

Chapter 6
FLOODPLAIN OVERLAY DISTRICT (FP-O) AND
FLOODPLAIN REGULATIONS

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10-6-1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES:

(A) Statutory Authorization And Findings **of Fact:** The following flood plain regulations (hereafter in this Chapter referred to as "regulations") are hereby adopted pursuant to section 31-15-103 **Title 29, Article 20 of the** Colorado Revised Statutes, as amended, in which authority has been delegated to local governments to adopt ordinances to promote the public health, safety and general welfare of its citizens., and by **By** virtue of the City's home rule Charter, ¶ the City Council does hereby declare the following:

1. ~~This overlay district is intended to comprise those~~ certain areas of the City are subject to periodic ~~inundation and~~ flooding which may result in loss of life and property, health and safety hazards, disruption of business and governmental services, extraordinary public expense for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare ~~of the public;~~
2. ~~Flood losses are caused by the cumulative effect of obstructions in flood hazard areas which increase flood heights and velocities, and which may cause damage to property outside flood plains.~~
2. Flood losses are caused by the cumulative effect of obstructions in flood hazard areas which increase flood heights and velocities, ~~and by the occupancy of flood hazard areas by uses~~ vulnerable to floods and therefore hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.
3. ~~Some properties, located within flood plains, are inadequately floodproofed, elevated, or otherwise protected from flood damage, and may contribute to the flood losses.~~

10-6-2: PURPOSE AND OBJECTIVES:

(B) Statement Of Purpose: (A) It is the purpose of ~~this District~~ and these regulations to promote the public health, safety, and general welfare ~~of the public,~~ and to minimize public and private losses due to flooding within the City by adopting provisions which are intended to:

1. Protect human life and health;
2. Minimize expenditures of public money for costly flood control projects;
3. Minimize the need for post-flood rescue and relief efforts which are, generally, undertaken at public expense;
4. Minimize prolonged business interruptions;
5. ~~Minimize damage to public facilities and utilities which are located in flood plains, such as water and gas mains, electric, telephone and sewer lines, streets and bridges; Minimize damage to critical facilities, infrastructure and other public facilities which are located in flood plains, such as water, sewer and gas mains, electric and communications stations; and streets and bridges;~~
6. Maintain a stable tax base by providing for the sound use and development of floodplains which has minimum flood damage potential ~~and in such a manner as to minimize future flood blight areas;~~
7. Ensure that information is available to potential buyers that property is in a flood plain; and
8. Ensure that those who occupy floodplains ~~are aware of the risk,~~ know that they are responsible for their actions and assume responsibility for their actions.

(GB) ~~Methods-Of-Reducing-Flood-Losses~~: In order to accomplish the intent of these regulations, one or more of the following safeguards may be required by the City as a condition to obtaining approval to develop in a floodplain. The City may:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to flooding or erosion hazards; or which cause greater flood heights and velocities;
2. Require that uses and associated facilities which are vulnerable to floods are adequately protected against flood damage at the time of initial construction;
3. Control alteration of natural floodplains, stream channels, and natural protective barriers, which convey or confine floodwaters;
4. Control filling, grading, dredging, and other development which may increase flood damage; and
5. Prevent or regulate the construction of barriers in floodplains which will **unnaturally** divert floodwaters and **or which may** increase flood hazards in other areas. (Revised 6-12-1992)
6. **Limit new construction or installation of residential or non-residential structures in floodplains or special flood hazard areas;**
7. **Restrict encroachments, including fill, new construction, and other development in any floodplain or special flood hazard area unless a technical evaluation demonstrates that the encroachments will not result in an increase in flood elevations more than 6 inches during the occurrence of the base flood, or a FEMA approved CLOMR is provided;**
8. **Require minimum clearance or freeboard of one foot, between the 100-year base flood elevation and a structure's lowest floor (including basement) and applicable facilities which may be impacted by or adjacent to the base flood.**
9. **Consider cases where protection should be given from flooding in excess of the 100-year storm event, including access routes critical to the protection of the public health, safety and welfare, or where flooding in excess of the 100-year storm event could result in loss of life, significant damage to utilities and infrastructure, or result in hazardous materials being transported in flood waters.**

(C) To further meet these objectives, the floodplain chapter of the City of Littleton's Storm Drainage Design and Technical Criteria Manual (latest version), hereinafter referred to as SDDTC, is hereby adopted and declared to be a part of this code. The SDDTC provides additional and detailed requirements for the floodplain development permit application, and for the management and regulation of floodplains and special flood hazard areas.

10-6-2 3: DEFINITIONS:

Unless specifically defined below or elsewhere in this code, words or phrases used in these regulations shall be interpreted to have the same meaning as in common usage, and to provide reasonable application of these regulations.

100 YEAR or 1% CHANCE FLOOD: That flood that has a one percent (1%) annual chance of occurrence in any given year. Also known as the base flood.

100 YEAR **or 1% CHANCE** FLOODPLAIN: The area of land that is inundated by the floodwater from a 1% annual chance flood or base flood.

ADDITION: Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

APPEAL: A request for review, held by the Board of Adjustment city's planning commission, of the floodplain administrator's interpretation of any provision of these regulations.

AREA OF SHALLOW FLOODING: An area susceptible to base flood depths ranging from one foot (1') to three feet (3') usually designated zone AO or AH on the city's flood insurance rate map (FIRM), **or similar designation on an approved study,** with a one percent (1%) or greater chance of flooding in any given year, where a clearly defined channel does not exist, the path of flooding is unpredictable ~~and indeterminate,~~ and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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AREA OF SPECIAL FLOOD HAZARD: Land within the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated zone A, AE, **or A1-A30** AH, AO, or A99 on the city's flood insurance rate map (FIRM), **or otherwise designed on an approved study.**

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BASE FLOOD: A flood having a one percent (1%) chance of being equaled or exceeded in any given year. Sometimes also known as a "100-year flood".

BASE FLOOD ELEVATION (BFE): The elevation shown on a FEMA Flood Insurance Rate Map (FIRM) for Zones AE or A1-A30 that indicate the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

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If for a particular waterway BFEs are not shown or published in the FIRM or FIS, this may be the base flood elevation depicted or determined in another approved study.

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BASEMENT: Any area of a building having its floor sub-grade (below ground level) on all sides.

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CHANNEL: A ~~perceptible natural or artificial watercourse, with a definite bed and banks to~~ confine and conduct continuous or intermittent water flows. **physical confine of stream or waterway consisting of bed and stream banks, existing in a variety of geometries.**

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CHANNELIZATION: The artificial creation, enlargement, or realignment of a stream channel.

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CODE OF FEDERAL REGULATIONS (CFR): The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

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~~COMMISSION: The Littleton city planning commission, which is a duly appointed body of the city council created under title 2 of this code.~~

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COMMUNITY: Any political subdivision in the state of Colorado that has authority to adopt and enforcement floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian Tribes and drainage and flood control districts.

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COLORADO WATER CONSERVATION BOARD: An agency of the State of Colorado Department of Natural Resources that regulates floodplains in the State of Colorado.

CLOMR (CONDITIONAL LETTER OF MAP REVISION): FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY: A structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to the public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

DIRECTOR: The director of the Public Works Department of the city of Littleton.

DEVELOPMENT: Any manmade change to improved or unimproved real property located within a floodplain including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING: A non basement building (i) built, in the case of a building in the floodplain, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and (ii) adequately anchored so as to not impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of floodplain areas, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK or SUBDIVISION: A manufactured home park or subdivision, for which construction is complete of facilities for servicing the lots on which the manufactured homes are to be affixed (including installation of utilities, construction of streets, final site grading, or pouring of concrete pads, prior to July 18, 1978 (effective date of the floodplain management regulations adopted by the city).

EXPANSION OF EXISTING MANUFACTURED HOME PARK: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, construction of additional lots by the installation of facilities necessary for serving the units to be placed on such lots including the installation of utilities, the construction of streets, final site grading, or the pouring of concrete pads.

FEDERAL REGISTER: The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA: The Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD, or FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland waters, and/or from channels and reservoir spillways;

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(B) The unusual and rapid accumulation of runoff of surface waters from any source; or

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(C) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

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Note: a different definition of "flood" is used for determining eligibility for flood loss claims under the NFIP.

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FLOOD FRINGE: That portion of a floodplain that is located outside the limits of a FEMA regulatory floodway.

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FLOOD INSURANCE RATE MAP (FIRM): The most recently adopted official map on which FEMA has delineated floodplains and the risk premium zones applicable to the city.

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FLOOD INSURANCE STUDY (FIS): The most recently adopted official report, entitled "The Flood Insurance Study For Arapahoe County And Incorporated Areas", provided by FEMA, that includes the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas. The flood boundary/floodway map, and the water surface elevation of the base flood. The flood insurance study referred to in these regulations is the study dated December 17, 2010, or as may be revised.

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FLOODPLAIN or FLOODPRONE AREA: Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir. For administrative purposes, the floodplain is also defined as the land area inundated by the base flood as defined in the flood insurance study, or by other recognized sources.

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FLOODPLAIN ADMINISTRATOR (ADMINISTRATOR): The director or a designee that administers and enforces the floodplain management regulations.

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FLOODPLAIN DEVELOPMENT PERMIT: A permit required before construction or development begins within a floodplain. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

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FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state and local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE: A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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FLOOD PROFILE: A graph of the longitudinal profile of a watercourse which shows the water surface elevation of a flood at various locations ~~including the base flood; contained within the Flood Insurance Study.~~

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~~FLOOD PROTECTION ELEVATION: An elevation of one foot (1') above the water surface elevation of a base flood under existing channel and floodplain conditions, as established for a specific parcel of land.~~

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FLOOD STORAGE AREA: The fringe portion of a floodplain in which flows are characteristically shallower and of lower velocities.

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FLOODPLAIN: The relatively flat or lowland area adjoining a river, watercourse, lake, or other body of surface water, which has been or may be temporarily covered by floodwater. For administrative purposes, the floodplain is also defined as the land area inundated by the base flood as defined in the flood insurance study, or by other recognized sources.

~~FLOODPLAIN ADMINISTRATOR (ADMINISTRATOR): The city manager or a designated representative.~~

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FLOODPROOFING: Any combination of structural and/or nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage, which are intended to reduce or eliminate the risk of flood damage to property, water and sanitary utilities, structures and their contents.

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FLOODWAY (REGULATORY FLOODWAY): The channel of a river or other watercourse and adjacent land areas that ~~That portion of a floodplain that~~ must be reserved in order to discharge the base flood without a cumulative increase in the water surface elevation more than one-half foot (0.5') for newly studied reaches or due to new development. Previously studied reaches and letters of map revisions to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD: The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage or bridge openings and the increased runoff due to urbanization of the watershed.

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HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that:

(A) Is listed individually on the national register of historic places by the Department of the Interior, or preliminarily by the Secretary of the Interior as meeting the requirements for individual listing on the national register; or by the Colorado Historical Society, or

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(B) Is certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; ~~Has been certified to contribute to the historical significance of a registered historical district.~~

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(C) Is individually listed on a state or local inventory of structures of historical merit, historic places in states or communities with historic preservation programs approved by the Secretary of the Interior, or directly by the Secretary of Interior in states without approved programs.

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INSURABLE STRUCTURE: a structure which qualifies for coverage under the National Flood Insurance Program; a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. The terms "structure" and "building" are interchangeable in the National Flood Insurance Program (NFIP).

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LOMR (LETTER OF MAP REVISION): FEMA's official revision of an effective Flood Insurance Rate Map. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations or the Special Flood Hazard Area.

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

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LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basements). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the floor insurance premium for a building, home or business. An unfinished or flood resistant enclosure, useable solely for parking or vehicles, building access, or state in an area other than a basement area in not considered a buildings lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

~~Enclosures in areas other than basements and which are used solely for parking, building access, or storage, are not to be considered in determining a building's lowest floor, provided that such enclosures do not violate the applicable requirements of these regulations.~~

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MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities for occupancy. The term "manufactured home" does not include recreational vehicles.

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MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MILE HIGH FLOOD DISTRICT (formerly known as the Urban Drainage and Flood Control District (UDFCD)): An agency established by the Colorado legislature in 1969 that partners with Denver area metro cities and counties to design and construct flood control and warning measures, open space, regional paths, and stream maintenance.

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NATIONAL FLOOD INSURANCE PROGRAM (NFIP): FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U. S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

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NEW CONSTRUCTION: Development for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by the City (July 18, 1978).

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NEW MANUFACTURED HOME PARK: A manufactured home park which is constructed, including the installation of utilities, construction of streets, and final site grading, or pouring of concrete pads, after the effective date of floodplain management regulations adopted by the city (July 18, 1978).

NO-RISE CERTIFICATION: A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data might be on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM.

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OTHER FLOOD AREAS: Areas of two-tenths percent (0.2%) annual chance flood, areas of one percent (1%) annual chance flood with average depths of less than one foot (1'), or with drainage areas less than one square mile. The area may be designated zone X on the city's flood insurance rate map (FIRM).

RECREATIONAL VEHICLE: A vehicle, built on a single chassis, which is four hundred (400) square feet or less when measured at the largest horizontal projections, which is not intended for permanent use as a dwelling, and is designed to be self-propelled or to be towed by an automobile or light truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel or seasonal use.

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SPECIAL FLOOD HAZARD AREA (SFHA): The land in the floodplain within the city subject to a 1% chance or greater chance of flooding in any given year. Also known as the 100-year floodplain.

~~SPECIAL EXCEPTION: A use which may be permitted in a floodplain upon approval by the commission, and to which the commission may attach specific performance requirements.~~

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START OF CONSTRUCTION: The date a building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start of construction means either the i.e., the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

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SDDTC (STORM DRAINAGE DESIGN AND TECHNICAL CRITERIA): The most recently approved version of the city's storm drainage design and technical criteria manual.

STRUCTURE: A walled and roofed building that is principally above ground, including manufactured homes.

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SUBSTANTIAL DAMAGE: Damage, of any origin, sustained by a structure which results in cumulative costs to restore the structure to its original condition that equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement to a structure, the cumulative cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred Substantial Damage, regardless of the actual repair work performed. The term does not either: a) before the improvement or repair is started; or b) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. "Substantial improvement" does not include either: a) any construction project for improvement of a structure to correct existing violations of state or local health, necessary to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or solely necessary to assure safe living conditions; or b) any alteration of any officially designated historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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VARIANCE: A grant of relief from the requirements of these regulations when specific enforcement would result in unnecessary hardship. A variance by the commission which therefore permits construction or development within a floodplain in a manner that would otherwise be prohibited.

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VIOLATION: The failure of a structure or other development to be fully compliant with the city's floodplain regulations. A structure or other development where start of construction commenced on or after July 18, 1978, without an elevation certificate, other certifications or other evidence of compliance, is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION DATA: The elevation, in relation to mean sea level to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), expected to be reached by floods of various magnitudes and frequencies at pertinent points along a watercourse in the floodplains of coastal or riverine areas.

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WATERCOURSE: A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake into which storm runoff and floodwater flows either regularly or infrequently. This includes major drainageways for carrying urban storm runoff. (Revised 6-12-1992; amd. Ord. 25, Series of 2010; Ord. 19, Series of 2012; Ord. 38, Series of 2013; Ord. 15, Series of 2016)

10-6-4: GENERAL PROVISIONS; LAND TO WHICH THIS REGULATION APPLIES, BASIS FOR ESTABLISHING FLOODPLAINS

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(A) These regulations shall apply to all lands, located in and immediately adjacent to floodplains, within the jurisdiction of the city of Littleton as established under subsection (B) of this section.

10-6-3: GENERAL PROVISIONS:

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(A) Applicability: These regulations shall apply to all lands within the city located in floodplains, as established under subsection (B) of this section. Further, these regulations shall be interpreted to be in addition to, and may supersede, any restrictions imposed on the same lands by zoning and/or subdivision regulations. When these regulations and the governing zoning or subdivision regulations conflict, the more restrictive shall control. (Revised 6-12-1992)

(B) Basis For Establishing

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(B) Basis for establishing floodplains. Floodplains and special flood areas shall be the boundary of the 100-year floodplain (1% chance floodplain). The extent of this area shall be based upon the best available information including:

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1. Floodplains and special flood hazard areas are identified by FEMA in a scientific report entitled, "The Flood Insurance Study For Arapahoe County And Incorporated Areas" dated December 17, 2010 April 18, 2018, and includes accompanying flood insurance rate maps (FIRMs). This report, and any subsequent amendments thereto, are hereby adopted and declared to be a part of these regulations by this reference.

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The flood insurance study and FIRMs are on file and are available for public inspection during regular business hours at the following locations:

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a. Engineering And Utilities Division, Department Of Public Services Public Works

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Department, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado;

b. Bemis Public Library, 6014 South Datura Street, Littleton, Colorado and

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3. Office Of The City Clerk, 2255 West Berry Avenue, Littleton, Colorado. (Ord. 25, Series of 2010)

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2. Flood Hazard Area Delineation (FHAD) studies, produced by the Mile High District (fka Urban Drainage and Flood Control District), as may be amended and updated, hereby adopted by reference as part of these regulations when adopted by Mile High Flood District and Colorado Water Conservation Board, and subsequently by the City Council.

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3. Other sources, such as CLOMRs, LOMRs, Preliminary FIRM and FIS, drainage studies, or master development plans, as deemed appropriate by the floodplain administrator, and adopted by the City Council and accepted by appropriate local, regional, state, or federal agencies.

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4. Areas removed from the SFHA by fill. These areas are identified by FEMA by issuance of a letter of map revision based on fill (LOMR-F). For purposes of this code, this includes

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all existing and proposed LOMR-F areas, if the LOMR-F area has not previously been superseded by a standard LOMR.

5. When base flood elevation data has not been provided in accordance with the foregoing paragraphs, or an area has been designated Zone A on the FIRM, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data available from federal, state, or other source in order to administer the applicable conditions of this code. If adequate data is not available, the Floodplain Administrator shall require the applicant to provide hydraulic analysis, additional data, survey data, other information and/or studies for review.

6. In cases where there are multiple studies or conflicting base flood elevation data, the data which is most restrictive in limiting impacts to floodplains and special flood hazard areas and which restricts development will be used.

(C) Use Of Additional Data:

- ~~1. In cases where the city defines any areas subject to a base flood which has not been identified in the flood insurance study, the city may adopt such floodplains provided the floodplains are defined by the urban drainage and flood control district, or other competent source.~~
- ~~2. For purposes of reviewing floodplain development proposals, the administration of these regulations by the floodplain administrator shall be based on the most current flood elevation data available.~~

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(C) Compliance: No structure or land shall hereafter be constructed, located, extended, converted or materially altered without full compliance with the terms of these regulations and other applicable regulations. Nothing herein shall prevent the Floodplain Administrator, acting on behalf of the city, from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the State of Colorado through the Colorado Water Conservation Board and the Federal Emergency Management Agency National Flood Insurance Program.

(D) Minimum Requirements: ~~In the interpretation and application of this Title, the provisions contained herein shall be the minimum requirements necessary and shall be liberally construed for the promotion of the public health, safety and general welfare.~~

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(D) Abrogation and Greater Restrictions: These regulations shall be interpreted to be in addition to, and may supersede, any restrictions imposed on the same lands by zoning and/or subdivision regulations. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However where this regulation and another ordinance, easement, covenant, or deed restriction conflict or overlap, which imposes the most stringent restrictions for protection from potential flood hazard shall prevail.

(E) Interpretation: In the interpretation and application of this code, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

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(F) Warning and Disclaimer of Liability: ~~(E) Warning And Disclaimer Of Liability:~~ The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and

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will occur on rare occasions. Flood levels may also be increased by manmade structures or terrain modifications, or by natural causes. These regulations do not imply that property or land uses outside of flood plains will be free from flooding or flood damage. No part of these regulations shall These regulations shall not create liability on the part of the City, any official, officer, agent or employee thereof, or the Mile High Flood District, Colorado Water Conservation Board, or Federal agencies, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

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(G) Severability: The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this ordinance.

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(F) Compliance: Except for any variance which may be granted hereunder, no structure or land shall be constructed, located, extended, converted or altered without full compliance with these regulations and other applicable requirements of the City. (Revised 6-12-1992)

Moved and modified from prior 10-6-8:

10-6-8 5: USE BY SPECIAL EXCEPTION FLOODPLAIN DEVELOPMENT PERMIT:

Prior to issuing a building permit for development within a floodplain, the proposed development shall be approved by the commission as a use by special exception. Such development shall comply with these regulations, and to all other applicable requirements. (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

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(A) In order to ensure compliance with this chapter, and except as noted herein, a floodplain development permit shall be obtained and approved from the floodplain administrator, with associated fee, prior to any plat for subdivision in the floodplain and special flood hazard area, modification of the floodplain or special flood hazard area, or any proposed development or construction within the floodplain and special flood hazard area.

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(B) Procedure:

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1. Application: Any property owner, or designated agent, may request permission to develop property located within a floodplain by filing an application with the administrator. The request shall be prepared in accordance with an application form provided by the administrator, which shall include the following (a) through (e). (Ord. 20, Series of 2012) Some information below may not be required depending on the nature of the project and its impacts. Additional information regarding floodplain applications and procedures are contained in the city's SDDTC.

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a) A narrative describing the project including:

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1. Existing zoning for the property;

2. Existing adjacent development surrounding the property;

3. The proposed use of the property or purpose of the project;

4. The name of the watercourse and source of all floodplain data;

5. Source and vertical datum for topographic survey;

6. General specifications for building construction including, but not limited to, material types, floodproofing measures, and water and sanitation facilities.

7. Comments on the proposed floodplain development from affected agencies, as applicable, including, but not limited to, the following:

- a. City Engineer, Community Development, and Police;
- b. South Metro Fire Department;
- c. U.S. Army Corps of Engineers;
- d. Urban Drainage and Flood Control District Mile High Flood District;
- e. State Highway Department, Colorado Department of Transportation;
- f. Parks and Recreation District;
- g. State water conservation board, Colorado Water Conservation Board; and
- h. Adjacent jurisdictions. (Revised 6-12-1992)

b) A site plan, certified by a registered Colorado professional engineer competent in open channel hydraulics. Such plan shall be prepared at a scale of one inch equals one hundred feet (1" = 100'), or larger, and shall include:

1. Existing zone district boundaries;
2. Location of floodplain and floodway limits with base flood elevations;
3. Location of the centerline of the watercourse or storm sewer, labeled with the watercourse name;
4. Legal description of the property;
5. Layout of existing features and proposed project features;
6. Elevations of the site and immediately surrounding area, in relation to mean sea level, with existing and proposed project contours, and statement of vertical datum used;
7. Layout extents of proposed structures, with the elevation of the lowest floor of these structures;
8. Location and elevations of all excavation and fill;
9. Locations and names of adjacent streets and on-site areas of impervious surface and;
10. Location and elevations of water supply, sanitary facilities, and other utilities.

c) A typical valley cross section floodplain cross section showing the watercourse and adjoining floodplain, existing ground elevations of the existing channel and adjoining floodplain, the proposed ground, the cross sectional area to be occupied by the proposed development, and the base flood elevation.

d) A longitudinal profile showing the bottom of the watercourse existing and proposed ground elevation of the bottom of the watercourse, e.g., invert of the channel of a stream, or the ground located at the centerline of the floodplain, and showing the existing and proposed base flood elevations.

e) A hydraulic analysis performed by a registered engineer in Colorado, competent in open channel hydraulics, demonstrating the nature of the impacts of the project or a No-Rise Certification from a registered engineer in Colorado.

2. If deemed necessary, the administrator and/or the commission may require that an applicant furnish additional information necessary to determine impacts, if any, of the proposed

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development on adjacent properties. (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

3. If the project is determined to require a FEMA CLOMR or LOMR, then additional information may be required.

4. The completed application and application fee shall be submitted to the Department of Public Works, Engineering Division. Applications determined by the administrator to be incomplete or inaccurate shall not be accepted for processing, and shall be returned to the applicant.

2. Submission Deadline: The completed application and application fee shall be submitted to the administrator in accordance with the operating standards as established by the department of community development. (Ord. 20, Series of 2012)

3. Public Hearing Notice: Notice of a public hearing shall be provided by the city and the applicant as prescribed by state law and in the operating standards as established by the department of community development. Notice of the public hearing shall be made at least ten (10) calendar days prior to the planning commission public hearing date.

~~Administrator Action: The application shall be reviewed by the administrator, which shall forward a recommendation to the commission based on compliance with the applicable requirements of this code.~~

~~5. Commission Action:~~

~~(a) The application, together with comments and recommendations by the administrator and pertinent referral agencies, shall be forwarded to the commission. Copies of the comments and recommendation shall be available for the applicant.~~

~~(b) The commission shall conduct a public hearing to receive technical evidence and testimony from city staff, the applicant, and opponents, if any.~~

~~(c) Based on the evidence and testimony received, and based on the objectives and policies stated in section 10-6-1 of this chapter, the commission shall make a decision on the application. The commission may approve the application, approve with conditions, deny the application, or table the matter to a specific date pending the receipt of additional information. Any action by the commission is final and subject only to judicial review. (Ord. 20, Series of 2012; amd. Ord. 15, Series of 2016)~~

10-6-4-6: ADMINISTRATION:

(A) Designation of Floodplain Administrator. The city's Director of Public Works, including their designee, is hereby appointed the Floodplain Administrator (Administrator) to administer and implement these floodplain regulations, by reviewing, granting or denying floodplain development permits in accordance with these provisions, and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) or the Rules and Regulations for

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Regulatory Floodplains in Colorado (Colorado Water Conservation Board). The administrator shall designate an alternate to perform the functions of the administrator during any period of unavailability.

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~~(B) Floodplain Administrator: The floodplain administrator shall administer the provisions of these regulations.~~

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(B) Duties And Responsibilities Of Administrator:

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1. Development Application Review:

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(a) Review all proposed flood plain development applications to determine that the requirements of these regulations have been, or will be, met.

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(b) Review all proposed flood plain development applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which approval is required.

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(c) Review all proposed flood plain development applications to determine if the proposed development is located in the floodway. If so, insure that the provisions of subsection ~~10-6-6(D)~~ 10-6-8 of this Chapter are met.

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2. Information To Be Obtained And Maintained:

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(a) Obtain and record the actual elevation of the lowest floor of all new or substantially improved structures within or adjacent to the floodplain, and record whether or not such structures contain a basement;

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(b) For all new or substantially improved floodproofed structures:

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(1) Verify and record the actual elevation to which the structure was floodproofed; and

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(2) Maintain records of required floodproofing certification.

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(c) Maintain for public inspection all records pertaining to special exceptions floodplain development permits, appeals and variances granted pursuant to these regulations.

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3. Inspect all development at appropriate times during construction to ensure compliance with all provisions of this ordinance, including proper elevation of a structure.

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4. Where interpretation is needed as to the exact location of the boundaries of a floodplain, or where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. Local decisions which may result in a change of boundary lines and/or base flood elevations are subject to review and confirmation by FEMA. Interpretation Of Boundaries: Make interpretations where needed, as to the location of flood plain boundaries. Where there is evidence that a conflict exists between the boundary lines or the base flood elevation data contained in the Flood Insurance Study and actual field conditions, the dispute shall be settled in accordance with Section ~~10-6-5~~ of this Chapter.

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5. Notify adjacent communities, US Army Corps of Engineers, the Colorado Water Conservation Board, and Mile High Flood District prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

6. Ensure that the flood carrying capacity with an altered or relocated portion of any watercourse is maintained.

7. **Enforcement.** In addition to the remedies available for enforcement of Zoning Violations, the City shall be entitled to enforce these regulations by all legal and equitable means allowed by law, including injunctive relief.

8. **Violations.** Whenever the Floodplain Administrator determines that a violation of these regulations has occurred, may occur, or is threatened, the Floodplain Administrator shall be responsible for placing a temporary or permanent hold on further development permits, approvals and actions to the extent necessary to prevent or remedy the violation, and for notifying affected City departments of this action. The hold shall remain in place until the property owner complies with these regulations.

moved from prior 10-6-11:

9. **Certificate of Compliance:** No certificate of occupancy shall be issued for any structure, manufactured home, or other use until an inspection by the administrator and certificate of compliance has been issued by the administrator. (Revised 6-12-1992; amd. Ord. 25, Series of 2010). Any person seeking a certificate of compliance for property located in a floodplain shall submit a certified report from a registered engineer competent in open channel hydraulics that the fill, building flood elevations, floodproofing measures, or other protective measures are complete and in compliance with these regulations. The specific elevation of the lowest floor (including basements), or the specific elevation to which the structure is floodproofed, shall be recorded on the certificate of occupancy. If the report certifies full compliance with these regulations, and with any conditions attached to an approval of a Floodplain Development Permit, the administrator shall issue the certificate of compliance within ten (10) days of receipt of the report. A certificate of compliance is not, for any purpose, a certificate of occupancy, nor does it waive any requirements for building permits. (Revised 6-12-1992)

Moved from prior 10-6-9:

10. **Variances:** The ~~commission~~ Administrator may grant, in specific cases, variances to the requirements of these regulations which do not conflict with the public interest. Variances may be granted when, due to exceptional and extraordinary circumstances, literal enforcement of these regulations will result in unnecessary hardship. No variance shall be approved unless the administrator finds that the following conditions exist: (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

- a) Variances shall not be issued within any designated floodway if any increase in base flood elevation would result;
- b) Variances may be issued for new construction and substantial improvements on lots of one-half ($\frac{1}{2}$) acre or less which are contiguous to, and surrounded by, existing development constructed below the base flood elevation, provided the following criteria are met: (1) A showing of good and sufficient cause, (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, (3) A

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determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with other existing local laws or ordinances,

- c) Variances shall only be issued upon determination that the variance is the minimum necessary to afford relief considering the flood hazard. (Revised 6-12-1992)
- d) Consideration shall be given by the commission-Administrator to all relevant technical data, and to the factors stated in subsection 10-6-5(D) 10-6-7(D) of this chapter. (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)
- e) Variances may be issued for the preservation, rehabilitation or restoration of historic structures without regard to the procedures set forth in the remainder of this chapter. upon a determination that the variance is the minimum necessary to preserve the historic character and design of the structure and the proposed rehabilitation or repair will not preclude the structure's continued designation as a historic structure. (Revised 6-12-1992)

(D) **Variance** Application: Any person requesting a variance to the requirements of these regulations shall file an application to the Administrator, which shall conform to the requirements of subsection 10-6-8(A)1 10-6-5(B) of this chapter. (Ord. 20, Series of 2012)

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(D) **Public Hearing Notice:** Notice of a public hearing shall be provided by the city and the applicant as prescribed by state law and in the operating standards as established by the department of community development. Notice of the public hearing shall be made at least ten (10) calendar days prior to the planning commission public hearing date.

(E) **Administrator Action:** The application shall be reviewed by the administrator, who shall forward a recommendation to the commission based on compliance with the applicable requirements of this code. (Ord. 20, Series of 2012; amd. Ord. 15, Series of 2016)

(F) **Presentation Of Evidence And Testimony:** All evidence and testimony shall be presented publicly. The commission may also consider any relevant facts personally known to any member of the commission provided, such facts are stated into the record.

(E) **Filing Of All Variance Actions:** All actions by the commission concerning variances to these regulations shall be filed with the Administrator. The permanent record of such actions shall include minutes, transcripts, technical reports, notification to applicants, and all data considered by the Administrator. Any action to approve a variance shall be reported to FEMA.

(F) **Variance** Notice To Applicant: The applicant shall be notified in writing by the Administrator that:

1. The approval of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance; and
2. Construction below the base flood elevation increases risks to life and property.
3. Such notification shall be maintained with the permanent record of all variance actions as required above (Revised 6-12-1992).

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10-6-5 7: ADMINISTRATIVE APPEALS:

(A) The commission **Board of Adjustment** is hereby designated to ~~shall~~ conduct public hearings to receive evidence and testimony, and to decide appeals, when it is alleged that there has been an error in any order, interpretation, determination, decision, or requirement made in the application of these regulations by the Administrator. Public hearings shall be required and conducted as follows. Applications and hearing procedure is as outlined in 10-11-2 through 10-11-4.

(A) The party alleging to have been aggrieved shall file a written request for a public hearing within thirty (30) days after such decision is made. This request shall be filed with the administrator, who will place the matter on a regular commission meeting agenda within thirty (30) days after the request is filed. (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

(B) Any person alleging to have been aggrieved shall file an application with the city on a form provided by the administrator, which shall conform to the requirements of subsection ~~10-6-8(A)1~~ of this chapter. (Ord. 20, Series of 2012)

(C) At least ten (10) calendar days prior to the public hearing date, notice of the hearing shall be made by the applicant. The required notice shall be made as provided in subsection ~~10-1-9(C)2~~ of this title. (Revised 6-12-1992)

(B) In considering an appeal, the commission **Board of Adjustment** shall consider all pertinent technical data contained in the flood insurance study, and other relevant storm drainage studies; the standards specified in these regulations and the city storm drainage criteria manual; and the following: (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

1. Potential danger from debris being conveyed to other properties and causing damage or injury to others;
2. Potential hazard to life and property due to increased flooding or erosion;
3. Potential risk for damage to the proposed development, its contents, and to the owners/occupants of the affected property;
4. Anticipated contribution of the proposed use to the community;
5. Necessity for the use to be placed in the location proposed, specifically in a floodplain;
6. Feasibility of placing the proposed use in alternate locations;
7. Compatibility of the proposed use with existing and proposed development in the general area;
8. Relationship of the proposed use to the comprehensive plan and/or floodplain management programs;
9. Routine and emergency access to the property under flooding conditions;
10. Expected conditions created by flooding on the property including, for example, elevation, velocity, duration and erosion potential;

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11. Costs to government of providing relief during and after a flood event including, for example, repair or replacement of utilities, streets or bridges. (Revised 6-12-1992)

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(E) The application shall be reviewed by the administrator, who shall forward a recommendation to the commission based on compliance with the applicable requirements of this code. (Ord. 20, Series of 2012; amd. Ord. 15, Series of 2016)

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(F) A concurring vote of the commission of a majority of the quorum present shall be required to reverse any order, interpretation, determination, decision, or requirement of the administrator.

(G) All actions by the commission concerning appeals to administrative decisions are final and subject only to judicial review. A permanent record of such actions shall be maintained by the administrator including minutes, transcripts, technical reports, and all data considered by the commission. Any action which reverses an administrative decision shall be reported to FEMA. (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

10-6-6 8: FLOODWAY REGULATIONS:

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(A) Statement Of Intent: Located within floodplains are areas designated as floodways which are extremely hazardous due to the depth and velocity of floodwaters. Floodways are dangerous because they convey flows which carry damaging debris and cause serious erosion. The use of land in floodways is, therefore, restricted to uses which will not inhibit or alter flood flows. Such uses are generally limited to agriculture, recreation, and mineral extraction. These regulations, and related requirements, are intended to ensure that uses permitted within floodways are compatible with this statement of intent, and that such uses do not increase the flood hazard to property located outside floodways.

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(B) Floodway Restrictions

1. Encroachments, including fill or other development not listed below are prohibited unless it has been demonstrated through hydrological and hydraulic analyses prepared by a registered Colorado professional engineer, that there is no increase (0.00') in flood elevations during the occurrence of the base flood discharge (No Rise Certification), or a CLOMR with floodway revision is approved by FEMA, with the exceptions noted below.

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2. Construction of new buildings or substantial improvements to existing structures, residential or non-residential, are prohibited in the floodway.

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3. Development or construction that causes an increase in the base flood elevation on any insurable structure, are prohibited.

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4. Solid waste disposal facilities (including, but not limited to, junkyards, sanitary landfills, and automobile wrecking yards) are prohibited in the floodway.

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5. Outdoor storage of any material is prohibited in the floodway.

6. Encroachments may be permitted in the floodway, at the discretion of the Administrator, when the activity is strictly drainageway maintenance in which the intent is to restore the natural conditions or hydraulic capacity of the drainageway provided that the activity does not cause more than a 0.00-foot rise compared to effective conditions BFEs and that any BFE rise compared to existing conditions is contained entirely within public property which would not otherwise require adverse impact notification.

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7. No use shall affect the efficiency or restrict the capacity of any watercourse, drainage ditch, or any other drainage facility or system. (Revised 6-12-1992)

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(CB) Uses Permitted in the Floodway. Provided they are permitted in the underlying zone district, and to the extent that they do not impair the flood-carrying capacity of the channel in compliance with the intent of this section, the following uses are permitted in the floodway:

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1. Agricultural uses including, but not limited to, general farming; raising of plants, flowers, sod and nursery stock; and grazing of livestock. No use shall include the construction of any new structures, alteration of any existing structures, or solid fencing.

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2. Public and private recreational uses including, but not limited to, parks, play fields, golf courses, driving ranges, picnic grounds, fishing areas, and recreational trails. No use shall include the construction of any new structures, alteration of any existing structures, or solid fencing.

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3. Lawns, gardens and other similar uses accessory to the residential use of the land.

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(C) Uses Permitted By Special Exception: The following land uses are permitted within floodways only upon approval of the commission:

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D) Uses permitted in the Floodway with floodplain development permit:

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1. Mineral extraction including, but not limited to, sand, gravel and quarry aggregate.

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2. Public or private parking lots.

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3. Underground utility facilities such as transmission lines, and water or sewage treatment facilities; provided, however, that all applicable requirements of these regulations are met.

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4. Roads, bridges, including, but not limited to, drainage structures, transmission lines, and water monitoring devices provided, however, that all applicable requirements of these regulations are met.

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roads, bridges, and water or sewage treatment facilities; provided, however, that all applicable requirements of these regulations are met. (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016)

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(D) Requirements

1. Any encroachments into a floodway, including fill, new construction, substantial improvements, or other development will be prohibited unless certified by a registered engineer competent in open

channel hydraulics that such encroachments will not result in any increase in the base flood elevation;

2. Provided that subsection (D)1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable floodplain development requirements of subsection ~~10-6-8(B)~~ of this chapter; and
3. No use shall affect the efficiency or restrict the capacity of any watercourse, drainage ditch, or any other drainage facility or system. (Revised 6-12-1992)
4. When a floodway has not been designated, no new construction, substantial improvement, or any other development (including fill) shall be permitted in zones A1-30, and AE, unless it is demonstrated that the cumulative effect of the proposed development will not increase the water surface elevation of the base flood by more than one-half foot (0.5'). (Ord. 38, Series of 2013)

(E) For floodplain revisions involving a floodway, where the effective FIRM shows a 1.0 foot floodway, a one-half foot floodway will not be required until the entire drainageway is remapped at which time the revised map will show a one-half foot floodway.

10-6-9: VARIANCE PROCEDURE:

(A) Commission Established: There is hereby established a commission which shall hear and decide requests for variances to the requirements of these regulations, within the conditions established under subsection (B) of this section. The commission shall adopt procedures for conducting public hearings to consider such applications.

10-6-7 9: FLOODPLAIN REGULATIONS:

(A) Flood Storage Areas: Portions of floodplains located outside ~~designated~~ floodways are known as flood storage areas ~~or the flood fringe~~, and are normally subject to shallower flooding and lower velocities. ~~Encroachment of the floodplain fringe is strongly discouraged and will only be considered on a case by case basis.~~ Flood damage in these areas, generally, results from standing water and silt deposits. Development may occur if appropriate protective measures are taken. ~~Uses permitted in the governing zone district, therefore, may be allowed subject to compliance with all applicable floodplain development requirements of subsection 10-6-8(B) of this chapter.~~ ~~this chapter.~~

(B) Permitted Uses: Any use permitted in the governing zone district, except solid waste disposal facilities (including, but not limited to, junkyards, sanitary landfills, and automobile wrecking yards), and outdoor storage of any material. Full compliance with these regulations, and other applicable requirements, is required. (Revised 6-12-1992)

(C) General Requirements:

1. If a development or construction project is within the floodplain but outside of the FEMA regulatory floodway, then the administrator may require a hydraulic analysis to verify floodplain impacts to surrounding properties, at their discretion.

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2. Any proposed development or construction within a FEMA floodplain where a regulatory floodway is not defined, which causes an increase in existing conditions model 1% chance flood water surface elevations over 6 inches is prohibited, unless a Conditional Letter of Map Revision is approved by FEMA prior to start of construction. If the project is not within a FEMA floodplain, then a proposed increase over 6 inches in 1% chance flood elevations must be approved by the administrator prior to construction.

3. If proposed development or construction is within a floodplain where base flood elevations are not defined, the administrator will require a hydraulic analysis as described in 10-6-4 (B)(5).

4. Any proposed development or construction that causes an increase (0.00') in base flood elevations on an insurable structure, established either by independent study or by published FEMA base flood elevations, is prohibited.

5. All hydraulic analyses must be performed and certified by a registered professional engineer in Colorado competent in open channel hydraulics.

6. If the development does not maintain equivalent flood fringe and floodway volumes, the administrator may not support the proposal.

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10-6-10: NONCONFORMANCES:

The existing use of a structure or property which is not in conformance with these regulations may be continued subject to the following conditions:

(A) No such use shall be expanded or enlarged except in conformance with these regulations.

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(B) Substantial improvement to any nonconforming structure or use, or re construction following substantial damage shall result in the structure or use conforming with these regulations.

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(C) If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the structure or property shall conform to these regulations.

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(D) Any alteration, addition or repair to any existing nonconforming structure shall be protected, where applicable, by the floodplain development requirements of this chapter.

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10-6-11 GENERAL CONSTRUCTION STANDARDS:

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(A) All new construction and substantial improvements shall be;

1. Designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement, and shall resist the hydrostatic and hydrodynamic loads of floods, including effects of buoyancy.

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2. Constructed by accepted methods and practices that minimize flood damage
Accepted methods and practices that minimize flood damage shall be applied.

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3. **Constructed with materials resistant to flood damage** Materials and utility equipment capable of resisting flood damage shall be used.

4 Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located to prevent water from entering into these service facilities during floods. (Revised 6-12-1992) **Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities which are elevated a minimum of 1 foot above the base flood elevation and designed to prevent water from entering into or accumulating within the components during conditions of flooding.**

(B) **All manufactured homes shall be installed using methods and practices that minimize flood damage.** Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement, and the hydrostatic and hydrodynamic loads of floods. This requirement is in addition to state and local anchoring requirements for wind forces.

(C) All new utilities shall follow these requirements:

1. **Water supply systems shall be designed to minimize or eliminate infiltration of floodwaters;**
2. **Sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems, and to prohibit discharges from the systems into floodwaters; and**
3. **On site waste disposal systems shall be located to avoid being damaged, or from releasing contaminants, during flooding.**

(D) **Freeboard. A minimum vertical clearance of one foot shall be provided between the floodplain elevations and the lowest floor (including basement) of all new or substantially improved structures within or immediately adjacent to the floodplain, and other applicable facilities which may be impacted by the floodplain. Freeboard is required to allow for uncertainty in the floodplain modeling, changes to the drainageway, and to provide an additional factor of safety for structures and facilities which would experience damages or hazards during inundation.**

Moved from 10-6-8(B)1(d);

10-6-12 REQUIREMENTS FOR SUBDIVISIONS:

(A) **Shall be designed in a manner consistent with the flood protection objectives of these regulations;**

(B) **Shall have utility systems and facilities located and designed to minimize flood damage potential;**

(C) **Shall meet the requirements of the most recent version of the SDDTC, and**

(D) **Base flood elevation data shall be provided for all lots within, and immediately adjacent to, the floodplain.**

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(E) In the case of a FEMA CLOMR or LOMR, a plat restriction shall prohibit the issuance of building permits on the affected lots until a the map revision has been deemed effective by FEMA or a similar map change process has been approved by the City for non-FEMA mapped floodplains.

Moved from 10-6-8(B)2(a):

10-6-13 RESIDENTIAL CONSTRUCTION STANDARDS:

(A) For residential New Construction, Substantial Improvement, or rebuilding following Substantial Damage:

1. The lowest floor (including basement) shall be elevated to one foot (1') above the base flood elevation. (Revised 6-12-1992)
2. Within FEMA zones A, AO, AH, or other areas of designated shallow flooding, the lowest floor (including basement) shall be elevated one foot (1') above the highest adjacent grade, or the base flood elevation, or to the depth number specified on the FIRM, whichever is greater. (Ord. 25, Series of 2010). Three feet of freeboard shall be provided if no depth number is specified.
3. Within areas of potential shallow flooding, on site drainage shall be directed around and away from structures.
4. On property removed from the floodplain by issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), structures shall meet these standards.

(B) Upon completion of construction of the structure, a professional engineer registered in the state of Colorado shall certify that all requirements listed above are met in the form of an Elevation Certificate, and submitted to the Administrator.

Moved from 10-6-8(B)2(b):

10-6-14 NON-RESIDENTIAL CONSTRUCTION STANDARDS:

(A) For non-residential New Construction, Substantial Improvement or rebuilding following Substantial Damage:

1. The lowest floor (including basement) shall be elevated to one foot (1') above the level of the base flood elevation; or, together with utility and sanitary services, shall:
 - a. Be floodproofed below an elevation one foot (1') above the base flood elevation with substantially watertight walls;
 - b. Have structural components which withstand hydrostatic and hydrodynamic loads of flood flows, and the effects of buoyancy; and
2. Within zones A, AO, AH, or other areas of designated shallow flooding, the lowest floor (including basement) shall be elevated one foot (1') above the highest adjacent grade, or the base flood elevation, or to the depth number specified on the FIRM, whichever is

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greater; or, together with utility and sanitary services, shall be floodproofed below an elevation one foot (1') above the base flood elevation, or to the depth number specified on the FIRM, whichever is greater with substantially watertight walls. (Ord. 25, Series of 2010). If a depth number is not specified, the minimum freeboard shall be three feet from highest adjacent grade.

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3. Within areas of potential shallow flooding, on site drainage shall be directed around and away from existing and proposed structures. (Revised 6-12-1992)

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(B) Have certified, in a manner acceptable to the administrator, by a registered professional engineer or architect, that the proposed design and methods of construction are in accordance with accepted standards for meeting the requirements of these regulations. (Revised 6-12-1992) Upon completion of construction of the structure, a professional engineer registered in the state of Colorado shall certify that all requirements listed above are met in the form of an Elevation Certificate and submitted to the Administrator.

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10-6-15 REQUIREMENTS FOR ENCLOSURES:

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Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement, and which are subject to flooding shall be designed to automatically equalize hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect; or have a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, the bottom of all openings shall be no higher than one foot (1') above grade, and openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit automatic entry and exit of floodwaters. (Ord. 25, Series of 2010)

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10-6-16 CONSTRUCTION STANDARDS FOR MANUFACTURED HOMES:

(A) All manufactured homes that are placed or substantially improved in the floodplain on sites or have suffered substantial damage as a result of a flood in an existing, expanded, or new manufactured home park or subdivision in zones A99, AH, and AE located outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision where the manufactured home has suffered substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor and electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities including ductwork, are elevated to one foot above the base flood elevation and securely anchored to adequately anchored foundation system to resist flotation, collapse and lateral movement. and shall be securely anchored as required by his subsection (B)2(c).

(B) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision within the floodplain that are not subject to the provisions above, shall be elevated so that:

1. The lowest floor of the home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities including ductwork are one foot above the base flood elevation, or
2. The manufactured home chassis is supported by piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(C) All manufactured homes in the floodplain shall be anchored in accordance with one or more of the following requirements:

1. Over the top ties at each of the four (4) corners of each unit; for units greater than fifty feet (50') long, two (2) additional ties per side at intermediate locations; and for units less than fifty feet (50') long, one additional tie per side.
2. Frame ties at each corner of each unit; for units greater than fifty feet (50') long, five (5) additional ties per side at intermediate points; for units less than fifty feet (50') long, four (4) additional ties per side.
3. Each component of the anchoring system shall be capable of sustaining a force of four thousand eight hundred (4,800) pounds.
4. Any additions to a manufactured home shall be similarly anchored.

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10-6-17 REQUIREMENTS FOR PLACEMENT OF FILL:

(A) Grading and placement of fill material on a site located within a floodplain is permitted only upon approval of a use by special exception by the commission Floodplain Development Permit and based upon findings that:

1. Requirements of Sections 10-6-2, 10-6-8 and 10-6-9 are met, as applicable.
2. Placement of fill material in a floodplain shall not adversely affect the efficiency of the watercourse to convey storm runoff.
3. The amount of fill material to be deposited shall only be the minimum necessary to achieve the required floodproofing of structures.
4. No fill materials are being placed in any floodway.

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5. Fill materials shall be adequately protected against erosion by strong vegetative cover, riprap, or bulkheads.

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6. A determination that the fill will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with other existing local laws or ordinances. (Revised 6-12-1992)

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(6) New structures proposed for construction in areas removed from the floodplain by fill by issuance of a FEMA Letter Map Revision by Fill (LOMR-F) must comply with the requirements of Sections 10-6-13 and 10-6-14.

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10-6-18 REQUIREMENTS FOR RECREATIONAL VEHICLES:

(A) Recreational vehicles placed on sites within zones A, AE, AH, AO, and A99 on the city's FIRM the floodplain shall either:

(1) Be on a site for fewer than one hundred eighty (180) days.

(2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels, is attached to the site only by quick disconnect type utilities and security devices, and has no permanent attached structures.

(3) Meet the elevation and anchoring requirements for manufactured homes in subsection (B)2(e) of this section. section 10-6-16.

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10-6-19 ALTERATION OF A WATERCOURSE:

(A) The following provisions apply to alterations of a watercourse in the floodplain:

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1. Channelization and flow diversion projects shall analyze the sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. Dependent of the complexity of the project and material to be encountered, a detailed analysis of sediment transport and overall channel stability may be required to assist in determining the most appropriate design.

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2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

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3. Any channelization or other stream alteration activity proposed by an applicant must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

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4. Any alteration of a watercourse shall be designed and sealed by a registered Colorado professional engineer.

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5. All activities within the floodplain shall meet all applicable Federal, State and city floodplain requirements and regulations. Moved from 10-6-4(B)3(c): Discharges of dredged or fill material into a watercourse may require prior issuance of a permit by the U.S. Army Corps of Engineers pursuant to section 404 of the Clean Water Act (33 USC 1344).

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6. Within the regulatory floodway, stream alteration activities shall meet requirements of 10-6-8.

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7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood carrying capacity is not diminished.

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8. Notification of adjacent local governments, Colorado Water Conservation Board, and Mile High Flood District.

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9. Prior to any alteration or relocation of a watercourse, the applicant must submit evidence of such notification to FEMA.

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10. This notice must certify that the flood carrying capacity within the altered or relocated portion of the watercourse has been and will be maintained.

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10-6-20 REQUIREMENTS FOR FENCING:

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(A) Fences may be permitted in the floodplain depending on the type of fence. Open fences, such as split rail or three strand wire, will not obstruct flows to the same degree as a solid fence, such as a privacy fence. In certain scenarios construction of new fencing, such as solid fencing constructed perpendicular to the direction of flow, will not be permitted in the floodplain.

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1. Open fences are permitted in the floodplain without a floodplain development permit.

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2. Chain-link, barbwire, or other similar type fencing materials are considered a solid fence for the purpose of this regulation due to the potential for debris accumulation.

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3. A solid fence is not permitted in the regulatory floodway.

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4. A solid fence which may impact the flood carrying capacity of the channel as determined by the administrator, will require a floodplain development permit in order to evaluate impacts.

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5. All fence construction, including replacement of existing fences, shall comply with this section.

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10-6-21 STANDARDS FOR CRITICAL FACILITIES:

(C) Standards For Critical Facilities:

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4. (A) Classification Of Critical Facilities; Critical facilities are classified under the following categories:

1. Essential services consisting of:

(a) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers);

(b) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and nonambulatory surgical structures, but excluding clinics, doctor's offices, and nonurgent care medical structures that do not provide these functions);

(c) Designated emergency shelters;

(d) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);

(e) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines);

(f) Air transportation lifelines (airports municipal and larger, helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

(g) Exemptions to this category include ~~Specific exemptions to this category include historic structures, wastewater treatment plants, nonpotable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.~~

(h) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the floodplain administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the floodplain or are compliant with the provisions of this subsection these floodplain regulations (C), and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the floodplain administrator on an as needed basis upon request.

2. Hazardous materials facilities including facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials including:

a) Chemical and pharmaceutical plants and manufacturing;

b) Laboratories containing highly volatile, flammable, explosive, toxic and/or water reactive materials;

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- c) Refineries;
- d) Hazardous waste storage and disposal sites;
- e) Aboveground gasoline or propane storage or sales centers.

Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the occupational safety and health administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the workplace, and the chemicals are stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty six (356) chemicals listed under 40 CFR section 302 (2010), also known as extremely hazardous substance; or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for responsible chemicals established by the Colorado department of public health and environment, OSHA requirements for MSDS can be found in 29 CFR section 1910 (2010). The environmental protection agency (EPA) regulation "designation, reportable quantities, and notification" 40 CFR section 302 (2010) and OSHA regulation "occupational safety and health standards" 29 CFR section 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this subsection (C), but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use;

2. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the floodplain administrator by hazard assessment and certification by a qualified professional that a release of the subject hazardous material does not pose a major threat to the public;

3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this subsection.

3. At risk population facilities include medical care, congregate care and schools consisting of:

- a) Eldercare (nursing homes);
- b) Congregate care serving twelve (12) or more individuals (daycare and assisted living);
- c) Public and private schools (preschools, K - 12 schools), before school and after school care serving twelve (12) or more children.

Specific exemptions to this category include historic structures.

4. Facilities vital to restoring normal services including government operations consisting of:

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a) ~~Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);~~

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b) ~~Essential structures for public colleges and universities (dormitories, offices, and classroom only).~~

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c) ~~Specific exemptions to this category include historic structures.~~ Facilities may be also exempted if it is demonstrated to the floodplain administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the floodplain or are compliant with this subsection (C), and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the floodplain administrator on an as needed basis upon request.

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(B) ~~Protection For Critical Facilities:~~ All new and substantially improved critical facilities and new additions to critical facilities located within the area of special flood hazard or other flood areas shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes ~~these regulations of this subsection (C),~~ protection shall include one of the following:

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1. ~~Location outside the area of special flood hazard or other flood areas, or~~

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2. ~~Elevation or floodproofing of the structure to at least two feet (2') above the base flood elevation, or elevation at or above the two-tenths percent (0.2%) annual chance flood elevation, where designated, whichever is greater.~~

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(C) ~~Ingress And Egress For New Critical Facilities:~~ New critical facilities shall, when practical as determined by the floodplain administrator, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a base flood event. (Ord. 38, Series of 2013).

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