

ORDINANCE NO. 1992

INTRODUCED BY: AMADOR, BENSON, BULLOCK, CARSON, DOUGLAS, ELLIOTT, FORD, MCELDFOWNEY, TETER

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE COMMERCE CITY LAND DEVELOPMENT CODE PERTAINING TO FLOODPLAIN REGULATION

WHEREAS, in order for the City of Commerce City to participate in the National Flood Insurance Program (NFIP), it must adopt and enforce floodplain management regulations that meet or exceed the standards set by the NFIP and the State of Colorado;

WHEREAS, the State of Colorado Department of Natural Resources Department has adopted standards that are more restrictive than the NFIP, the standards used by the City in developing the regulations contained in the City of Commerce City's Land Development Code; and

WHEREAS, the City of Commerce City desires to amend its floodplain regulations to meet the standards set by the State of Colorado in order to continue to participate in the NFIP.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Section 21-11200 of the Commerce City Land Development Code is hereby amended by the addition of the following definitions:

CRITICAL FACILITY shall mean a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the State of Colorado, Department of Natural Resources, Colorado Water Conservation Board document entitled "Rules and Regulations for Regulatory Floodplains in Colorado," dated November 17, 2010 and as may be amended from time to time, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. Generally, critical facilities are those that shelter essential services, hazardous materials, and at-risk populations. If it is unclear whether or not a facility falls within the context of Rule 6, the Floodplain Administrator shall have the sole authority to make such determination.

ADDITION shall mean any activity that expands the enclosed footprint or increases the square footage of an existing structure.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) shall mean FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

FLOODWAY (Regulatory Floodway) shall mean the channel of a river or other watercourse and the adjacent land areas which must be preserved in order to discharge

the base flood without cumulatively increasing the water surface elevation more than one foot.

SECTION 2. Section 21-4400(1) of the Commerce City Land Development Code is hereby amended to read as follows:

Sec. 21-4400. FP Floodplain Overlay District

(1) **Description, Purpose, and Intent.** This district includes all special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Adams County," dated 2007, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Code. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this article and may be supplemented by studies designated and approved by the City. A copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs is on file with the City and available for public inspection. The purpose of this district is to promote public health and minimize losses due to flood.

SECTION 3. Section 21-4400(7) of the Commerce City Land Development Code is hereby amended to read as follows:

(7) Structures.

(a) Generally. Residential structures are prohibited in the floodplain. Nonresidential structures, if permitted, shall either have the lowest floor (including the basement) elevated to one foot above the base flood elevation or, together with the attendant utility and sanitary facilities, comply with the following standards:

1. Be flood-proofed so that below the required 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 by a licensed engineer or architect that the design and method of construction are in accordance with the accepted standards of practice for meeting the provisions of this code. Such certification shall be provided to the floodplain administrator.

(b) Critical Facilities.

1. No new, substantially improved, or additions to critical facilities shall be permitted in the floodplain unless the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, are at least two feet above the Base Flood Elevation.

2. New critical facilities shall, when practicable as determined by the City, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

SECTION 4. Section 21-4400 of the Commerce City Land Development Code is hereby amended by the addition of paragraph (9) which shall read as follows:

(9) Properties removed from the floodplain by fill. If permitted, new structures and additions to existing structures shall comply with the following:

- (a) In residential structures the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill.
- (b) In nonresidential structures the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

SECTION 5. Section 21-5510 of the Commerce City Land Development Code is hereby amended to read as follows:

Sec. 21-5510. Nonconforming Structures

(1) Alterations and Expansions.

- (a) General Standards. A nonconforming structure shall not be altered or expanded unless such alteration or expansion complies with the provisions of this land development code. Expansions of the structure that comply with the applicable dimensional standards shall be permitted and shall not require a variance.
- (b) Structures located in the Floodplain. In addition to the general standards, if a nonconforming structure located within the floodplain undergoes any alteration, expansion or addition the value of which equals or exceeds 50 percent of the structure's replacement value, the entire structure must be brought into compliance with the requirements of this land development code.

(2) Restoration.

- (a) Structures located outside the floodplain. A nonconforming structure that is destroyed or damaged to the extent of more than 60 percent of its replacement

value shall not be restored except in compliance with the requirements of this land development code. All such restoration work shall be commenced within 180 days, in accordance with the building permit issued by the city and all applicable city codes.

(b) Structures located in the floodplain. A nonconforming structure that is destroyed or damaged to the extent of more than 50 percent of its replacement value shall not be restored except in compliance with the requirements of this land development code. All such restoration work shall be commenced within 180 days, in accordance with the building permit issued by the city and all applicable city codes.

SECTION 6. Except as specifically modified herein, the provisions of the Land Development Code shall remain unchanged and in full force and effect.

SECTION 7. This Ordinance shall take effect March 3, 2014.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE
ORDERED THIS 3RD DAY OF FEBRUARY, 2014.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS 3RD DAY OF MARCH, 2014.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk