

STAFF MEMO

DATE OF COUNCIL MEETING: AUGUST 26, 2019 / AGENDA ITEM NO. 9

SEPTEMBER 9, 2019 / AGENDA ITEM NO. 17

To: Mayor and City Council

From: Jay N. Hutchison, Public Works Director, 303-987-7901

Subject: **FLOODPLAIN MANAGEMENT ORDINANCE UPDATE**

This ordinance was approved on 1st Reading by a vote of 11 ayes 0 nays.

SUMMARY STATEMENT:

The floodplain management ordinance is proposed to be revised to adopt updated floodplain information, to modify the definition of “substantial improvement” and to make the penalty clause consistent with other chapters of the Lakewood municipal code.

BACKGROUND INFORMATION:

In order to participate in the National Flood Insurance Program, the city must adopt and keep current a floodplain management ordinance meeting certain minimum standards required by the Federal Emergency Management Agency (FEMA). The proposed ordinance revisions provide updated information, which will be used to apply the provisions of the ordinance. The following revisions have been approved by FEMA and are proposed for city council adoption:

Revise the definition of “Substantial Improvement”

Repair, remodeling and physical changes to a building within a 100-year floodplain are limited to 50% of the value of the building before the work begins. If the value of the proposed work is over 50% of the value of the building, the improvements are “substantial improvements” and the building must be brought up to current floodplain standards. This definition is a FEMA requirement to limit the increase in the potential flood insurance liability and is consistent with FEMA’s goal to bring non-conforming buildings up to current floodplain standards.

Meeting these standards usually means elevating the building to one foot above the base flood elevation or floodproofing a non-residential building to one foot above the base flood elevation. It is difficult to meet these requirements with an existing building. Keeping the value of the improvements under the 50% threshold is often the property owner’s goal.

The value of the improvements that count toward the 50% threshold in the current ordinance is the cumulative value of the proposed improvements and any past improvements made to the building since it was built or since the city’s incorporation. The community feedback has been that going back potentially 50 years in the calculation is too restrictive and hampers normal reinvestment in the building by limiting the value of current improvements that can be allowed.

FEMA allows each local community to exercise some discretion in the length of the “look-back” period for the cumulative value of the improvements, while still avoiding issuing a series of successive piecemeal permits that would increase the value of the building over the threshold. FEMA has reviewed and approved the proposed revised definition, which would make the look-back period the five years preceding the permit application date for proposed improvements.

The revised definition would further clarify that the improvements included in the value are only those improvements for which a permit was issued. This removes from the value calculation cosmetic changes such as carpet and other flooring, millwork, shelving, equipment, fixtures and other building elements that are exempt from permit requirements but, in the current ordinance, count toward the 50% threshold. This change would also make the ordinance more equitably applied because it is not possible to accurately verify when changes are made that do not require a permit or the value of such improvements.

These two changes would reduce ordinance effects that could be detrimental to reinvestment in properties that are within a 100-year floodplain.

Adopt revised and updated flood studies

The city, in cooperation with the Urban Drainage and Flood Control District, now doing business as the Mile High Flood District, periodically updates the local flood studies which are used to guide development and reinvestment in the floodplains. By adopting the following updates, these studies can be used as the best available information in applying the requirements of the floodplain management ordinance.

Update to Fox Run Gulch Flood Hazard Delineation

This update reflects changes to the Green Mountain Drainageway B, now known as Fox Run Gulch, from South Deframe Way and West Ohio Drive to West Ohio Avenue north of West Mississippi Court. Upstream detention and a storm sewer system were constructed and the surface floodplain is narrowed and is generally confined to the street system.

Update to Drainageway G and the Indiana Street Overflow Floodplain Update

This study updates the Green Mountain Drainageway G and was completed in partnership with Jefferson County. The study affects an area in Lakewood adjacent to Denver West Colorado Mills Boulevard (formerly Indiana Street) between West 6th Avenue and Old Golden Road. The update redefines the floodplain based on updated mapping of existing buildings and takes into account upstream detention constructed at the Jefferson County Fairgrounds and storm sewer improvements constructed in Indiana Street.

Sanderson Gulch Flood Hazard Area Delineation

This study completely updates and replaces the 1979 and 2013 studies and was completed in partnership with Denver. The study affects an area in Lakewood from South Kipling Parkway and West Jewell Avenue to Sheridan Boulevard and West Jewell Avenue. The Mile High Flood District recalibrated the computer model used in the 2013 study that forecasts the flood flow. The floodplain was redefined based on the reduced flow rates. The study incorporates detention and channelization that was constructed from South Wadsworth Boulevard to South Depew Street.

This study was adopted by the Mile High Flood District board and FEMA is currently revising the Flood Insurance Rate Map to show the revised floodplain limits.

The three floodplain studies proposed to be adopted by this ordinance are available for review in the City Council office.

Revise the penalty section

In 2018, a comprehensive revision to the penalty clauses in the municipal code was adopted. The penalty clause in the floodplain management ordinance was not included at that time. The revision to the penalty clause, referring to penalties outlined in Section 1.16.020, is consistent with the other chapters of the municipal code.

BUDGETARY IMPACTS:

No budgetary impact is anticipated.

STAFF RECOMMENDATIONS:

Staff recommends adoption of the ordinance.

ALTERNATIVES:

City council may adopt the ordinance or choose to leave the municipal code as-is. Any amendments to the ordinance will need to be reviewed by FEMA prior to adoption.

PUBLIC OUTREACH:

The Mile High Flood District notified property owners and tenants within the Sanderson Gulch study area several times during the series of public meetings associated with the update of the flood study, and more recently with the notifications regarding the FEMA process to modify the Flood Insurance Rate Map.

Public outreach on the proposed ordinance revisions has been made through Lakewood Speaks. The public will have an additional opportunity to provide feedback during the public hearing if city council approves first reading of the ordinance.

NEXT STEPS:

City staff will implement the revised provisions of the floodplain management ordinance on the effective date of the ordinance.

ATTACHMENTS: O-2019-32
Redlined Ordinance

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney