shall mean a vehicle which is: (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Redevelop shall mean to demolish a structure, or portion of the structure, to the foundation or to the ground surface, and to rebuild the structure, or any portion of the structure, without increasing the floor area of the structure.

*Redevelopment* shall mean the process of redeveloping a structure.

Section 3. That Section 10-19(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

(b) The Council may adopt additional floodplain studies or reports by reference and declare them to be part of this Article, provided that any differences in floodplain 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 delineation. A copy of such studies or reports shall be on file in the office of the City Clerk.

Section 4. That Section 10-23 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-23. Violations and penalties.**

No structure or land shall be constructed, located, extended, converted, altered or used without full compliance with the terms of this Article and other applicable regulations. Violations of the provisions of this Article by failure to comply with any

of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this Article or who fails to comply with any of its requirements shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in § 1-15 in addition to the collection of any costs which may be provided unless a specific penalty is provided for a particular misdemeanor. Each day that any violation of the provisions of this Article occurs shall constitute a separate offense. Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 5. That Section 10-36 of the Code of the City of Fort Collins is hereby amended by adding a new paragraph (10) to read as follows:

The duties and responsibilities of the Director, as defined in §10-16, shall include but are not limited to:

- (10) Requiring that the provisions of this Article be applied to any structure located in an area of the city not mapped as part of FEMA's Flood Insurance Study referred to in §10-19(a) and not included in any city designated floodplain as established pursuant to §10-19(b), but in an area known to the Director to have experienced flooding in the past during a base flood or to have the potential for flooding during a base flood.

Section 6. That Section 10-37(c)(3) of the Code of the City of Fort Collins is hereby amended to read as follows:

- (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 existing structures on the site; location and elevations of streets, water supplies and sanitary facilities; boundaries of all applicable floodplains, floodways and product corridors in which the proposed development is to be located; and cross section locations and base flood elevation contours; and

Section 7. That Section 10-39 of the Code of the City of Fort Collins is hereby amended as follows:

**Sec. 10-39. Conditions for variances.**

- (a) Generally, variances may be issued for construction and improvements to be erected on a lot one-half (1/2) acre or less in size contiguous to and surrounded by

lots with existing structures constructed below the base flood level, provided that all factors of the variance procedure have been fully considered.

(b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed individually on the National Register of Historic Places or on the state's Inventory of Historic Places or designated as a landmark under Chapter 14 of this Code without regard to the procedures set forth in the remainder of this Section.

(c) If the variance sought under this Section would exempt the applicant's property from the application of any provision under this Article that is more restrictive than a comparable provision of the Federal Floodplain Regulations established in 44 C.F.R. Parts 59-78, such variance shall not be subject to the required finding of paragraph (h)(2) of this Section.

(d) If the variance sought is for property located in a city-designated floodplain and not in a FEMA-designated floodplain, such variance shall not be subject to the required finding of paragraph (h)(2) of this Section.

(e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(f) Variances shall not be issued for development within the product corridor of the Poudre River Floodplain, as such floodplain is designated in § 10-60.

(g) Variances shall only be issued upon the determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(h) Variances shall only be issued upon:

- (1) The showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of the variance would not result in any increased flood heights, any additional threat to public safety or to public or private property, any extraordinary public expense, any nuisance or trespass, any fraud on or victimization of the public as identified in this Chapter, or conflict with existing local laws or ordinances.

(i) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below

the base flood level and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 8. That Section 10-53 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-53. Specific standards for floodplains.**

In all floodplains where base flood elevation data has been provided as set forth in this Article, the following standards are required:

- (1) If a lot or parcel lies partly within the floodway or flood fringe area, the part(s) of such lot or parcel lying within such area or areas shall meet all the standards and requirements of such respective area as prescribed by this Article;
- (2) Residential construction:
  - a. New construction of any residential structure in an area of special flood hazard, and any additions to, or substantial improvements of, such a structure shall have the lowest floor, including basement, elevated to or above the regulatory flood protection elevation;
  - b. Require within any AO Zone or areas of shallow flooding that all new construction, additions to, and substantial improvements of residential structures have the lowest floor, including basement, elevated above the highest adjacent grade at least eighteen (18) inches above the depth number specified in feet on the FIRM (at least two [2] feet if no depth number is specified);
  - c. Require within areas of shallow flooding adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (3) Nonresidential and mixed-use construction:
  - a. New construction of any nonresidential or mixed-use structure in an area of special flood hazard, and any additions to, or substantial improvements of, such a structure shall either have the lowest floor, including basement, elevated to the level of the regulatory flood protection elevation or together with attendant utility and sanitary facilities shall:



1. Be floodproofed so that below the regulatory flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;
  2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  3. Be certified to the Director by a registered professional engineer or architect that the standards of this subsection are satisfied.
- b. Require within any AO Zone or area of shallow flooding that all new construction, additions to, and substantial improvements of nonresidential or mixed-use structures (i) have the lowest floor, including basement, elevated above the highest adjacent grade at least eighteen (18) inches above the depth number specified in feet on the FIRM (at least two [2] feet if no depth is specified), or (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in this Article;
- c. Require within areas of shallow flooding adequate drainage paths around nonresidential and mixed-use structures on slopes to guide floodwaters around and away from proposed structures.
- d. The owner of a floodproofed structure shall post and maintain written notices in conspicuous locations on each floor of the structure in such form, locations and numbers as are reasonably necessary to inform the occupants of the structure that the structure is floodproofed, and to identify the location of any equipment in the structure that requires human operation in order for the floodproofing to be effective.
- (4) Critical facilities. No new critical facilities shall be constructed in the five-hundred-year floodplain nor shall the existing use of a structure in the five-hundred-year floodplain be changed to a use that would be considered a critical facility.
- (5) Hazardous materials. No person shall store a hazardous material, as such material is defined in the Uniform Fire Code adopted in § 9-1 and as amended in § 9-2, below the regulatory flood protection elevation for the area of the floodplain in which it is located, except for the storage of gasoline in existing and replacement underground in existing gasoline service stations and service garages, which tanks are designed to prevent

infiltration and discharge into floodwaters and which are adequately anchored and shielded against rupture.

Section 9. That Section 10-55(4) of the Code of the City of Fort Collins is hereby amended to read as follows:

Located within the floodplains established in this Article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (4) No person shall change the use of a nonconforming structure from a nonresidential use or mixed-use to a residential use nor shall any person change the use of a nonconforming structure or conforming structure to use as a critical facility.

Section 10. That Article II of Chapter 10 of the Code of the City of Fort Collins is hereby amended by adding a new Division 4 to read as follows:

#### DIVISION 4. POUFRE RIVER FLOODPLAIN

##### **Sec. 10-60. Designation of Poudre River Floodplain.**

In accordance with § 10-19(b), the Poudre River Floodplain Study, a copy of which is on file with the Office of the City Clerk, is hereby adopted by reference and declared to be a part of this Article. The boundaries of the floodplain, floodway and product corridor of the Poudre River Floodplain shall be as delineated in the Study, except as hereinafter modified. The boundary of the floodplain, floodway and product corridor, as established in the Poudre River Floodplain Study, may be modified by the Director if, in his or her judgment, such modification is reasonably necessary to comply with the purposes of this Article and to adjust such boundaries as established by the most recent and reliable engineering and scientific studies. Any such modification approved by the Director shall be filed in the Office of the City Clerk.

**Sec. 10-61. Specific standards for Poudre River Floodplain.**

In addition to complying with all other applicable provisions of this Article, all development in the Poudre River Floodplain, as such floodplain is designated by § 10-60, shall comply with the following applicable provisions unless removed from the floodplain in accordance with § 10-62. 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) Property location. If a lot or parcel lies partly within the floodplain, the part or parts of such lot or parcel lying within the floodplain shall meet all applicable standards and requirements of this Article.
- (2) Residential construction.
  - a. New construction. Construction of new residential structures is prohibited in the floodplain, floodway and product corridor.
  - b. Additions. Additions to residential structures in the floodplain, floodway and product corridor are prohibited.
  - c. Substantial damage. Any residential structure in the floodway or product corridor that has suffered substantial damage shall not be reconstructed.
  - d. Redevelopment. Redevelopment of a residential structure in the floodway or product corridor is prohibited.
  - e. Elevation requirements.
    1. Any substantial improvement to a residential structure in the floodplain, floodway or product corridor which is not otherwise prohibited by this Division 4 shall have the lowest floor of the structure, including any basement or crawl space, elevated to or above the regulatory flood protection elevation.
    2. Any existing residential structure located in that portion of the floodplain outside of the floodway and the product corridor that has suffered substantial damage may be reconstructed, provided that the lowest floor of the structure, including any basement or crawl space, is elevated to or above the regulatory flood protection elevation.

3. If an existing residential structure located in that portion of the floodplain outside of the floodway and the product corridor is redeveloped, the lowest floor of the redeveloped structure, including any basement or crawl space, shall be elevated to or above the regulatory flood protection elevation.
- (3) Nonresidential and mixed-use construction.
- a. New construction.
    1. The construction of new nonresidential structures is prohibited in the floodway and product corridor.
    2. The construction of new mixed-use structures is prohibited in the floodplain, floodway and product corridor.
  - b. Additions.
    1. Additions to nonresidential structures in the floodway and product corridor are prohibited.
    2. Additions to mixed-use structures in the floodway and product corridor are prohibited. Additions to a mixed-use structure that result in any expansion of the residential-use area of the structure are prohibited in those portions of the floodplain outside the floodway and product corridor.
  - c. Substantial damages. Any nonresidential or mixed-use structure in the floodway or product corridor that has suffered substantial damage shall not be reconstructed.
  - d. Redevelopment. The redevelopment of a nonresidential or mixed-use structure in the floodway or product corridor is prohibited.
  - e. Elevation and floodproofing requirements.
    1. In an area of special flood hazard, when construction of a new nonresidential structure, any addition or substantial improvement to an existing nonresidential or mixed-use structure, or the redevelopment of a nonresidential or mixed-use structure is permitted by this Division 4, the structure shall either have the lowest floor, including any basement or crawl space, elevated to the level of the regulatory flood

protection elevation or, together with any attendant utility and sanitary facilities, the structure shall:

- (i) be floodproofed so that below the regulatory flood protection elevation the structure is water tight with walls substantially impermeable to the passage of water;
  - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (iii) be certified to the Director by a registered professional engineer or architect that the standards of this subparagraph 1. are satisfied.
2. In the event that construction of a new nonresidential structure or any addition, substantial improvement to, or redevelopment of an existing nonresidential or mixed-use structure is permitted by this Division 4 and the structure is located or is to be located in the AO Zone as shown on the FIRM, the structure shall have the lowest floor, including any basement or crawl space, elevated above the highest adjacent grade at least twenty-four (24) inches above the depth number specified in feet on the FIRM (at least two [2] feet if no depth is specified), or together with any attendant utility and sanitary facility, be completely floodproofed to that level and meet the following additional floodproofing standards:
  - (i) be floodproofed so the structure is water tight with walls substantially impermeable to the passage of water;
  - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (iii) be certified to the Director by a registered professional engineer or architect that the standards of this subparagraph 2. are satisfied.
3. With respect to any construction of a new nonresidential structure authorized under this Division 4 and any addition or

substantial improvement to an existing nonresidential or mixed-use structure within areas of shallow flooding that is authorized under this Division 4, adequate drainage paths around such structures on slopes to guide flood waters around and away from them shall be required.

4. The owner of a floodproofed structure shall post and maintain written notices in conspicuous locations on each floor of the structure in such form, locations and numbers as are reasonably necessary to inform the occupants of the structure that the building is floodproofed and to identify the location of any equipment in the structure that requires human operation in order for the floodproofing to be effective.
- (4) Manufactured homes and recreational vehicles.
- a. A manufactured home shall not be placed in the floodplain, floodway or product corridor. This provision shall not apply to manufactured homes placed in the floodplain, floodway or product corridor on or before July 1, 2000.
  - b. Any recreational vehicle located on residential property in the floodplain, floodway or product corridor shall be fully licensed and ready for highway use at all times when located on such property.
- (5) Fill. No person shall place any fill in the floodway or product corridor unless it is related to the development of public infrastructure or publicly-owned recreational facilities, in which case any fill that is placed for such permitted development shall not cause a rise in the base flood elevation. Fill related to mine reclamation shall be permitted in the floodway and the product corridor so long as it will not cause a rise in the base flood elevation and so long as all changes in the floodway and product corridor are on the mining site. Eligibility for a letter of map revision based on fill from FEMA shall not be considered an exemption from this prohibition.
- (6) Floatable materials. No person shall temporarily or permanently store any floatable material on nonresidential property that is located in the floodplain, floodway or product corridor; provided, however, that nonresidential properties in the floodplain, floodway or product corridor having floatable materials stored on them prior to July 1, 2000, shall be permitted to continue to have floatable materials stored on them until the earlier of: July 1, 2002; when there is any change in use of the property; when a new structure is constructed on the property; or when there is any

addition to or substantial improvement of any existing structure on the property. This paragraph (6) shall not, however, apply to operable motor vehicles parked temporarily on property for the purpose of customer or employee parking, or to a business's temporary outdoor display of inventory during its usual hours of operation.

- (7) Dryland access. In the event that the construction of a new structure or addition to or substantial improvement of an existing structure is permitted under this Division 4, dryland access shall be provided for such structure.
- (8) Floodway modifications. Floodway modification is prohibited unless it is made in connection with the development of public infrastructure or publicly-owned recreational facilities, or unless it is reasonably necessary in connection with the use of property for mining; provided, however, that any such modification for mining shall only occur on the property being mined, and if any property is removed from the floodway or product corridor because of such modification for mining, the property so removed shall not thereafter be used for the construction of any structure upon it.

**Sec. 10-62. Removal of property from floodplain.**

- (a) Subject to the provisions of paragraphs (b) and (c) of this Section and all applicable provisions of this Code and the city's Land Use Code (including, without limitation, Land Use Code §3.3.3), property located in that portion of the floodplain outside the floodway and product corridor may be removed from such floodplain area if one (1) of the following conditions is satisfied:
  - (1) FEMA has issued a letter of map revision removing the property from the floodplain solely as a result of the construction of stormwater improvements identified in the city's Poudre River Master Drainage Plan; or
  - (2) FEMA has issued a letter of map revision based on fill removing the property from the floodplain, and at least fifteen (15) percent of the property's boundary is contiguous to property outside the floodplain, there is dryland access on the property, and there is dryland access from the property to a publicly maintained street or road and such access and street or road would not be flooded by a base flood.
- (b) If the property removed from the floodplain pursuant to paragraph (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.

- (c) If property is removed from the floodplain in accordance with paragraph (a)(2) of this Section, any structure built or existing on such property must have the lowest floor of the structure, including any basement or crawl space, elevated to or above the regulatory flood protection elevation and, if the structure is a manufactured home, it shall also comply with all the requirements of §10-54.

**Sec. 10-63. Uses allowed in floodplain, floodway and product corridor.**

Non-structural uses, public infrastructure and recreational facilities shall be allowed in the floodplain, floodway and product corridor, provided that such uses comply with all applicable provisions of this Article and provided that such uses are otherwise permitted by the city's applicable zoning and land-use laws and regulations. Redevelopment and substantial improvement of existing residential structures shall be permitted in those portions of the floodplain outside the floodway and product corridor, provided that such structures are otherwise permitted by this Article and the city's applicable zoning and land-use laws and regulations. New nonresidential structures and additions, substantial improvements to, and redevelopment of, existing nonresidential and mixed-use structures shall be permitted in those portions of the floodplain outside the floodway and product corridor, provided that such structures are otherwise permitted by this Article and the city's applicable zoning and land-use laws and regulations. The rehabilitation of residential, nonresidential and mixed-use structures existing as of July 1, 2000, in the floodplain, floodway and product corridor shall be permitted, provided that all the substantial improvement requirements of this Article are satisfied and provided that the regulatory flood protection elevation mandated by such substantial improvement requirements shall be not less than twenty-four (24) inches above the base flood elevation.

**Sec. 10-64. Takings determination.**

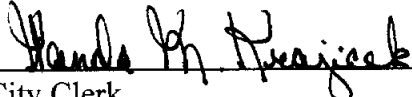
Persons who claim that their property has been taken by reason of the application of any provision of this Division 4 shall follow the takings determination provisions of Division 2.13 of the city's Land Use Code before instituting any judicial proceeding against the city claiming a taking of their affected property.



Introduced and considered favorably on first reading and ordered published in summary form this 6th day of June, A.D. 2000, and to be presented for final passage on the 20th day of June, A.D. 2000.

  
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Mayor pro Tem

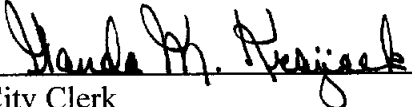
ATTEST:

  
\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 20th day of June, A.D. 2000.

  
\_\_\_\_\_  
Mayor pro Tem

ATTEST:

  
\_\_\_\_\_  
City Clerk