

AGENDA ITEM SUMMARY

City Council

December 3, 2013

STAFF

Ken Sampley, Stormwater/Floodplain Program Manager
Jon Haukaas, Water Engineer Field Operations Manager
Lance Smith, Strategic Financial Planning Manager

SUBJECT

Second Reading of Ordinance No. 166, 2013, Amending Chapter 10 of the City Code to Revise Fees for Floodplain Use Permits, Reviews and Variances.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on November 19, 2013 (Campana recused) adopts new and updated floodplain review fees in Chapter 10 (Flood Prevention and Protection) of the City Code. Chapter 10 outlines floodplain regulations that promote the public health, safety and general welfare and minimize public and private losses due to flood conditions in flood hazard areas. A new fee structure will be established to better assign costs to floodplain review applicants.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

During the City Council discussion on First Reading of the Ordinance, it was asked if this fee increase consideration followed the past City Council Resolution 2006-113 providing a process for implementing city fee increases. In 2011 the City Council revisited this issue and clarified the process by Resolution 2011-013 and finally replaced both Resolutions with Resolution 2011-082 (see Attachment 3), which remains in effect today.

These Resolutions specifically address the fee setting provisions of Chapter 7.5 of the City Code and Section 2.2.3(D) of the Land Use Code. The intents stated is to confirm the authority of the City Manager to structure and set development review and building permit fees administratively, and that such fees "should recover all related direct costs"

The Stormwater and Floodplain Fees under consideration are set in Chapter 10 of the City Code and therefore any adjustment must be made by City Council adoption of an Ordinance as has been presented here. Regardless, staff approached the review of these fees in the same manner and intent as the above referenced Council Resolutions by applying a thorough review, rigorous accounting, review of similar fees by other Front Range Cities, and a methodology to recover all related direct costs.

ATTACHMENTS

1. First Reading Agenda Item Summary, November 19, 2013 (w/o attachments) (PDF)
2. Ordinance No. 166, 2013 (PDF)
3. Resolution 2011-082 (PDF)

AGENDA ITEM SUMMARY

November 19, 2013

City Council

STAFF

Ken Sampley, Stormwater/Floodplain Program Manager
Jon Haukaas, Water Engineer Field Operations Manager
Lance Smith, Strategic Financial Planning Manager

SUBJECT

First Reading of Ordinance No. 166, 2013, Amending Chapter 10 of the City Code to Revise Fees for Floodplain Use Permits, Reviews and Variances.

EXECUTIVE SUMMARY

The purpose of this item is to adopt new and updated floodplain review fees in Chapter 10 (Flood Prevention and Protection) of the City Code. Chapter 10 outlines floodplain regulations that promote the public health, safety and general welfare and minimize public and private losses due to flood conditions in flood hazard areas. The floodplain regulations require that proposed activities, uses, improvements, or alternations within designated flood hazard areas be submitted to the City of Fort Collins for review to ensure compliance. These items are reviewed by staff from the City's Stormwater Master Planning and Floodplain Administration Division. City Code specifies that applicants must pay floodplain review fees for these services. The current fees do not provide a mechanism to properly account for the significant review times associated with certain types of floodplain reviews including Conditional Letters of Map Revision (CLOMRs), Letters of Map Revision (LOMRs) and variance requests. Staff recommends that a new fee structure be established to better assign costs to floodplain review applicants. This Ordinance establishes specific floodplain review fees for:

- fences, accessory structures (sheds/garages), decks and fill or grading operations;
- Building additions, improvements/remodels, redevelopment or new buildings;
- Mobile homes, floodproofing of structures;
- Variance applications;
- City basin no-rise analyses and floodplain map revisions; and,
- Federal Emergency Management Agency CLOMRs, LOMRs and LOMR-Fills.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Chapter 10 (Flood Prevention and Protection) of the City Code outlines floodplain regulations that promote public health, safety and welfare and minimize public and private losses due to flood conditions in flood hazard areas. City Code includes methods and provisions for:

1. Restricting or prohibiting uses which could increase erosion, flood elevations or velocities;
2. Requiring that uses vulnerable to flooding be protected at the time of initial construction;
3. Controlling the alternation of natural floodplains, stream channels and natural protective barriers that help accommodate and convey floodwaters;

- 4. Controlling filling, grading, dredging and development that increase flood damage; and,
- 5. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters and increase flood hazards in other areas.

City Code specifies that applicants must pay floodplain review fees for proposed activities, uses, improvements, or alternations within designated flood hazard areas these services. The intent is to institute a “user pay” approach wherein an applicant who is requesting floodplain review services pays instead of having those costs charged to stormwater utility customers, generally, through existing stormwater service fees. The current fees and their respective dollar amounts have not increased since they were originally adopted (early 1990s). The current fees do not provide a mechanism to properly account for the significant review times associated with different types of floodplain reviews including City Basin no-rise analyses and floodplain map revisions, FEMA Conditional Letters of Map Revision (CLOMRs) and Letters of Map Revision (LOMRs) and variance requests.

FLOODPLAIN USE PERMIT

All activities requiring the issuance of a floodplain permit will have a base floodplain use permit fee of \$50. For minor submittals that require limited review [approx. one (1) hour or less], the floodplain use permit fee will be the only fee required. For other submittals, more detailed Staff review is required. An additional fee is necessary to cover the costs associated with these reviews. The proposed fee structure is shown in **Attachment 1** and has categories of review fees to be collected based on the level of review.

In general, the typical categories of floodplain reviews are:

- 1. Minor Improvements / accessory structures;
- 2. Redevelopment, new buildings, additions, improvements/remodels greater than 50% of the value of the existing structure;
- 3. Mobile Homes, Floodproofing;
- 4. Variances; and,
- 5. Pre- and Post-Project Floodplain analyses (City basin, FEMA, CLOMR/LOMR).

Category 1 -- Minor Improvements / Accessory Structures

For fence, shed, garage and miscellaneous items, reviews are typically completed within one (1) hour so there are no additional proposed fees. For review items that involve more staff time, the floodplain review fees shall consist of the floodplain use permit fee of fifty (\$50) dollars plus the following additional fee based on the type of review submittal:

- Deck/improvement or remodel less than 50% of the structure value ----- \$150
- Fill or grading only ----- \$150

Category 2 -- Redevelopment, New Buildings, Additions, Improvements/Remodels Greater than 50% of the Value of the Existing Structure

Staff review for these items is dependent on the type of submittal. In general, more staff time is required to complete these reviews when compared to those identified in Category 1. Floodplain review fees shall consist of the floodplain use permit fee of fifty (\$50) dollars plus the following additional fee based on the type of construction:

- Slab on Grade Construction ----- \$150
- Enclosure ----- \$200
- Crawl Space ----- \$250

Category 3 -- Mobile Homes, Floodproofing

Staff review for these items is again dependent on the type of submittal. Floodplain review fees shall consist of the floodplain use permit fee of fifty (\$50) dollars plus the following additional fees:

- Mobile Home ----- \$250
- Floodproofing ----- \$250

Category 4 -- Variance Applications

The recommended variance fee is one thousand (\$1,000) dollars to better reflect the average number of hours (20) of staff review and preparation time associated with analyzing, presenting and documenting the variance to the Water Board.

Category 5 -- Floodplain Analyses (City Basin, FEMA, CLOMR/LOMR)

These submittals, by their nature, require significant Staff involvement and review. In those instances where a submittal to FEMA is required, Staff must review and acknowledge that the submittal meets Chapter 10 requirements in advance of the applicant submitting it for FEMA review. These submittals are typically associated with larger site development (new) and/or redevelopment. There are typically two (pre-project and post-project) submittals for each of the following submittal types. A pre-project floodplain use permit fee (not required for post-project submittals) of fifty (\$50) dollars is proposed along with the following additional fees.

- FEMA Basin CLOMR/LOMR-Fill (includes 1st and 2nd reviews) ----- \$ 250
- City/FEMA No-Rise without hydraulic analysis (includes 1st and 2nd reviews) ---- \$ 250
- City/FEMA No-Rise with hydraulic analysis (includes 1st and 2nd reviews) ----- \$ 500
- City Basin Prelim/Final Floodplain Map Revision (includes 1st and 2nd reviews) -- \$ 1,000
- FEMA Basin CLOMR/LOMR (includes 1st and 2nd reviews)----- \$ 1,000

In order to promote more complete submittals and reduce the number of floodplain analyses and CLOMR/LOMR reviews, Staff has proposed an additional fee for resubmittals after the 2nd review. This concept is similar to that used by several other Colorado communities. The additional review fees for 3rd (and higher) reviews have a base fee plus \$50 per hour for reviews taking longer than typical review times:

	<u>Base Fee</u>	+	<u>Plus \$50/hour for Reviews > than</u>
• FEMA Basin CLOMR/LOMR-Fill -----	\$125		3 hours
• City/FEMA No-Rise with hydraulic analysis -----	\$250		5 hours
• City Basin Prelim/Final Floodplain Map Revision -----	\$500		10 hours
• FEMA Basin CLOMR/LOMR -----	\$500		10 hours

FINANCIAL / ECONOMIC IMPACT

Stormwater staff performed an internal analysis using data collected over the last three years to determine the approximate average amount of staff time associated with specific floodplain reviews. **Attachment 2** presents the results and reveals that the current fees do not appropriately reflect the staff effort necessary to perform the review functions. As a result, staff recommends that the proposed new fee structure be established to better assign costs to floodplain review applicants. This approach is similar to that used by other Colorado communities.

BOARD / COMMISSION RECOMMENDATION

The proposed floodplain administration review fees were presented and discussed at the June 6, 2013 Water Board Work Session. At its September 19, 2013 meeting, the Water Board unanimously approved the stormwater floodplain review fees (**Attachment 3**).

PUBLIC OUTREACH

Agenda Item 14

Staff notified customers (developers, engineers, etc.) of the proposed floodplain review fees by postcard mailing in late October 2013. The postcard provides general information and refers interested parties to a city webpage developed specifically for the proposed floodplain review fees.

Public meetings included the Fort Collins Chamber of Commerce on October 4, 2013 and a Fort Collins Utilities' Key Accounts meeting and presentation on October 15, 2013.

ATTACHMENTS

1. Floodplain Review Analysis (PDF)
2. Water Board minutes, September 19, 2013 (PDF)
3. Work Session Summary, September 24, 2013 (PDF)
4. Proposed Fort Collins Floodplain Review Fees (PDF)
5. Powerpoint presentation (PDF)

COPY

ORDINANCE NO. 166, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF FORT COLLINS
TO REVISE FEES FOR FLOODPLAIN USE PERMITS,
REVIEWS AND VARIANCES

WHEREAS, the City Council is empowered and directed by Article XII, Section 6, of the Charter of the City of Fort Collins, Colorado, to fix, establish, maintain and provide for the collection of such rates, fees or charges for utility services furnished by the City as will produce revenues sufficient to pay the costs, expenses and other obligations of the stormwater utility, as set forth therein; and

WHEREAS, the existing fees for floodplain use permits and variances were last reviewed and adjusted in the early 1990's; and

WHEREAS, based on research and data collected by City staff, the new and updated fee amounts set forth herein are reasonably related to the actual cost of providing the related floodplain services, and are intended to cover a portion of such costs; and

WHEREAS, the following adjustments to the floodplain use permit, review and variance fees in Chapter 10 of the Code of the City of Fort Collins are to go into effect on January 1, 2014; and

WHEREAS, based on the foregoing, it is the desire of the City Council to amend Chapter 10 of the City Code to reorganize and revise the fees 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 add the following definitions:

•••

Conditional physical map revision (CPMR) shall mean a letter from FEMA officially commenting on, but not revising, the effective Flood Insurance Rate Map, for a proposed project that would, upon completion, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to, and republication of, one or more panels of the effective Flood Insurance Rate Map to show changes in flood risk zones, delineations and flood elevations of floodplains and floodways.

•••

Final map revision shall mean a formal action by the Utilities Executive Director revising the effective floodplain map for a City basin floodplain to show changes delineations and flood elevations of floodplains and floodways.

...

Section 2. That subsection (j) of 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.

...

(j) An applicant for a floodplain use permit shall pay a permit application fee plus the applicable review fees for the most costly of the associated analyses, as provided in § 10-31.

Section 3. That Section 10-28 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 10-28. Appeals/variance procedure.

(a) The Water Board, as established in § 2-436, shall hear and decide appeals from decisions of the Utilities Executive Director and requests for variances from the requirements of this Article. Any final decision of the Board may be subject to review by the City Council.

(b) The Water Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Utilities Executive Director in the enforcement or administration of this Article. Persons desiring to appeal a decision of the Utilities Executive Director to the Water Board shall at the time of making such appeal pay a docket fee as provided in §10-31(d). Written notice of hearing shall be given to the appellant at least three (3) days prior to the hearing by mailing the notice to the appellant's last known address by regular mail.

(c) Persons desiring to request a variance shall at the time of application for said variance submit a variance application together with a floodplain use permit application, and shall at the time of application pay all fees due as provided in § 10-31(a). Written notice of a variance hearing shall be given to the applicant at least three (3) days prior to the hearing by mailing the notice to the applicant's address, as set forth in the variance application, by regular mail.

...

Section 4. That a new Section 10-31 is hereby added to the Code of the City of Fort Collins, to read as follows:

Sec. 10-31. Floodplain permit and review fees.

(a) An applicant for a floodplain use permit or party requesting review of a submittal pursuant to this Article shall pay at the time of submittal a floodplain use permit (FPU) fee of fifty dollars (\$50.), together with the highest associated review fee, as follows:

<u>Permit Type/Activity</u>	<u>Fee</u>	<u>Additional Fees for Reviews After 1st and 2nd Reviews</u>
(1) MINOR IMPROVEMENTS, ACCESSORY STRUCTURES		
a. Fence/Accessory Structure	FPU Fee plus \$0	Not applicable
b. Deck/Improvement or Remodel less than 50% of existing building value	FPU Fee plus \$150	Not applicable
c. Fill or Grading Only	FPU Fee plus \$150	Not applicable
d. Change of Use	FPU Fee plus \$0	Not applicable
(2) REDEVELOPMENT, NEW BUILDINGS, ADDITIONS, SUBSTANTIAL IMPROVEMENTS OR REMODELS 50% OR MORE OF THE VALUE OF THE EXISTING STRUCTURE		
a. Slab on Grade	FPU Fee plus \$150	Not applicable
b. Enclosure	FPU Fee plus \$200	Not applicable
c. Crawl Space	FPU Fee plus \$250	Not applicable
(3) MOBILE HOMES, FLOODPROOFING		
a. Mobile Home	FPU Fee plus \$250	Not applicable
b. Floodproofing	FPU Fee plus \$250	Not applicable

(4) VARIANCES		
a. Variance Application	FPU Fee plus \$1,000	Not applicable
(5) <u>PRE-PROJECT FLOODPLAIN ANALYSES</u>		
a. FEMA CLOMR/CPMR	FPU Fee plus \$1,000	\$500 each review, plus \$50/hr. for each review hour over 10 hours
b. City Preliminary Map Revision	FPU Fee plus \$1,000	\$500 each review, plus \$50/hr. for each review hour over 10 hours
c. No-Rise Certification with Hydraulic Analysis	FPU Fee plus \$500	\$250 each review, plus \$50/hr. for each review hour over 5 hours
d. CLOMR-Fill	FPU Fee plus \$250	\$125 each review, plus \$50/hr. for each review hour over 3 hours
e. No-Rise Certification without Hydraulic Analysis	FPU Fee plus \$250	Not applicable

(b) Any person submitting a post-project floodplain analysis for review shall pay at the time of submittal the applicable review fee, as follows:

<u>Post-Project Floodplain Analysis</u>	<u>Fee</u>	<u>Additional Fees for Reviews After 1st and 2nd Reviews</u>
(1) FEMA LOMR/PMR	\$1,000	\$500 each review, plus \$50/hr. for each review hour over 10 hours
(2) City Final Map Revision	\$1,000	\$500 each review, plus \$50/hr. for each review hour over 10 hours
(3) No-Rise Certification with Hydraulic Analysis	\$500	\$250 each review, plus \$50/hr. for each review hour over 5 hours

(4) LOMR-Fill	\$250	\$125 each review, plus \$50/hr. for each review hour over 3 hours
(5) No-Rise Certification without Hydraulic Analysis	\$250	Not applicable

(c) Additional fees due for review submittals after the second review shall be paid at the time of submittal, except that additional charges per hour shall be due prior to the release of review results.

(d) Any person appealing a decision of the Utilities Executive Director to the Water Board shall at the time of making such appeal pay a docket fee in the amount of three hundred dollars (\$300.).

Section 5. That amendments set forth herein shall go into effect on January 1, 2014.

Introduced and considered favorably on first reading, and ordered published this 19th day of November, A.D. 2013, and to be presented for final passage on the 3rd day of December, A.D. 2013.

Mayor

ATTEST:

Deputy City Clerk

Passed and adopted on final reading on the 3rd day of December, A.D. 2013.

Mayor

ATTEST:

City Clerk

RESOLUTION 2011-082
OF THE COUNCIL OF THE CITY OF FORT COLLINS
CLARIFYING THE BASIS FOR THE SETTING OF
DEVELOPMENT REVIEW AND BUILDING PERMIT FEES

WHEREAS, in the past the City Council has acted by resolution to establish a process for establishing and implementing various types of fees, including capital improvement expansion fees, user fees, permit fees, and others; and

WHEREAS, more specifically, the City Council in 2006 adopted Resolution 2006-113, providing a process for implementing City fee increases, and then earlier this year adopted Resolution 2011-013, staying the application of Resolution 2006-113, pending further action to clarify its intent and scope; and

WHEREAS, pursuant to Article I of Chapter 7.5 of the City Code, the City Manager is empowered to establish fees for administrative services and City facilities, based upon the cost of providing the related service or facility; and

WHEREAS, City Code Section 7.5-2 allows the City Manager to determine the extent to which fees will be set to recover costs based on the nature of the facilities or services, the nature and extent of the benefit to the fee payers, the level of demand for a particular service or facility, and ease of collection; and

WHEREAS, that provision further authorizes the City Manager to structure administrative fees so as to make distinctions among fee payers, in terms of the amounts to be paid by such fee payers for the use of a particular service or facility, provided that any such distinctions are reasonably related to a legitimate municipal purpose; and

WHEREAS, Section 2.2.3(D) of the Land Use Code authorizes the City Manager to set development review fees, and requires that such fees be based upon the costs of providing development review; and

WHEREAS, staff has conducted a thorough review of the costs associated with providing development and building review services ("Building Permit and Plan Check Fees"), along with the cost-recovery performance resulting from the fees that have been in effect for those services; and

WHEREAS, at the City Council's June 14, 2011, Work Session, the Council reviewed the results of staff's analysis, and considered the options for changing the cost-recovery approach on which Building Permit and Plan Check Fees are based; and

WHEREAS, based on staff's new and rigorous accounting for the costs of processing building permit applications, including plan checking, the City Manager has proposed administrative Building Permit and Plan Check Fees that would recover all direct costs of those services as authorized under the existing Code provisions; and


WHEREAS, the City Council intends that the fee provisions of Chapter 7.5 of the City Code and 2.2.3(D) of the Land Use Code govern the setting of administrative and other fees as described therein, and consequently seeks to clarify in this Resolution that resolutions previously adopted establishing standards or providing direction with respect to the setting of fees addressed in Chapter 7.5, and specifically Resolution 2006-113 and Resolution 2011-013, are no longer in effect.

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

Section 1. That the City Council hereby reaffirms the procedures and standards for administrative adoption of Building Permit and Plan Check Fees as described herein, and endorses the City Manager's determination that the Building Permit and Plan Check Fees should recover all related direct costs.

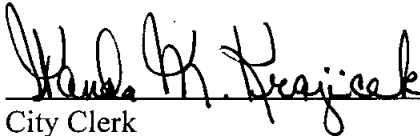
Section 2. That Resolution 2006-113 and Resolution 2011-013, and such other resolutions as may dictate the requirements associated with the setting of fees under Chapter 7.5 of the City Code and Section 2.2.3(D) of the Land Use Code, are hereby declared to be of no further force or effect.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 6th day of September A.D. 2011.



Mayor

ATTEST:



City Clerk

