



# STAFF REPORT

## Planning Commission

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### ORDINANCE #2122

<b>PC Date:</b>	February 7, 2017	<b>City Staff:</b>	Steve Timms and Matt Hader
<b>CC Date:</b>	March 6, 2017		
<b>Location:</b>	City-Wide		
<b>Applicant:</b>	City of Commerce City		
<b>Address:</b>	7887 East 60 <sup>th</sup> Avenue, Commerce City, CO 80022		

### Case Summary

<b>Request:</b>	Commerce City is requesting to update Section 21-4400 of the LDC (Floodplain Overlay District) by updating the FEMA Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps that the City utilizes.
<b>Project Description:</b>	Commerce City has been a participating agency and has had adopted floodplain management ordinances since 1978. The State and the Federal Emergency Management Agency (FEMA) utilize flood plain maps or panels which dictate where the actual floodplain boundaries are located. From time to time, FEMA updates their floodplain maps to reflect the latest engineering changes and studies that affect various water ways within the state. Last fall, Commerce City received notice that one such map which includes a portion of Commerce City has been updated. In order to keep the city compliant with state and federal requirements, the reference to the latest map panels must be updated within the LDC. No actual floodplain boundaries within Commerce City will be affected and no properties within Commerce City will either be taken into, or out of a floodplain.
<b>Staff Recommendation:</b>	Approval

### Attachments for Review: *Checked if applicable to case.*

- ☒ Proposed Language of Amendment.
- ☒ Letter from FEMA.

## Background Information

The Land Development Code is a “living document” that acts as a tool to guide future development of a community, protect neighborhoods, focus development, and enhance the environment. As a part of the public review process for the LDC, it was mentioned that the code would be an “on-going work in progress,” and that this document would continually evolve to reflect the needs and desires of the city. To implement this, changes or amendments are implemented periodically.

Since 2010, the Planning Commission and City Council have reviewed and approved a variety of updates to the Land Development Code. Some of these updates are topic specific (floodplain, marijuana, and signs) while others have been general or "housekeeping" in nature, which work to advance the goals and desires of the community. The item for this ordinance is topic specific and deals only with the floodplain section of the LDC.

As a growing community, Commerce City’s needs are constantly evolving and monitoring development regulations helps to ensure that the regulations are relevant and reflect the community’s values. Therefore, future amendments and updates should be expected. Currently, there are no limitations or preclusions related to the number of zoning code amendments that the city may adopt.

The city’s floodplain regulations were last updated in 2014 to comply with changes made to state law. Based on the latest meeting with state and federal officials, it was apparent that this amendment was immediately necessary. Our regulations are continuously reviewed to ensure that they up-to-date and in compliance.

## Request and Analysis

The Commerce City Land Development Code (LDC) Article IV is the regulatory basis for the Floodplain Overlay Zone District within Commerce City. Commerce City is required to adopt and enforce floodplain regulations in order to be a participant in the National Flood Insurance Program (NFIP). The NFIP is a Federal program enabling property owners in participating communities to purchase flood insurance as a protection against flood losses in exchange for community floodplain management regulations that reduce future flood damages.

Participation in the NFIP is based on an agreement between communities, the State of Colorado, and the Federal Government. If a community adopts and enforces a floodplain management ordinance to reduce future flood risk to new construction in floodplains, the Federal Government will make flood insurance available within that community as a financial protection against flood losses.

Commerce City has been a participating agency and has had adopted floodplain management ordinances since 1978. This allows ALL the properties within Commerce City the option of purchasing flood insurance, and enables federally backed mortgage loans for properties within a Special Flood Hazard Area. Participating in the NFIP is also a requirement for certain grant funding and emergency funding sources.

The NFIP regulations are the minimum requirements for floodplain management. Each state must also adopt floodplain regulations and the Federal Government gives them authority to adopt stricter standards than what the NFIP has outlined in the Code of Federal Regulations. Furthermore, each

jurisdiction must adopt the Federal and State regulations as the minimum requirements, but they too, are given the option of adopting stricter standards than what is required at the Federal and State level.

The City's existing floodplain section of the LDC has a comprehensive format, meaning all the requirements can be found in one location that encompass uses and structures. The existing code covers all of the NFIP requirements, but the State and FEMA staff, along with City staff, realized the need to update the ordinance to be in conformance with the updated FEMA panel requirements. The change required is as follows and can be found on the attached exhibit:

### **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 the most current edition of the scientific and engineering report entitled, "The Flood Insurance Study for Adams County", 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.

The State and FEMA utilize flood plain maps or panels which dictate where the actual floodplain boundaries within a jurisdiction are located. From time to time, FEMA updates their floodplain maps to reflect the latest engineering changes and studies that affect various water ways within the state. Last fall, Commerce City received notice that one such map which includes a portion of Commerce City has been updated. In order to maintain compliance with state and federal requirements, the reference to the latest map panels must be updated within the LDC. The map panel or area in question is part of the Second Creek Floodplain, located south of DIA. The deadline for updating this ordinance is in February 2017. City staff met with officials from both the state and FEMA and they agreed that because efforts to update the City's ordinance ought to be completed March 2017, there would not be any lack or discontinuation of coverage for Commerce City properties.

No actual floodplain boundaries within Commerce City will be affected and no properties within Commerce City will either be taken into, or out of a floodplain.

This update is a direct result of State and FEMA requirements. Failure to adopt this requirement may result in Commerce City being excluded from FEMA disaster dollars and penalized from other federal and state money. The impacts of this update are very minor in nature. In general, it is the City's policy to discourage or prevent any development in the floodplain, so there are not a lot of properties or specific businesses that would be impacted by this update. The DRT believes that the City's overall policy of protecting floodplains will be strengthened by this update.

## Development Review Team Recommendation

Based upon the analysis above, the Development Review Team recommends that the Planning Commission forward the requested amendment to the LDC to the City Council with a recommendation of approval.

### **\*Recommended Motion\***

#### **To recommend approval:**

**I move that the Planning Commission recommend that City Council approve Ordinance #2122, an ordinance amending the Commerce City Land Development Code.**

### **Alternative Motions**

#### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2122, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

#### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2122, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2122.

#### **To recommend continuance:**

I move that the Planning Commission continue the requested Ordinance #2122 to a future Planning Commission agenda.