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FLOOD PREVENTION AND PROTECTION

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**ARTICLE I.
IN GENERAL**

Secs. 10-1—10-15. Reserved.

**ARTICLE II.
FLOOD HAZARD AREAS
DIVISION 1. GENERALLY**

Sec. 10-16. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

A zone (or *zone A*) shall mean an area inundated by the one-hundred-year flood, as shown on the FEMA Flood Insurance Rate Map. Base flood elevations are not determined in an A zone.

AI—A30 and AE zone (or *zones AI—A30 and AE*) shall mean areas inundated by the one-hundred-year flood, as shown on the FEMA Flood Insurance Rate Map. Base flood elevations are determined for these zones.

Accessory structure shall mean a structure that is located on the same parcel of property as the principal structure and is used solely for parking and/or storage.

Addition shall mean any alteration to a structure which results in any increase in the structure's footprint.

AH zone (or *zone AH*) shall mean an area of one-hundred-year shallow flooding as shown on the FEMA Flood Insurance Rate Map where depths are between one (1) and three (3) feet (usually shallow ponding). Base flood elevations are determined for this zone.

AO zone (or *zone AO*) shall mean an area of one-hundred-year shallow flooding as shown on the FEMA Flood Insurance Rate Map where depths are between one (1) and three (3) feet (usually sheet flow on sloping terrain). Average flood depths are determined for this zone.

Appeal shall mean a request for a review of an interpretation of any provision of this Article made by the Utilities Executive Director.

Base flood or *one-hundred-year flood* shall mean the flood having a one-percent chance of being equaled or exceeded in any given year, whether designated as such by FEMA or by the Utilities Executive Director in the manner provided in this Article.

Base flood elevation shall mean the elevation for which there is a one-percent chance in any given year that flood levels will equal or exceed it.

Basement shall mean any area of a building having its floor subgrade (below ground level) on all sides and the interior height of which, measured from the lowest interior point to the highest point of the foundation, is more than four (4) feet.

Benchmark shall mean an established monument with a documented elevation in relation to mean sea level.

Change in watercourse shall mean any change in a thalweg, bed or bank of a watercourse.

City basin floodplain shall mean the land in a one-hundred-year floodplain designated by the City for a basin in which FEMA has not issued floodplain maps.

Crawl space shall mean any unfinished area of a building having its improved or unimproved floor subgrade (below ground level) on all sides and the interior height of which, measured from the lowest interior grade to the highest point of the foundation, is four (4) feet or less.

Critical facilities shall mean structures or facilities that produce, use or store hazardous, flammable, explosive, toxic and/or water-reactive materials, liquids, gases and solids as such are defined in the Uniform Fire Code as adopted in § 9-1 and as amended in § 9-2, but not including retail structures and facilities that only stock and store products containing such substances in factory-sealed containers; hospitals, nursing homes, group homes, residential care facilities, congregate care facilities and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; schools; daycare facilities; cemeteries; police stations, fire stations, vehicle and equipment storage facilities and emergency operations centers that are needed for flood response activities before, during and after a flood; and public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

Cumulative substantial improvement shall mean any combination of repairs, demolition, reconstruction, rehabilitation or other improvements of a structure, taking place during the life of the structure, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement, provided that the footprint of the structure is not increased. The term *cumulative substantial improvement* shall include any repair or reconstruction work on structures that have incurred substantial damage. It shall not include any project for improvement of a structure to correct violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official, including only the minimum improvements necessary to assure safe living conditions.

Development shall mean any man-made change to improved or unimproved real estate, including but not limited to new construction or modification of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. *Development* shall also include any change to, or change of use of, a property or structure that is within the scope of a restriction or requirement set out in this Article.

Drainway or drainageway shall mean a natural or artificial land surface depression with or without perceptibly defined beds and banks to which surface runoff gravitates and collectively forms a flow of water continuously or intermittently in a definite direction.

Enclosure shall mean an unfinished area below the finished area of a building that is partially or fully shut in by rigid walls, where the lowest interior grade is at or above the outside grade on all sides.

Encroachment shall mean an addition to or change to the physical condition of a specified type of flood hazard area that results in the blockage, diversion or displacement of floodwaters.

Erosion buffer zone shall mean an area that has been defined by a geomorphic analysis to be prone to increased erosion due to lateral migration or unstable channel banks of the creek, stream or river, as determined in the drainage basin master plans adopted pursuant to § 10-19.

Expansion of a manufactured home park or mobile building development shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which manufactured homes or mobile buildings are to be affixed, including the installation of utilities, either final site grading or the pouring of concrete pads or the construction of streets outside of the manufactured home park or mobile building development. Installation of a manufactured home or mobile building on a previously improved lot within a manufactured home park or mobile building development shall not be deemed to constitute *expansion of manufactured home park or mobile building development*.

FEMA shall mean the Federal Emergency Management Agency or successor agency.

FEMA basin floodplain shall mean the land in a one-hundred-year floodplain designated by FEMA. This includes both areas of a floodplain designated as Zones A, AE, AO, AH and A1—A30 on the Flood Insurance Rate Map and any other areas in a basin for which FEMA has issued a floodplain map that the City has designated as one-hundred-year floodplain.

FEMA special flood hazard area shall mean areas delineated on the Flood Insurance Rate Map and designated as Zones A, AE, AO, AH and A1—A30.

Fill shall mean a deposit of materials of any kind placed by artificial means.

Finished area shall mean an enclosed area that has more than twenty (20) linear feet of finished walls (paneling, wallboard or other non-flood-resistant material, for example) or that is used for any purpose other than solely for parking of vehicles, building access or storage.

Five-hundred-year flood shall mean a flood that has a two-tenths (.2) percent chance of being equaled or exceeded in any given year.

Five-hundred-year floodplain shall mean the land in a drainageway within a community subject to a two-tenths (.2) percent or greater chance of flooding in a given year.

Floatable materials shall mean any material that is not secured in place or completely enclosed in a structure, so that it could float off site during the occurrence of a flood and potentially cause harm to downstream property owners, or that could cause blockage of a culvert, bridge or other drainage facility. This includes, without limitation, lumber, vehicles, boats, equipment, trash dumpsters, tires, drums or other containers, pieces of metal, plastic or any other item or material likely to float. *Floatable materials* shall not include motor vehicles parked temporarily on property for the purpose of customer or employee parking, or a business's temporary outdoor display of inventory during its usual hours of operation.

Flood or flooding shall mean a general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood fringe shall mean that portion of the one-hundred-year floodplain between the floodway boundary and the upper limits of the base flood. Sheet flow areas with flood depths of less than one (1) foot shall not be considered part of the *flood fringe*. Sheet flow areas with flood depths between one (1) and three (3) feet, inclusive, shall be considered part of the *flood fringe*.

Flood hazard area shall mean the Poudre River floodplain, a FEMA basin floodplain, a City basin floodplain or an erosion buffer zone.

Flood Insurance Rate Map (FIRM) shall mean the official map on which the Federal Emergency Management Agency has delineated both the floodplains and risk premium zones applicable to the community.

Flood Insurance Study shall mean the official report in which FEMA has provided flood profiles, as well as the Flood Insurance Rate Map and water surface elevation of the base flood.

Floodplain shall mean any land area susceptible to being inundated by water from any source.

Floodplain management shall mean 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* refers to those activities that are implemented with the intent to promote the public health, safety and general welfare, to minimize public and private losses due to flood conditions and to maintain, enhance and improve the natural and beneficial functions of floodplains.

Floodplain management regulations shall mean zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion control ordinances) and other applications of police power. The term describes such federal, state or local regulations, or any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodplain use permit shall mean any permit granted under the terms and conditions of this Article for development on land in a floodplain.

Floodproof shall mean to make a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a floodplain area, as more specifically set forth in § 10-38.

Floodway shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood by more than five-tenths (.5) foot.

Floodway modification shall mean any alteration to a channel thalweg, bed or banks of a floodway that would change the delineation of the floodway.

Footprint shall mean the aerial extent and location of a structure at the point at which it meets the ground at grade level, or at which the floor projects horizontally above the ground, to the extent portions of the structure do not meet the ground.

Historic structure shall mean any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the U.S. Secretary of the Interior to meet the requirements for individual listing in the National Register;
- (2) Certified or preliminarily determined by the U.S. Secretary of the Interior to contribute to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the state inventory of historic places, if such an inventory exists and has been approved by the U.S. Secretary of the Interior; or
- (4) Individually designated as a local landmark pursuant to Chapter 14.

Letter of map amendment (LOMA) shall mean a letter from FEMA officially revising the effective National Flood Insurance Rate Map that establishes that a property is not located in a FEMA special flood hazard area.

Letter of map revision (LOMR) shall mean a letter from FEMA officially revising the effective National Flood Insurance Rate Map to show changes in zones, delineations and flood elevations of floodplains and floodways.

Letter of map revision based on fill (LOMR-F) shall mean a letter from FEMA stating that a structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

Lowest adjacent grade shall mean the elevation of the natural ground or properly compacted fill that comprises a component of a building's foundation system, sidewalk, patio, deck support or basement entryway immediately next to a structure and after the completion of construction.

Lowest floor shall mean the lowest floor of the lowest enclosed area (including any basement or any crawl space that does not meet the requirements of § 10-40). An unfinished enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that it meets the requirements of § 10-39 and 10-44 Code of Federal Regulations § 60.3, as the same may be amended or renumbered.

Manufactured home shall mean a structure that is used or intended for use as a residential structure that is transportable in one (1) or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It shall not include recreational vehicles or travel trailers, except when located on a property and in use as permanent living quarters.

Manufactured home park shall mean a parcel (or contiguous parcels) of land divided for rent or sale into ten (10) or more manufactured home lots.

Market value shall mean the value of a structure, excluding the value of the underlying land, based upon the market for comparable properties in the local real estate market among willing buyers and sellers. Market value may be established by the County Assessor's assessment of the actual value of improvements, or may be established by an independent certified appraisal.

Mixed-use structure shall mean any structure that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.

Mobile building shall mean a structure not in use and not intended for use as a residential structure that is transportable in one (1) or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It shall not include recreational vehicles, travel trailers or temporary construction trailers.

Mobile building development shall mean a parcel (or contiguous parcels) of land divided for rent or sale into ten (10) or more mobile building lots.

No rise shall mean for the Poudre River floodplain and FEMA basin floodplains a calculated rise in flood depth of 0.00 feet as defined in the hydraulic models for said floodplains, and for City basin floodplains shall mean a calculated rise in flood depth of 0.00 feet as rounded to the nearest one-tenth (.1) of a foot.

Nonconforming structure shall mean a structure that was lawful at the time of construction, but which is not now in conformity with the requirements of this Article, due to the adoption of or changes in said Article or due to the annexation of the property on which the structure is located.

Nonresidential floor shall mean a level or floor of a nonresidential or mixed-use structure that is not used for, or designed as and capable of being used for, the temporary or permanent domicile of persons, or a portion of such a domicile.

Nonresidential structure shall mean any structure that is not, in whole or in part, a residential structure. A *nonresidential structure* shall include, without limitation, any structure used, designed or intended for use for office, commercial, business, educational, industrial or governmental occupation.

Nonresidential use shall mean the use of all or a portion of a structure or property for any use other than as a temporary or permanent domicile of persons.

Nonstructural development shall mean any use of property that does not involve a structure. *Nonstructural development* may include, but is not limited to, the construction or installation of or use of a property for parking lots, utilities, detention ponds, fences, trails, pathways, outdoor storage, cultivation of vegetation or placement of fill.

Obstruction shall mean any physical barrier, structure, material or impediment in, along, across or projecting into a watercourse that may alter, impede, retard or change the direction or velocity of the flow of water, or that may, due to its location, have a propensity to snare or collect debris carried by the flow of water or to be carried downstream. *Obstruction* shall include, but not be limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, and vegetation in, along, across or projecting into a watercourse.

One-hundred-year floodplain shall mean the land in a drainway within a community subject to a one-percent or greater chance of flooding in a given year, whether designated as such by FEMA or by the City pursuant to § 10-19.

Outdoor storage shall mean storage outside of a structure, and shall include storage of materials, products, equipment, vehicles, or any other item that is not a structure. Use of property for outdoor unattended parking of vehicles, such as, for example, commuter parking areas, trailhead parking areas or other remote parking areas, shall be deemed to constitute *outdoor storage*.

Permanent foundation shall mean reinforced piers, posts, piles, poured concrete walls, reinforced block walls, or compacted fill in use as a permanent foundation for a manufactured home or mobile building. Stacked concrete blocks shall not be considered to constitute a *permanent foundation*.

Public infrastructure shall mean any facility, excluding structures, of a public or private utility providing electric, telephone, cable TV, fiber-optic, telegraph, water, wastewater, storm sewer or any other public utility service; storm-

water improvements identified in any City-approved drainage master plan; public roads, bridges and culverts; and traffic signaling equipment that is provided, required or authorized by any governmental entity having jurisdiction.

Reconstruct or reconstruction shall mean to rebuild a structure without increasing its footprint, when the structure has been: (1) partially or completely destroyed by any cause (i.e., fire, wind, flood), or (2) partially or completely torn down. *Reconstruction* that also meets the definition of *redevelopment* shall be regulated hereunder as redevelopment.

Recreational facilities shall mean facilities or equipment that are used for private or public recreational or natural resource purposes that have a relatively low flood damage potential and do not involve a structure. This includes, without limitation: bicycle, equestrian or pedestrian trails and paths; gazebos; benches; ball fields; tennis and basketball courts; interpretive facilities; playground equipment; and golf courses.

Recreational vehicle shall mean a vehicle which is: (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Redevelop or redevelopment shall mean:

- (1) To construct any substantial improvement that will result in the removal or replacement of more than fifty (50) percent of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased; or
- (2) To repair or reconstruct any structure that has sustained substantial damage, which damage has caused the removal or replacement of more than fifty (50) percent of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased.

Regulatory flood protection elevation shall mean the elevation above the base flood elevation to which a structure must be elevated, as set forth in the applicable requirements of this Article.

Regulatory floodplain shall mean the floodplain that is regulated by the City, including the Poudre River floodplain, FEMA basin floodplains and City basin floodplains.

Rehabilitate or rehabilitation shall mean to make any improvements and repairs to the interior and exterior of a structure that do not result in any increase in the footprint of the structure. The construction of a vertical addition is considered to constitute *rehabilitation*.

Remodel or remodeling shall mean the same as *rehabilitate* or *rehabilitation*.

Residential structure shall mean any structure that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons, including without limitation a dwelling, a boarding house, a hotel, a motel and similarly used structure and a manufactured home. A *mixed-use structure* shall not be deemed to constitute a *residential structure*.

Residential use shall mean the use of all or a portion of a structure or property as a temporary or permanent domicile of persons.

Shallow flooding area shall mean either: (1) a designated AH or AO zone shown on the Flood Insurance Rate Map; or (2) designated as a shallow flooding area by the City in a one-hundred-year floodplain having an average depth of from one (1) to three (3) feet, inclusive, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Sheet flow area shall mean a portion of the one-hundred-year floodplain that is characterized by undefined flow paths. *Sheet flow* areas with flood depths of less than one (1) foot shall not be considered part of the flood fringe.

Sheet flow areas with flood depths between one (1) and three (3) feet, inclusive, shall be considered part of the flood fringe.

Start of construction shall mean the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the building permit date. For structural development, the *actual start of construction* shall mean the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. *Permanent construction* shall not include land preparation, such as clearing, grading and filling; nor shall it include the installation of streets and/or walkways; nor shall it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor shall 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 a substantial improvement, the *actual start of construction* shall mean the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. For nonstructural development, the *actual start of construction* shall mean the physical installation or addition of materials or improvements that constitute all or any portion of the nonstructural development.

Storage of floatable materials shall mean storage outside of any structures of materials, products, equipment, vehicles or any other item that is not a structure, if the stored material or item meets the definition of *floatable material*.

Structure shall mean a structure with two (2) or more outside rigid walls from floor to roof and a fully secured roof that is affixed to a permanent site, a mobile building or manufactured home or a gas or liquid storage tank that is principally aboveground. An attached garage or addition shall be considered part of the structure to which it is attached.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement shall mean any combination of repairs, demolition, reconstruction, rehabilitation or other improvements of a structure taking place during a twelve-month period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement, provided that the footprint of the structure is not increased. *Substantial improvement* shall include any repair or reconstruction work performed within said period of time on structures that have incurred substantial damage. A *substantial improvement* that meets the definition of *redevelopment* shall be regulated hereunder as redevelopment. The term *substantial improvement* shall not include any project for improvement of a structure to correct violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official, including only the minimum improvements necessary to assure safe living conditions.

Temporary construction trailer shall mean a mobile building in temporary use in connection with a construction project, which would be exempt from building permit requirements as a temporary construction trailer pursuant to Chapter 5.

Unfinished area shall mean an enclosed area that is used only for the parking of vehicles, building access or storage purposes and does not meet the definition of *finished area*.

Vertical addition shall mean an addition to a structure that does not result in an increase in the structure's footprint, provided that the associated work does not constitute redevelopment of the structure.

Watercourse shall mean a stream, creek, pond, slough, gulch, reservoir, lake or portion of the floodplain functioning as a natural or improved channel carrying flows, not constituting a flood. The term shall include, but not be limited to, established natural and human-made drainageways for carrying storm runoff, but it shall not include irrigation ditches.

X zone shaded area (or *shaded zone X*) shall mean as shown on the FEMA Flood Insurance Rate Map as one (1) or more of the following:

- (1) The area inundated by the five-hundred-year flood;
 - (2) A sheet flow area inundated by the one-hundred-year flood with an average flood depth of less than one (1) foot; or
 - (3) An area protected by one (1) or more levees from inundation by the one-hundred-year flood.
- (Ord. No. 37, 2005, 3-15-05; Ord. No. 206, 2006 § 1, 1-16-07; Ord. No. 015, 2007 § 1, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-17. Purpose.

(a) It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the secondary use and development of floodplains so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in a floodplain;
- (8) Ensure that those who occupy the floodplain assume the responsibility for their actions;
- (9) Protect the natural areas required to convey flood flows and retain flow characteristics; and
- (10) Obtain and maintain the benefits to the community of participating in the National Flood Insurance Program.

(b) In order to accomplish its purposes, this Article includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood elevations or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-18. Interpretation.

In the interpretation and application of this Article, 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.
(Ord. No. 37, 2005, 3-15-05)

Sec. 10-19. Flood hazard area designation.

(a) The Flood Insurance Study dated December 19, 2006, including any revisions or amendments thereto, completed for the City by FEMA for the purpose of identifying floodplain and floodway areas, with accompanying Flood Insurance Rate Map, is hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study is on file in the office of the City Clerk.

(b) The additional floodplain studies or reports listed in this Subsection, together with the delineated floodplains, flood fringe areas, floodways and erosion buffer zones delineated therein, together with any other delineations of flood areas, flood elevations or physical characteristics, are hereby declared to be part of this Article. Any differences in floodplain or floodway delineation between such additional studies or reports and the Flood Insurance Rate Map shall be resolved by applying those provisions which result in a broader floodplain or floodway delineation, or a higher base flood elevation. To the extent that additional technical analysis results in the refinement of the floodplain, flood fringe, floodway, erosion buffer zone or other delineations contained in the plans listed below, or to the extent that the completion of a capital improvement project results in a modification of any such delineations, the Utilities Executive Director shall, pursuant to his or her duties as set forth in Paragraph 10-26(9), document the associated change in the delineation, which modified delineation shall control the application of the requirements set forth in this Article. A copy of the studies or reports shall be on file in the permanent records of Utility Services. Documentation of any modification of any delineation pursuant to this Subsection shall be on file in the permanent records of Utility Services. The floodplain studies or reports incorporated herein by this reference are as follows:

(1) Poudre River floodplain (see Division 4).

(2) FEMA basin floodplains (see Division 5):

- a. Dry Creek floodplain.
- b. Spring Creek floodplain.
- c. Boxelder Creek floodplain.
- d. Cooper Slough floodplain.

(3) City basin floodplains (see Division 6):

- a. Old Town floodplain.
- b. West Vine floodplain.
- c. Canal Importation floodplain.
- d. Fossil Creek floodplain.
- e. Mail Creek floodplain.
- f. McClellands Creek floodplain.
- g. Foothills floodplain.

(4) Erosion buffer zones (see Division 7):

- a. Fossil Creek erosion buffer zone.
- b. Boxelder Creek erosion buffer zone.
- c. McClellands Creek erosion buffer zone.
- d. Mail Creek erosion buffer zone.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 206, 2006 § 2, 1-16-07; Ord. No. 015, 2007 § 2, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-20. Application to certain lands.

The provisions of this Article shall apply to all areas within the jurisdiction of the City. If a lot or parcel lies partly within a floodplain, floodway, flood fringe, erosion buffer zone or other designated area, the part(s) of such lot or

parcel lying within such area or areas shall meet all the standards and requirements applicable to such area as prescribed by this Article. If lands located outside the City limits are included within a flood hazard area, the requirements of this Article shall apply to such lands upon annexation and thereafter, and any development activities upon such lands after the date of annexation shall comply with this Article.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-21. Disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Floods of greater magnitude than the base flood occur on rare occasions, and flood elevations may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. The provisions of this Article should not be construed to imply that areas outside floodplains or land uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City or any officer or employee of the City for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-22. Violations and penalties.

No structure or land shall be constructed, located, extended, converted, altered or used without full compliance with the terms of this Article and other applicable regulations. Violations of the provisions of this Article by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this Article or who fails to comply with any of its requirements shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in § 1-15, or as otherwise expressly provided in a particular section of this Article, and shall be liable for any costs collected pursuant to applicable provisions of the Code. Each day that any violation of the provisions of this Article occurs shall constitute a separate offense. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 37, 2005, 3-15-05)

Secs. 10-23—10-25. Reserved.

DIVISION 2. ADMINISTRATION AND PROCEDURES

Sec. 10-26. Utilities Executive Director's powers and duties.

The duties and responsibilities of the Utilities Executive Director shall include but are not limited to:

- (1) Reviewing all floodplain use permits to determine that the permit requirements of this Article, including without limitation the submission of base flood elevation data, have been satisfied;
- (2) Obtaining evidence prior to the issuance of a floodplain use permit that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required. Conditional floodplain use permits may be issued contingent upon receipt of other specifically identified federal, state or local government agency permits of approval;
- (3) Reviewing all floodplain use permits to determine if the proposed development is located in the floodway and, if located in the floodway, assuring that the encroachment provisions of this Article are met;
- (4) Requiring the obtaining and recording by a professional engineer or land surveyor of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or improved structures and whether or not the structure contains a basement;
- (5) Requiring for all new or improved floodproofed structures the following:
 - a. Verification and recording by a professional engineer or architect of the actual elevation in relation to mean sea level; and

- b. Documentation of the floodproofing as required in § 10-38.
 - (6) Maintaining for public inspection all records pertaining to the provisions of this Article;
 - (7) Notifying adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse and, when submitting a map revision to FEMA, submitting evidence of such notification to FEMA;
 - (8) Requiring that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;
 - (9) Making interpretations, where needed, as to the exact location of the boundaries of flood hazard areas, for example, where there appears to be a conflict between the map boundary and actual field conditions. The person contesting the location of such boundary shall be given a reasonable opportunity to appeal the interpretation as provided by the variance procedure in this Article; and
 - (10) Receiving applications for and determining whether to issue erosion buffer zone waivers, pursuant to Division 7 of this Article.
- (Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-27. Floodplain use permit.

(a) A floodplain use permit shall be obtained from the Utilities Executive Director before any construction or development begins within any floodway, flood fringe or erosion buffer zone established pursuant to this Article. A floodplain use permit shall also be required for any construction or development of or affecting a critical facility in the Poudre River five-hundred-year floodplain or a zone X shaded area, if that critical facility is regulated pursuant to §§ 10-46 or 10-81. Application for a floodplain use permit shall be made on forms furnished by the Utilities Executive Director and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the areas in question; structures already present and proposed, fill, storage of materials and drainage facilities; and the location of the foregoing.

- (b) The following information is specifically required and must be submitted by any floodplain permit applicant:
 - (1) Elevation in relation to mean sea level of the lowest floor, including without limitation the crawl space or basement, heating, cooling or other mechanical components, and garage, of all structures;
 - (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - (3) Certification by a registered professional engineer or architect that any floodproofing methods meet the floodproofing criteria in this Article; and
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (c) The following information is also required for a floodplain use permit:
 - (1) The signature of the owners of all property subject to the development request on the permit or their legally authorized representatives;
 - (2) A written report showing to the satisfaction of the Utilities Executive Director that the floodplain use permit may be issued in compliance with all criteria for approval;
 - (3) A surface view plan showing elevations and contours of the ground; fill and storage elevations; sizes, locations and spatial arrangement of all proposed, anticipated and structures present on the site; location and elevations of streets, water supplies and sanitary facilities; boundaries of all applicable floodplains, flood fringe areas, floodways and erosion buffer zones, or other applicable delineated areas in which the proposed development is to be located; and cross-section locations and base flood elevation contours;

- (4) Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply and sanitary facilities; and
- (5) Detailed information documenting compliance with any specific requirements applicable to the proposed development or activity pursuant to this Article.

(d) The Utilities Executive Director may require the applicant to furnish such additional information as the Utilities Executive Director deems necessary to evaluate the effects of the proposed construction upon any flood hazard areas, which information may include, but shall not be limited to, the following:

- (1) Valley cross-sections showing the floodplain surrounding the watercourse, cross-sections of the area to be occupied by the proposed development, and one-hundred-year flood maximum water-surface elevation information;
- (2) A profile showing the slope of the bottom of the channel or thalweg of the watercourse;
- (3) A floodplain analysis of the flood profile, base flood elevation and velocity, and floodplain, flood fringe, floodway and erosion buffer zone boundaries, along with boundaries of any other delineated areas, using floodplain modeling guidelines established or approved by the Utilities Executive Director, which analysis shall include existing and anticipated uses and shall show the impact the proposed construction or development will have on the elevation of the water-surface of the one-hundred-year flood;
- (4) A structural analysis showing that any proposed structures will be adequately designed and constructed to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and scouring; and
- (5) A stability analysis for any proposed development within an erosion buffer zone or for any floodway encroachment or modification.

(e) When reviewing the application for a floodplain use permit, the Utilities Executive Director shall determine which portions of any flood hazard areas are affected by the particular development request and then shall apply the provisions of this Article as applicable. The Utilities Executive Director also shall determine whether the proposed construction or development is consistent with the need to minimize flood damage and meets the intent of this Article after considering the following factors:

- (1) The effects upon the efficiency or capacity of the floodway;
- (2) The effects upon lands upstream, downstream and in the immediate vicinity;
- (3) The effects upon the one-hundred-year flood profile and channel stability;
- (4) The effects upon any tributaries to the main stream, drainage ditches and any other drainage facilities or systems;
- (5) Whether additional public expenditures for flood protection or prevention will be required;
- (6) Whether the proposed use is for human occupancy;
- (7) The potential danger to persons upstream, downstream and in the immediate vicinity;
- (8) Whether any proposed changes in watercourse will have an adverse environmental effect on the watercourse, including without limitation, erosion of stream banks and streamside trees and vegetation and wildlife habitat;
- (9) Whether any proposed water supply and sanitation systems and other public utility systems are located and constructed to minimize flood damage and to prevent disease, contamination and unsanitary or hazardous conditions during a flood;

- (10) Whether any proposed facility and its contents will be susceptible to flood damage and the effect of such damage;
- (11) The relationship of the proposed development to the elements of the City of Fort Collins Comprehensive Plan and any applicable floodplain management programs;
- (12) Whether safe access is available to the property in times of flood for ordinary and emergency vehicles;
- (13) Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood elevations; and
- (14) Whether the expected flood elevations, velocities, duration, rate of rise, channel stability and sediment transport of the floodwaters expected at the site will adversely affect the development or surrounding property, and whether adequate drainage is provided to reduce exposure to flood damage.

(f) The Utilities Executive Director may, in his or her discretion, require that plans, drawings, specifications or reports for structures, other improvements, features or encroachments, or other impacts of proposed activities, be prepared and certified by a Colorado registered professional engineer as necessary to provide for an adequate technical basis for floodplain use permit, variance or other decisions under this Article.

(g) If the Utilities Executive Director determines that the application meets the purposes and requirements of this Article, the Utilities Executive Director shall issue the permit and may attach such conditions as deemed necessary to further the purposes of this Article.

(h) A floodplain use permit shall expire three (3) years after its date of issuance if the permittee has not started construction (see definition of *start of construction*) under the permit. If a floodplain use permit is issued in connection with the issuance of a building permit, and the building permit expires, then the floodplain use permit shall be reevaluated based on any new criteria or data established or available since the issuance of the permit, and a new floodplain use permit may be required in connection with a new building permit, if the permit would not comply with this Article in light of such new criteria or data.

(i) No person who has obtained a floodplain use permit shall fail to construct in accordance with the approved application and design or terms of said permit.

(j) An applicant for a floodplain use permit shall pay twenty-five dollars (\$25.). If the Utilities Executive Director, pursuant to this Article, requires the applicant to furnish a floodplain modeling analysis, the applicant shall pay an additional fee of three hundred dollars (\$300.).
(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 3, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-28. Appeals/variance procedure.

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

(b) The Water Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Utilities Executive Director in the enforcement or administration of this Article. Persons desiring to appeal a decision of the Utilities Executive Director to the Water Board shall at the time of making such appeal pay a docket fee in the amount of three hundred dollars (\$300.). Written notice of hearing shall be given to the appellant at least three (3) days prior to the hearing by mailing the notice to the appellant's last known address by regular mail.

(c) Persons desiring to request a variance shall at the time of application for said variance submit a variance application together with a floodplain use permit application, and shall at the time of application pay the floodplain use permit fee of twenty-five dollars (\$25.) and a variance processing fee in the amount of three hundred dollars (\$300.).

Written notice of a variance hearing shall be given to the applicant at least three (3) days prior to the hearing by mailing the notice to the applicant's address, as set forth in the variance application, by regular mail.

(d) The Water Board shall from time to time adopt such additional rules and regulations as it deems necessary and advisable for the preparation and submission of variance requests for Board review, for the conduct of its hearings and for carrying out the provisions hereof.

(e) In passing upon such applications, the Water Board shall consider all technical evaluations, all relevant factors and standards specified in other sections of this Article and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the service provided by the proposed facility to the community;
- (5) The availability of alternate locations for the proposed use which are not subject to flood or erosion damage;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles; and
- (9) The expected flood elevation, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(f) Upon consideration of the factors of this Section and the purposes of this Article, the Water Board may attach such conditions to the granting of a variance as it deems necessary to further the purposes of this Article, and shall incorporate by reference the requirements of this Article that shall apply to the development or activities for which a variance has been granted.

(g) The Utilities Executive Director shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-29. Conditions for variances.

(a) Generally, variances may be issued for construction and improvements to be erected on a lot one-half (½) acre or less in size contiguous to and surrounded by lots that contain structures constructed below the base flood elevation, provided that all factors of the variance procedure have been fully considered.

(b) Variances may be issued for the reconstruction, rehabilitation or restoration of historic structures without regard to the procedures set forth in the remainder of this Section.

(c) If the variance sought under this Section would exempt the applicant's property from the application of any provision under this Article that is more restrictive than a comparable provision of the Federal Floodplain Regulations established in 44 C.F.R. Parts 59–78, such variance shall not be subject to the required finding of Paragraph (g)(2) of this Section.

(d) If the variance sought is for property located in a City basin floodplain, such variance shall not be subject to the required finding of Paragraph (g)(2) of this Section.

(e) Variances shall not be issued within any designated floodway if any increase in base flood elevations would result.

(f) Variances shall only be issued upon the determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(g) Variances shall only be issued upon:

- (1) The showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of the variance would not result in any increased flood elevations contrary to the applicable requirements of this Article or any additional threat to public safety or to public or private property, any extraordinary public expense, any nuisance or trespass, any fraud on or victimization of the public as identified in this Article, or conflict with local laws or ordinances.

(h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 4, 2-20-07)

Sec. 10-30. Takings determinations.

Any person who claims that his or her property has been taken by reason of the application of any provision of this Article may apply to the Utilities Executive Director for a Takings Determination using the procedural and substantive requirements and criteria set forth in Division 2.13 of the City's Land Use Code, provided that, for the purpose of this Section, any reference therein to the Director of Community Planning and Environmental Services shall be deemed to constitute a reference to the Utilities Executive Director and any reference to the Land Use Code therein shall be deemed to constitute a reference to this Article. Said Takings Determination Procedures shall be exhausted before the institution of any judicial proceeding against the City claiming a taking of affected property.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Secs. 10-31—10-35. Reserved.

DIVISION 3. GENERAL STANDARDS FOR
FLOOD HAZARD ANALYSIS AND REDUCTION

Sec. 10-36. General provisions for flood hazard reduction.

- (a) In all flood hazard areas, the following requirements must be met by any development:
- (1) All structures shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads;
 - (2) All structures shall be constructed with materials and utility equipment resistant to flood damage;
 - (3) All structures shall be constructed using methods and practices that minimize flood damage;
 - (4) All structures shall be constructed with electrical, heating, ventilation and air conditioning equipment and other service facilities elevated to or above the regulatory flood protection elevation, pursuant to Subsection 10-37(b);
 - (5) All public utilities and facilities, such as sewer, gas, electric and water systems, shall be located and constructed to minimize flood damage; and
 - (6) Adequate drainage consistent with the requirements of § 26-544 shall be planned and constructed in connection with any development, as applicable.

(b) In all flood hazard areas, all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(c) In all flood hazard areas, new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(d) In all flood hazard areas, on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(e) Within areas of shallow flooding, adequate drainage paths shall be provided to guide floodwaters around and away from structures on the site.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-37. General provisions related to elevation of structures.

(a) Determination of base flood elevation.

(1) Base flood elevations established. The base flood elevation for any location shall be determined using the higher of: a) the base flood elevation documented for that location on the FIRM and Flood Insurance Study; and b) the base flood elevation documented for that location on the maps and supporting technical analysis on which the City's floodplain delineation for the location has been adopted by the City pursuant to Subsection 10-19(b).

(2) Flood depth in lieu of mapped base flood elevation. For a location within an AO zone or any location within a City basin floodplain for which a base flood elevation has not been determined by FEMA or the City, if the depth of flooding has been documented by either FEMA or the City to exceed one (1) foot, the base flood elevation shall be determined based on the specified flood depth above the highest adjacent grade documented on: a) the FIRM and Flood Insurance Study; or b) the maps and supporting technical analysis on which the City's floodplain delineation for the location has been adopted by the City pursuant to Subsection 10-19(b).

(3) In lieu of flood depth or mapped base flood elevation. For a location in an AO zone for which no flood depth information has been documented on the FIRM, the base flood elevation shall be deemed to be twenty-four (24) inches above the highest adjacent grade.

(b) Requirement to elevate. In any flood hazard area, the duct work, heating, ventilation and air conditioning systems, hot water heater, electrical and the lowest floor level of any structure in the event of any new construction, addition, substantial improvement or repair of substantial damage, or redevelopment must be elevated to or above the applicable regulatory flood protection elevation, except to the extent either floodproofing is allowed in lieu of said elevation in the manner described in § 10-38 or venting is allowed in lieu of said elevation in the manner described in § 10-39. This requirement shall be referred to as the *elevation or freeboard* requirement.

(c) Determination of regulatory flood protection elevation. The regulatory flood protection elevation shall be determined as follows:

(1) Poudre River floodplain:

a. Twenty-four (24) inches above the base flood elevation;

(2) FEMA basin floodplain:

a. For new construction and redevelopments, eighteen (18) inches above the base flood elevation;

b. For additions and substantial improvements, six (6) inches above the base flood elevation; and

c. For accessory structures, six (6) inches above the base flood elevation;

(3) City basin floodplain:

a. For new construction and redevelopment, eighteen (18) inches above the base flood elevation;

b. For additions and substantial improvements, six (6) inches above the base flood elevation; and

c. For accessory structures, six (6) inches above the base flood elevation.

(d) Determination of lowest floor elevation. The lowest floor elevation of the structure shall be determined based on the type of foundation. If more than one (1) foundation type is used, the lowest floor elevation shall be determined separately for each portion of the structure with a different foundation type.

- (1) Slab-on-grade. The lowest floor elevation of a slab-on-grade structure shall be measured at the top of the slab.
- (2) Basement. The lowest floor elevation of a structure with a basement shall be measured at the top of the basement slab.
- (3) Crawl space. The lowest floor elevation of a structure with a crawl space that is built in accordance with the specifications of § 10-40 shall be measured at the top of the floor of the lowest finished area. The lowest floor elevation of a structure with a crawl space that is not built in accordance with the specification of § 10-40 shall be measured at the lowest interior grade of the crawl space.
- (4) Enclosure. The lowest floor elevation of a structure with an enclosure that is built in accordance with the venting specifications of § 10-39 shall be measured at the top of the floor of the lowest finished area. The lowest floor elevation of a structure with an enclosure that is not built in accordance with the venting specifications of § 10-39 shall be measured at the lowest interior grade of the enclosure.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-38. Specific standards for floodproofing.

Any structure or portion of a structure eligible to substitute floodproofing in lieu of compliance with the applicable elevation requirement of Subsection 10-37(b) shall meet the following requirements, which shall be referred to as *floodproofing requirements*:

- (1) In order for a structure to be eligible to comply with this Article through these floodproofing requirements:
 - a. The structure must be a nonresidential structure, a nonresidential use portion of a mixed-use structure, an accessory structure or an attached garage; and
 - b. The flood depth surrounding the structure must not exceed three (3) feet.
- (2) The structure must be designed and constructed to be floodproofed so that:
 - a. Below the regulatory flood protection elevation, the structure is watertight with walls substantially impermeable to the passage of water;
 - b. All structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy from flooding;
 - c. The structure complies with the FEMA flood-resistant materials and floodproofing requirements in effect as of the date of the floodplain use permit; and
 - d. Adequate drainage paths to guide floodwaters around and away from the structure are provided consistent with the requirements of § 26-544.
- (3) The following must be submitted to the Utilities Executive Director and accepted as completed prior to issuance of a floodplain use permit and a building permit:
 - a. A floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the proposed floodproofing elevation;
 - b. Detailed plans for floodproofing measures that include:
 1. Base flood elevation and elevation of floodproofing;
 2. The benchmark used;
 3. Design details and locations of the specific floodproofing measures;
 4. The direction and distance that all doors swing, in order to show that floodproofing closure shields, if any, cannot block doors from opening when shields are in place; and
 5. The signature and certification of a registered professional engineer or architect;
 - c. Manufacturer's specification sheets if using manufactured measures, such as, for example, sealants;
 - d. Manufacturer's catalog cuts if ordering measures, such as, for example, gates or shields, from a catalog;

- e. A statement of the wording of the directions for securing and releasing any gate or closure shield, which directions are required to appear on the back of any gate or closure shield;
 - f. An emergency action plan that includes:
 - 1. A description of where the floodproofing measures will be stored;
 - 2. A description of who will be responsible for ensuring that the measures are in place, and who will monitor any closure shields, if the structure is an occupied structure; and
 - 3. An annual schedule of when the floodproofing measures will be in use;
 - g. A statement of the wording of notices to be posted in conspicuous locations on each floor of the structure, in such form, locations and numbers as are reasonably necessary to inform occupants of the structure that the structure is floodproofed and identifying the specific location of any floodproofing equipment requiring human operation in order for the floodproofing to be effective;
 - h. A plan of the structure showing the location of the required floodproofing notices; and
 - i. A plan for maintenance and inspection of the floodproofing measures.
- (4) A floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the as-built elevation of the floodproofing improvements, must be submitted to the Utilities Executive Director and accepted before release of a certificate of occupancy for the structure.
- (Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-39. Venting requirements.

Any structure or portion of a structure eligible to substitute venting in lieu of compliance with the applicable elevation requirement in Subsection 10-37(b) shall meet the following requirements:

- (1) The structure must provide one (1) square inch of venting for every square foot of enclosed area;
- (2) The structure must provide at least two (2) vents located on different sides of the structure, with one (1) being located on the upstream side of the structure if possible;
- (3) The bottom of required vents must be no higher than one (1) foot above grade;
- (4) The required vents must be freely open with no human intervention required;
- (5) The area below the regulatory flood protection elevation must be unfinished and constructed of flood-resistant materials as the same are defined by FEMA. Sheetrock (drywall) used for fire protection is permitted in unfinished areas;
- (6) All ductwork, heating, ventilation and air conditioning systems, electrical and hot water heaters included as part of the structure must be elevated to or above the regulatory flood protection elevation;
- (7) The structure must be securely anchored to resist floatation;
- (8) All of the above required features must be shown on the building plans submitted for the floodplain permit and building permit;
- (9) An elevation certificate documenting the venting features included in a structure in a form satisfactory to the Utilities Executive Director must be submitted prior to the issuance of a certificate of occupancy for the structure. For an accessory structure, a certification shall not be required, provided that the structure is inspected during routine inspection in connection with a building permit or certificate of occupancy.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-40. Specific standards for crawl spaces.

Any crawl space not elevated at its lowest point to an elevation at least as high as the regulatory flood protection elevation shall meet the following requirements to be permitted:

- (1) The velocity of the one-hundred-year flood flows impacting the structure must be less than five (5) feet/second;
 - (2) The interior grade elevation that is below the base flood elevation must be no lower than two (2) feet below the lowest adjacent grade;
 - (3) The interior height of the below-grade crawl space, as measured from the lowest interior grade of the crawl space to the top of the foundation wall, must not exceed four (4) feet at any point;
 - (4) The crawl space must have an adequate drainage system that includes a totally immersible pump that allows floodwaters to drain from the interior of the crawl space following a flood;
 - (5) All duct work, heating, ventilation and air conditioning systems, hot water heater and electrical, included with-in or as part of the structure must be elevated to the regulatory flood protection elevation; and
 - (6) Any such crawl space must meet the requirements of § 10-39.
- (Ord. No. 37, 2005, 3-15-05)

Sec. 10-41. Specific standards for mobile buildings and manufactured homes.

Any mobile building or manufactured home, where permitted, that is placed, relocated, redeveloped or substantially improved after the effective date of this Section, and any addition to a mobile building or manufactured home, shall meet the following requirements:

- (1) The mobile building or manufactured home must meet the requirements of § 10-37, including but not limited to the requirement to be elevated so that the lowest floor is at or above the regulatory flood protection elevation. For a mobile building or manufactured home elevated on pilings:
 - a. The lot on which said structure is located must be large enough to permit steps;
 - b. The foundation pilings must be placed in stable soil no more than ten (10) feet apart; and
 - c. Reinforcement must be provided for any pilings more than six (6) feet above the ground level.
- (2) The mobile building or manufactured home must be securely anchored on a permanent foundation to resist flotation, collapse or lateral movement and shall be capable of resisting the hydrostatic and hydrodynamic flood forces calculated to occur in a one-hundred-year flood. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors, and must comply with the following requirements:
 - a. Over-the-top ties must be provided at each of the four (4) corners of the mobile building, with two (2) additional ties per side at intermediate locations, and with one (1) additional tie per side if the building length is in excess of fifty (50) feet and one (1) additional tie per side for each additional fifty (50) feet of length.
 - b. Frame ties must be provided at each corner of the manufactured home or mobile building, with five (5) additional ties per side at intermediate points, except that only four (4) additional frame ties per side shall be required for manufactured homes and mobile buildings less than fifty (50) feet long.
 - c. All components of the anchoring system must be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (3) The mobile building or manufactured home must meet the requirements and guidelines applicable to an individual manufactured home or mobile building set forth in the FEMA publication entitled, "Manufactured Home Installation in Flood Hazard Areas," FEMA85/September 1985.
- (4) The mobile building or manufactured home must be placed in such a location and manner as to provide adequate access to allow the mobile building or manufactured home to be hauled from the site.
- (5) The mobile building or manufactured home must be placed in a manner and location such that the requirements of § 26-544 are met.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-42. Specific standards for recreational vehicles.

(a) Any recreational vehicle located on property in residential use in the Poudre River floodway or flood fringe shall be fully licensed and ready for highway use when located on such property.

(b) Any recreational vehicle located in a FEMA basin floodway or flood fringe or City basin floodway or flood fringe shall:

- (1) Be present on a lot or parcel for fewer than one hundred eighty (180) consecutive days, or for a total of fewer than one hundred eighty (180) days in one (1) calendar year; or
- (2) Be fully licensed and ready for highway use; or
- (3) Comply with the requirements of § 10-41.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 5, 2-20-07)

Sec. 10-43. Development in one-hundred-year floodplains in which no floodway has been designated.

No new construction, substantial improvements or other development, including structural and nonstructural development, shall be permitted within zones A1—A30 and AE, if no floodway has been delineated, unless it is demonstrated that the cumulative effect of the proposed development or activity, when combined with all other completed, pending and anticipated development, will not increase the base flood elevation more than six (6) inches at any point within the City.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-44. Development in one-hundred-year floodplain in which base flood elevations have not been determined.

No new construction, substantial improvements or other development, including structural and nonstructural development, shall be permitted within approximate A zones, if no base flood elevations have been established on a FIRM or City floodplain map, unless base flood elevation information consistent with the City's floodplain modeling guidelines is provided and all applicable requirements, including but not limited to the requirements of § 10-43, are met.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-45. Floodway evaluations.

Where otherwise permitted, any development, obstruction or activity that will result in an encroachment in or modification to the floodway shall be permitted only if the following requirements are met, using floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the Utilities Executive Director including but not limited to the considerations and requirements set forth in § 10-27:

- (1) Required demonstrations for floodway encroachments and/or modifications. At least one (1) of the following requirements must be met for any floodway encroachment or modification:
 - a. No rise. The development, obstruction or activity must be shown by appropriate floodplain modeling to result in no increase in base flood elevations, also referred to as *no rise*, as defined in § 10-16, and:
 1. A certification signed by a registered professional engineer accurately documenting that no increase in base flood elevations will result from the proposed development, obstruction or activity, in a form approved by the Utilities Executive Director, must be submitted prior to issuance of a floodplain permit, and
 2. A certification signed by a registered professional engineer accurately documenting the as-built base flood elevations after completion of the development, obstruction or activity as resulting in no increase in base flood elevations must be submitted prior to the issuance of a certificate of occupancy, or, in the event no certificate of occupancy is required, upon completion of the improvements; or
 - b. No rise except on applicant land or easement. The development, obstruction or activity must be shown by appropriate floodplain modeling to result in no increase in base flood elevations or change in floodway or

flood fringe boundaries, except on the applicant's contiguous property or on property for which the applicant has obtained and recorded easements sufficient to allow for the associated changes, and:

1. A certification signed by a registered professional engineer accurately documenting that no increase in the floodway or base flood elevations on other than the applicant's contiguous property or on property for which the applicant has obtained and recorded easements sufficient to allow for the associated changes will result from the proposed development, obstruction or activity, in a form approved by the Utilities Executive Director, must be submitted prior to issuance of a floodplain permit; and
2. A certification signed by a registered professional engineer accurately documenting the as-built floodway and base flood elevations after completion of the development, obstruction or activity as resulting in no increase in the floodway or base flood elevations on other than the applicant's contiguous property or other than provided by recorded easements must be submitted prior to the issuance of a certificate of occupancy, or, in the event no certificate of occupancy is required, upon completion of the improvements.

(2) Map revisions.

- a. Conditional map revisions. If any development or activity in the floodway results in a change to base flood elevations, floodway or flood fringe boundaries, a Conditional Letter of Map Revision must be approved by FEMA, or, for a City basin floodplain, a preliminary map revision must be approved by the Utilities Executive Director prior to issuance of a floodplain permit or initiation of construction or permitted activities.
- b. Final map revisions. Upon completion of development or other activities for which a floodplain permit and Conditional Letter of Map Revision are required pursuant to this § 10-45, a Letter of Map Revision or Physical Map Revision must be approved by FEMA, or, for a City basin floodplain, a final map revision must be approved by the Utilities Executive Director, prior to issuance of a certificate of occupancy, or, in the event no certificate of occupancy is required, upon completion of the improvements.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 6, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-46. Nonconforming structures.

A nonconforming structure may be continued, notwithstanding the provisions of this Article, subject to the following conditions:

- (1) If a nonconforming structure is abandoned for twelve (12) consecutive months, the structure shall conform to the requirements of this Article prior to any future use. Intent to resume active operations shall not affect the foregoing.
- (2) If any nonconforming structure is substantially damaged by any means, including floods, such structure shall not be reconstructed, except in conformity with the provisions of this Article.
- (3) Any substantial improvement to a nonconforming structure in a FEMA basin floodplain or City basin floodplain, or any cumulative substantial improvement to a nonconforming structure in the Poudre River floodplain, shall be made only in conformity with the provisions of this Article.
- (4) No person shall change the use of a nonconforming structure in any floodway from a nonresidential structure to a residential structure or a mixed-use structure, or to increase the residential use area of a mixed-use structure.
- (5) No person shall change the use of a nonconforming structure in any flood fringe from a nonresidential structure to either a residential structure or a mixed-use structure with residential use below the regulatory flood protection elevation, or to increase the residential use area of a mixed-use structure below the regulatory flood protection elevation.
- (6) No person shall change the use of a nonconforming structure or existing structure that is not a critical facility to use as a critical facility contrary to the provisions of this Article, or change the use of a critical facility to another type of critical facility, or increase the physical area in use for a nonconforming critical facility, contrary to the provisions of this Article.

(7) A nonconforming structure may not be relocated, except that a nonconforming critical facility may be relocated within the same parcel of land without losing its legal nonconforming status.
(Ord. No. 37, 2005, 3-15-05)

Sec. 10-47. Changes of use.

No person shall cause, nor permit on property under said person's ownership or control, the construction or installation of improvements on the property, or a new use of the property or any portion thereof, if the same shall result in a use or expansion of a use of the property inconsistent with the requirements and prohibitions of this Article.
(Ord. No. 37, 2005, 3-15-05)

Secs. 10-48—10-70. Reserved.

DIVISION 4. POUFRE RIVER FLOOD HAZARD AREAS

Sec. 10-71. Specific standards for development in Poudre River floodway.

In addition to complying with all other applicable provisions of this Article, all development in the floodway of the Poudre River, as designated pursuant to § 10-19, shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction. Construction of new structures is prohibited.
- (2) Additions. Addition to a structure is prohibited.
- (3) Remodeling and repairs.
 - a. Remodeling and repair of a structure are allowed, provided that after completion of any cumulative substantial improvement all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a cumulative substantial improvement of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. For a cumulative substantial improvement of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - d. Reconstruction of any structure that has suffered substantial damage is prohibited.
 - e. No new basement may be constructed below the regulatory flood protection elevation in any structure.
 - f. Nonconforming basements below the regulatory flood protection elevation are subject to the following restrictions:
 1. Residential structure. No basement below the regulatory flood protection elevation may remain after completion of any cumulative substantial improvement of a residential structure.
 2. Nonresidential structure. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a nonresidential structure, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 3. Mixed-use structure. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that after completion of any cumulative substantial improvement:
 - a) All residential use is on a floor completely above the regulatory flood protection elevation; and
 - b) All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment. Redevelopment of any structure is prohibited.

- (5) Manufactured homes and mobile buildings. Manufactured homes and mobile buildings, other than nonconforming manufactured homes and mobile buildings, are prohibited.
 - a. Development of a manufactured home park or a mobile building development is prohibited.
 - b. Expansion of a manufactured home park or a mobile building development is prohibited.
- (6) Attached garages. A new attached garage shall be considered an addition and shall therefore be subject to the restrictions and requirements applicable to additions.
- (7) Accessory structures.
 - a. Construction of an accessory structure or addition to an accessory structure is prohibited.
 - b. Reconstruction of an accessory structure that has been substantially damaged, or that constitutes redevelopment, is prohibited.
 - c. Remodeling or repair of an accessory structure is allowed, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For a cumulative substantial improvement of an accessory structure, the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (8) Floodway modifications. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (9) Critical facilities. Critical facilities are prohibited.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 7, 2-20-07)

Sec. 10-72. Specific standards for nonstructural development in Poudre River floodway.

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the floodway of the Poudre River, as designated pursuant to § 10-19, shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Construction of new fencing is prohibited, unless the fencing is designed to break away, and is cabled together so as to not float downstream. As an alternative to a break-away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwaters to pass freely.
- (2) Detention ponds. Construction of new detention ponds is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (3) Hard surface paths, trails and walkways. Construction of new hard surface paths, trails and walkways is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (4) Fill. Placement of fill is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (5) Outdoor storage/storage of floatable materials.
 - a. Outdoor storage of materials associated with a nonresidential use that are not defined as floatable materials in § 10-16, whether permanent or temporary, is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

b. Storage of floatable materials associated with a nonresidential use, whether permanent or temporary, is prohibited, except for that storage of floatable materials that was occurring as of July 1, 2000, which storage shall be allowed to continue until but only until the development of a new structure or addition or the cumulative substantial improvement of any existing structure, at which time such storage must be discontinued.

(6) Driveways and parking areas. Construction of new driveways and parking areas is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(7) Vegetation. Placement of new vegetation in the floodway in a location or of a quantity or type that is determined by the Utilities Executive Director to likely result, upon maturity, in an increase in base flood elevations is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 8, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-73. Floodway encroachments in Poudre River floodway.

Any new development, obstruction or activity that will result in an encroachment in or modification to the floodway is prohibited, except to the extent all requirements, including without limitation the requirements of § 10-45, are met.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 9, 2-20-07)

Sec. 10-74. Change of use in Poudre River floodway.

No person shall change the use of any structure or property, or any portion thereof, located in the Poudre River floodway so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 10, 2-20-07)

Sec. 10-75. Specific standards for residential development in Poudre River flood fringe.

In addition to complying with all other applicable provisions of this Article, all residential development in the flood fringe of the Poudre River floodplain, as designated pursuant to § 10-19, shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-80. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

(1) New construction. Construction of a new residential structure is prohibited.

(2) Additions. Addition to a residential structure is prohibited.

(3) Remodeling and repairs.

- a. Remodeling or repair of a residential structure is allowed, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including without limitation the requirements of § 10-37, are met.
- b. Reconstruction of a residential structure that has suffered substantial damage is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.
- d. No basement below the regulatory flood protection elevation may remain after completion of any cumulative substantial improvement of a residential structure.

(4) Redevelopment.

- a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. No new basement may be constructed below the regulatory flood protection elevation in connection with any redevelopment of a residential structure.

- c. No basement below the regulatory flood protection elevation may remain after completion of any redevelopment of a residential structure.
- (5) Manufactured homes. Manufactured homes, other than nonconforming manufactured homes, are prohibited.
 - a. Development of a manufactured home park is prohibited.
 - b. Expansion of a manufactured home park is prohibited.
- (6) Attached garages. A new attached garage attached to a residential structure shall be considered an addition and shall therefore be subject to the restrictions and requirements applicable to an addition to a residential structure.
- (7) Accessory structures.
 - a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that the accessory structure complies with all applicable requirements, including but not limited to the requirements of § 10-37.
 - b. Remodeling and repair of an accessory structure, including reconstruction of an accessory structure that has been substantially damaged, is allowed, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any cumulative substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (8) Critical facilities. Critical facilities are prohibited.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 11, 2-20-07)

Sec. 10-76. Specific standards for nonresidential development in Poudre River flood fringe.

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the flood fringe of the Poudre River floodplain, as designated pursuant to § 10-19, shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-80. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction.
 - a. Construction of a new nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (2) Additions.
 - a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

- c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (3) Remodeling and repairs.
- a. Remodeling or repair of a structure is allowed, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. Reconstruction of a nonresidential structure that has suffered substantial damage is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - d. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - e. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a nonresidential structure, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
- a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (5) Mobile buildings. Mobile buildings, other than nonconforming mobile buildings, are prohibited.
- a. Development of a mobile building development is prohibited.
 - b. Expansion of a mobile building development is prohibited.
- (6) Attached garages.
- a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (7) Accessory structures.
- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. Remodeling or repair of an accessory structure, including reconstruction of an accessory structure that has been substantially damaged, is allowed, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

- e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any cumulative substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(8) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 12, 2-20-07)

Sec. 10-77. Specific standards for mixed-use development in Poudre River flood fringe.

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the flood fringe of the Poudre River floodplain, as designated pursuant to § 10-19, shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-80. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction. Construction of a mixed-use structure is prohibited.
- (2) Additions.
 - a. An addition to a mixed-use structure is prohibited, except that an addition to a mixed use structure that results in expansion of only nonresidential floors of said structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For an addition to a mixed-use structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirement of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (3) Remodeling and repairs.
 - a. Remodeling of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by any cumulative substantial improvement to the structure.
 - b. Reconstruction of a mixed-use structure that has suffered substantial damage is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. For remodeling or repair of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - d. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - e. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, after completion of any cumulative substantial improvement:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
 - a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.

- b. For redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirement of Subsection 10-37(b).
- c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

(5) Attached garages.

- a. Addition of an attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
- b. For a garage attached to a mixed-use structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

(6) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. Remodeling or repair of an accessory structure, including reconstruction of an accessory structure that has been substantially damaged, is allowed, provided that, after completion of any cumulative substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any cumulative substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.

(7) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 13, 2-20-07)

Sec. 10-78. Specific standards for nonstructural development in Poudre River flood fringe.

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the flood fringe of the Poudre River floodplain, as designated pursuant to § 10-19, shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-80. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Fencing is not restricted.
- (2) Detention ponds. Detention ponds are not restricted.
- (3) Hard surface paths, trails and walkways. Hard surface paths, trails and walkways are not restricted.
- (4) Fill. Placement of fill is not restricted.

(5) Outdoor storage/storage of floatable materials.

- a. Outdoor storage of materials that are not defined as floatable materials in § 10-16 is not restricted.
- b. Storage of floatable materials associated with nonresidential use, whether permanent or temporary, is prohibited, except for that storage occurring as of July 1, 2000, which storage shall be allowed to continue until but only until the development of a new structure or addition or the cumulative substantial improvement of any existing structure, at which time such storage must be discontinued.

(6) Driveways and parking areas. Construction of driveways and parking areas is not restricted.
(Ord. No. 37, 2005, 3-15-05)

Sec. 10-79. Change of use in Poudre River flood fringe.

No person shall change the use of any structure or property, or any portion thereof, located in the Poudre River flood fringe so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.
(Ord. No. 37, 2005, 3-15-05)

Sec. 10-80. Removal of property from Poudre River flood fringe.

(a) Property located in the flood fringe of the Poudre River shall be removed from the flood fringe if one (1) of the following conditions is satisfied, but shall remain subject to the provisions of this Section:

- (1) LOMR/PMR. A FEMA Letter of Map Revision (LOMR) or Physical Map Revision (PMR) removing the property from the flood fringe based on revised floodplain modeling and technical analysis has been issued and remains in effect; or
- (2) LOMR-F. A FEMA Letter of Map Revision based on Fill (LOMR-F) removing the property from the flood fringe has been issued and remains in effect. Upon issuance by FEMA of a LOMR-F removing the property from the flood fringe, the following requirements and restrictions shall remain applicable unless and until the LOMR-F is invalidated or superseded by FEMA action:
 - a. Construction of any new residential or mixed-use structure is prohibited.
 - b. Any addition to a residential or mixed-use structure is prohibited, except that an addition to a mixed-use structure that results in expansion of only nonresidential floors of said structure is allowed.
 - c. Any new structure, accessory structure, attached garage or addition, substantial improvement or redevelopment must meet all requirements applicable to construction in the Poudre River flood fringe, including, but not limited to, the requirements of § 10-37, except that:
 1. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - d. Critical facilities and expansions of critical facilities are prohibited.
 - e. Manufactured homes and mobile buildings other than a nonconforming manufactured home or mobile building are prohibited, except that:
 1. A manufactured home or mobile building may be replaced, provided that the replacement manufactured home or mobile building complies with all requirements applicable to manufactured homes or mobile buildings in the Poudre River flood fringe, including, but not limited to, the requirements of § 10-41.
 2. Manufactured home parks and mobile building developments, other than nonconforming manufactured mobile home parks and mobile building developments are prohibited.
 3. Expansion of a manufactured home park or a mobile building development is prohibited.

(b) If the property removed from the flood fringe pursuant to Subsection (a) of this Section remains in the five-hundred-year floodplain after such removal, any development on the property shall comply with all requirements and prohibitions of this Article pertaining to the five-hundred-year floodplain.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 14, 2-20-07; Ord. No. 037, 2010, 4-20-2010)

Sec. 10-81. Specific standards for Poudre River five-hundred-year floodplain and zone X shaded areas.

(a) Critical facilities. In any portion of the Poudre River five-hundred-year floodplain or a zone X shaded area, as designated pursuant to § 10-19, critical facilities are prohibited, except that, for the purpose of this Section only, critical facilities shall not include structures or facilities that constitute critical facilities solely because they produce, use or store hazardous, flammable, explosive, toxic and/or water reactive materials, liquids, gases and solids as such are defined in § 9-1 and § 9-2 of the Uniform Fire Code, as adopted.

(b) Change of use. No person shall change the use of any structure or property located in the Poudre River five-hundred-year floodplain or a zone X shaded area so as to result in a new use or new nonconforming structure that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 15, 2-20-07)

Secs. 10-82—10-100. Reserved.

DIVISION 5. FEMA BASIN FLOODPLAINS

Sec. 10-101. Designation of FEMA basin floodplains.

In accordance with § 10-19, the floodplains designated by FEMA or the Utilities Executive Director, for the Dry Creek basin, the Spring Creek basin, the Boxelder Creek basin and the Cooper Slough basin, as described therein, shall be considered FEMA basin floodplains and shall be subject to the requirements of this Division and all other applicable requirements of this Article, including without limitation the requirements applicable to erosion buffer zones as set forth in Division 7.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-102. Specific standards for residential development in floodways of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all residential development in the floodway of a FEMA basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction. Construction of a new residential structure is prohibited.
- (2) Addition. Addition to a residential structure is prohibited, except for addition of a new attached garage, as set forth herein.
- (3) Remodeling and repair.
 - a. Remodeling and repair of a residential structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain after completion of any substantial improvement of a residential structure.
- (4) Redevelopment.
 - a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in any redevelopment of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain after completion of any redevelopment of a residential structure.
- (5) Manufactured homes.
 - a. Manufactured homes, other than nonconforming manufactured homes, are prohibited, except that:

1. A manufactured home in a nonconforming manufactured home park may be replaced, provided that the replacement manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 2. Installation of a manufactured home on a nonconforming previously improved lot in a nonconforming manufactured home park is allowed, provided that the new manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - b. Development of a manufactured home park is prohibited.
 - c. Expansion of a manufactured home park is prohibited.
- (6) Attached garages.
- a. Addition of an attached garage to a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the garage portion of the structure.
 - b. For a garage attached to a residential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (7) Accessory structures.
- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the accessory structure.
 - b. Remodeling and repair of an accessory structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (9) Critical facilities. Critical facilities are prohibited.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 16, 2-20-07)

Sec. 10-103. Specific standards for nonresidential development in floodways of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the floodway of a FEMA basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction.
 - a. Construction of a new nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
 - b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure.

- (2) Addition.
 - a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
 - b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure.
- (3) Remodeling and repairs.
 - a. Remodeling or repair of a nonresidential structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a nonresidential structure.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a nonresidential structure, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
 - a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in connection with any redevelopment of a nonresidential structure.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain after the completion of the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (5) Mobile buildings.
 - a. Mobile buildings, other than nonconforming mobile buildings, are prohibited, except that:
 - 1. A nonconforming mobile building in a mobile building development may be replaced, provided that the replacement mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - 2. Installation of a mobile building on a nonconforming previously improved lot in a nonconforming mobile building development is allowed, provided that the new mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - b. Development of a mobile building development is prohibited.
 - c. Expansion of a mobile building development is prohibited.
- (6) Attached garages.
 - a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

(7) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the accessory structure.
- b. Remodeling and repair of an accessory structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(9) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 17, 2-20-07)

Sec. 10-104. Specific standards for mixed-use development in floodways of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the floodway of a FEMA basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

(1) New construction. Construction of a new mixed-use structure is prohibited.

(2) Addition.

- a. Addition to a mixed-use structure for residential use is prohibited.
- b. Addition to the nonresidential use portions of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
- c. For an addition to a mixed-use structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- d. No new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed-use structure.

(3) Remodeling and repairs.

- a. Remodeling or repair of a mixed-use structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For remodeling or repair of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. No new basement may be constructed below the regulatory flood protection elevation in any remodeling or repair of a mixed-use structure.
- d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, after completion of any substantial improvement:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

- (4) Redevelopment.
 - a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in any redevelopment of a mixed-use structure.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (5) Attached garages.
 - a. Addition of a new attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a mixed-use structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (6) Accessory structures.
 - a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the accessory structure.
 - b. Remodeling and repair of an accessory structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (7) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (8) Critical facilities. Critical facilities are prohibited.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 18, 2-20-07)

Sec. 10-105. Specific standards for nonstructural development in floodways of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the floodway of a FEMA basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Construction of new fencing is prohibited, unless the fencing is designed to break away, and is cabled together so as to not float downstream. As an alternative to a break-away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwater to pass freely.

- (2) Detention ponds. Construction of new detention ponds is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (3) Hard surface paths, trails and walkways. Construction of new hard surface paths, trails and walkways is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (4) Fill. Placement of fill is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (5) Outdoor storage. Outdoor storage associated with nonresidential use, whether temporary or permanent, is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (6) Driveways and parking areas. Construction of new driveways and parking areas is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met. Outdoor parking that meets the definition of outdoor storage in § 10-16 shall be subject to regulation as outdoor storage.
- (7) Vegetation. Placement of new vegetation in the floodway in a location or of a quantity or type that is determined by the Utilities Executive Director to likely result upon maturity in an increase in base flood elevations is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-106. Floodway encroachments in floodways of FEMA basin floodplains.

Any new development, obstruction or activity that will result in an encroachment in or modification to the floodway is prohibited, except to the extent all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-107. Change of use in floodways of FEMA basin floodplains.

No person shall change the use of any structure or property, or any portion thereof, located in the floodway of a FEMA basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-108. Specific standards for residential development in flood fringe of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all residential development in the flood fringe of a FEMA basin floodplain shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction.
 - a. Construction of a new residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in any new residential structure.
- (2) Additions.
 - a. An addition to a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in any addition to a residential structure.

- (3) Remodeling and repairs.
 - a. Remodeling or repair of a residential structure is allowed, provided that any substantial improvement shall meet all applicable requirements, including but not limited to the requirements of § 10-37.
 - b. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain after completion of any substantial improvement of a residential structure.
- (4) Redevelopment.
 - a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation upon any redevelopment of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain after completion of any redevelopment of a residential structure.
- (5) Manufactured homes.
 - a. Manufactured homes, other than nonconforming manufactured homes, are prohibited, except that:
 - 1. A nonconforming manufactured home may be replaced, provided that the replacement manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - 2. Installation of a manufactured home on a nonconforming previously improved lot in a nonconforming manufactured home park is allowed, provided that the new manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - b. Development of a manufactured home park is prohibited.
 - c. Expansion of a manufactured home park is prohibited.
- (6) Attached garages.
 - a. Addition of an attached garage to a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a residential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (7) Accessory structures.
 - a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. Remodeling and repair of an accessory structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (8) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-109. Specific standards for nonresidential development in flood fringe of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the flood fringe of a FEMA basin floodplain shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction.
 - a. Construction of a new nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (2) Additions.
 - a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (3) Remodeling and repairs.
 - a. Remodeling or repair of a nonresidential structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in a nonresidential structure, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
 - a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (5) Mobile buildings.
 - a. Mobile buildings, other than nonconforming mobile buildings, are prohibited, except that:

1. A nonconforming mobile building may be replaced, provided that the replacement mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 2. Installation of a mobile building on a nonconforming previously improved lot in a nonconforming mobile building development is allowed, provided that the new mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
- b. Development of a mobile building development is prohibited.
 - c. Expansion of a mobile building development is prohibited.

(6) Attached garages.

- a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
- b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

(7) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. Remodeling and repair of an accessory structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(8) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-110. Specific standards for mixed-use development in flood fringe of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the flood fringe of a FEMA basin floodplain shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

(1) New construction.

- a. Construction of a new mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For a new mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. A new basement may be constructed below the regulatory flood protection elevation in a new mixed-use structure, provided that:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

- (2) Additions.
 - a. Addition to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For an addition to a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (3) Remodeling and repairs.
 - a. Remodeling and repair of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, after completion of any substantial improvement:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
 - a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that :
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (5) Attached garages.
 - a. Addition of an attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a mixed-use structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (6) Accessory structures.
 - a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.

- b. Remodeling and repair of an accessory structure is allowed, provided that, after completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, after completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(7) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-111. Specific standards for nonstructural development in flood fringe of FEMA basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the flood fringe of a FEMA basin floodplain shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR or Physical Map Revision in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Fencing is not restricted.
- (2) Detention ponds. Detention ponds are not restricted.
- (3) Hard surface paths, trails and walkways. Hard surface paths, trails and walkways are not restricted.
- (4) Fill. Placement of fill is not restricted.
- (5) Outdoor storage. Outdoor storage, whether temporary or permanent, is not restricted.
- (6) Driveways and parking areas. Construction of driveways and parking areas is not restricted.
- (7) Vegetation. Placement of vegetation is not restricted.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 19, 2-20-07)

Sec. 10-112. Change of use in flood fringe of FEMA basin floodplains.

No person shall change the use of any structure or property, or any portion thereof, located in the flood fringe of a FEMA basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-113. Removal of property from flood fringe of FEMA basin floodplains.

(a) Property located within that portion of a FEMA basin floodplain that has been designated by FEMA pursuant to Subsection 10-19(a) (FEMA designations) may be removed from the flood fringe if one (1) of the following conditions is satisfied:

- (1) LOMR/PMR. FEMA has issued a Letter of Map Revision (LOMR) or Physical Map Revision (PMR) removing the property from the flood fringe based on revised floodplain modeling and technical analysis; or

- (2) LOMR-Fill. FEMA has issued a Letter of Map Revision based on Fill (LOMR-F) removing the property from the flood fringe. If FEMA has issued a LOMR-F removing the property from the flood fringe, the following requirements and restrictions shall remain applicable:
 - a. Any new structure, accessory structure, attached garage, or addition, substantial improvement or redevelopment must meet all applicable requirements, including but not limited to the requirements of § 10-37, except that:
 1. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - b. Critical facilities and expansions of critical facilities are prohibited.
 - c. Manufactured homes and mobile buildings other than a nonconforming manufactured home or mobile building are prohibited, except that:
 1. A manufactured home or mobile building may be replaced, provided that the replacement manufactured home or mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 2. Manufactured home parks and mobile building developments, other than nonconforming manufactured home parks and mobile building developments, are prohibited.
 3. Expansion of a manufactured home park or a mobile building development is prohibited.

(b) Property located in the flood fringe of a FEMA basin floodplain as designated by the Utilities Executive Director pursuant to Subsection 10-19(b) that is outside of the FEMA basin floodplain that has been designated by FEMA pursuant to Subsection 10-19(a) may be removed from the flood fringe upon approval by the Utilities Executive Director of a final map revision based upon floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the Utilities Executive Director demonstrating that the property is no longer located in the flood fringe. Such modeling and analysis shall be required as the basis for a map revision regardless of fill or other physical changes to a property.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 20, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-114. Waiver of requirements for City designations within FEMA basin floodplains.

The Utilities Executive Director may waive any or all of the requirements of this Article that apply to the issuance of a floodplain permit for a proposed development solely because of the Utilities Executive Director's applicable flood hazard designation pursuant to Subsection 10-19(b), and not because of FEMA's applicable flood hazard designation pursuant to Subsection 10-19(a). The Utilities Executive Director may waive such requirements and issue a floodplain permit in such event if he or she is satisfied that there is a sufficient degree of certainty that the property will be removed from the floodway or flood fringe as a result of a City-funded capital project to allow a floodplain permit to issue for the proposed development hereunder, considering:

- (1) The nature of the proposed development and related flood risks; and
- (2) The level of certainty that the capital project will proceed to completion, which shall at a minimum include the prior issuance of a notice to proceed for the capital project, and the expectation that the capital project is progressing and will continue to completion; and
- (3) A technical analysis consistent with the City's technical standards for such analysis that has been completed by a registered professional engineer and that documents and proves to the satisfaction of the Utilities Executive Director that the property will be completely removed from the floodway or flood fringe, as applicable, after completion of the capital project.

New structures that are constructed pursuant to a waiver under this Section and upon completion of the relevant capital project are determined to not have been removed from the floodway or flood fringe as anticipated at the time of said waiver will be deemed to be nonconforming structures in the floodway or flood fringe, as applicable, and all future activities and development shall be subject to the requirements of this Article as the same would apply to any nonconforming structure.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Secs. 10-115—10-130. Reserved.

DIVISION 6. CITY BASIN FLOODPLAINS

Sec. 10-131. Designation of City basin floodplains.

In accordance with § 10-19, the floodplains designated by the Utilities Executive Director for the Old Town basin, the West Vine basin, the Canal Importation basin, the Fossil Creek basin, the Mail Creek basin, the McClellands Creek basin and the Foothills basin, as described therein, shall be considered City basin floodplains and shall be subject to the requirements of this Division and all other applicable requirements of this Article, including without limitation the requirements applicable to erosion buffer zones as set forth in Division 7.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-132. Specific standards for residential development in floodways of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all residential development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction. Construction of new residential structures is prohibited.
- (2) Addition. Addition to a residential structure is prohibited, except for addition of a new attached garage, as set forth herein.
- (3) Remodeling and repairs.
 - a. Remodeling or repair of a residential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain upon any substantial improvement of a residential structure.
- (4) Redevelopment.
 - a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in any redevelopment of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain upon any redevelopment of a residential structure.
- (5) Manufactured homes.
 - a. Manufactured homes, other than nonconforming manufactured homes, are prohibited, except that:
 1. A nonconforming manufactured home in a manufactured home park may be replaced, provided that the replacement manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 2. Installation of a manufactured home on a nonconforming previously improved lot in a nonconforming manufactured home park is allowed, provided that the new manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - b. Development of a manufactured home park is prohibited.
 - c. Expansion of a manufactured home park is prohibited.

(6) Attached garages.

- a. Addition of an attached garage to a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.
- b. For a garage attached to a residential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

(7) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
- b. Remodeling and repair of an accessory structure is allowed, provided that, for any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(9) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 21, 2-20-07)

Sec. 10-133. Specific standards for nonresidential development in floodways of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

(1) New construction.

- a. Construction of new nonresidential structures is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
- b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. No new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure.

(2) Addition.

- a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
- b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. No new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure.

- (3) Remodeling and repairs.
 - a. Remodeling or repair of a nonresidential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a nonresidential structure.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain upon the remodeling or repair of a nonresidential structure, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
 - a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in connection with any redevelopment of a nonresidential structure.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain upon the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (5) Mobile buildings.
 - a. Mobile buildings, other than nonconforming mobile buildings, are prohibited, except that:
 - 1. A nonconforming mobile building in a mobile building development may be replaced, provided that the replacement mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - 2. Installation of a mobile building on a nonconforming previously improved lot in a nonconforming mobile building development is allowed, provided that the new mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - b. Development of a mobile building development is prohibited.
 - c. Expansion of a mobile building development is prohibited.
- (6) Attached garages.
 - a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (7) Accessory structures.
 - a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
 - b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

- e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (9) Critical facilities. Critical facilities are prohibited.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 22, 2-20-07)

Sec. 10-134. Specific standards for mixed-use development in floodways of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction. Construction of a new mixed-use structure is prohibited.
- (2) Addition.
 - a. Addition to a mixed-use structure for residential use is prohibited.
 - b. Addition to the nonresidential use portions of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the addition.
 - c. For an addition to the nonresidential use portions of a mixed-use structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - d. No new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed-use structure.
- (3) Remodeling and repairs.
 - a. Remodeling or repair of a mixed-use structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in any remodeling or repair of a mixed-use structure.
 - d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, upon completion of any substantial improvement:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (4) Redevelopment.
 - a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. No new basement may be constructed below the regulatory flood protection elevation in any redevelopment of a mixed-use structure.

- d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

(5) Attached garages.

- a. Addition of a new attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.
- b. For a garage attached to a mixed-use structure compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

(6) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-45 and the requirements of § 10-37, are met.
- b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(7) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(8) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 23, 2-20-07)

Sec. 10-135. Specific standards for nonstructural development in floodways of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Construction of new fencing is prohibited, unless the fencing is designed to break away, and is cabled together so as to not float downstream. As an alternative to a break away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwater to pass freely.
- (2) Detention ponds. Construction of new detention ponds is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (3) Hard surface paths, trails and walkways. Construction of hard surface paths, trails and walkways is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (4) Fill. Placement of fill is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

- (5) Outdoor storage. Outdoor storage associated with a nonresidential use, whether temporary or permanent, is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.
- (6) Driveways and parking areas. Construction of new driveways and parking areas is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met. Outdoor parking that meets the definition of outdoor storage in § 10-16 shall be subject to regulation as outdoor storage.
- (7) Vegetation. Placement of new vegetation in the floodway in a location or of a quantity or type that is determined by the Utilities Executive Director to likely result upon maturity in an increase in base flood elevations is prohibited, unless all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-136. Floodway encroachments in floodways of City basin floodplains.

Any new development, obstruction or activity that will result in an encroachment in or modification to the floodway is prohibited, except to the extent all applicable requirements, including but not limited to the requirements of § 10-45, are met.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-137. Change of use in floodways of City basin floodplains.

No person shall change the use of any structure or property, or any portion thereof, located in the floodway of a City basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-138. Specific standards for residential development in flood fringe of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all residential development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction.
 - a. Construction of a new residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in any new residential structure.
- (2) Additions.
 - a. An addition to a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation in any addition to a residential structure.
- (3) Remodeling and repairs.
 - a. Remodeling or repair of a residential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a residential structure, any improvements on a floor that is entirely above the base flood elevation, including any vertical addition, may be excluded from the calculation of the cost of improvements for the purpose of determining whether the improvements constitute a substantial improvement.

- c. For remodeling or repair of a residential structure, if a vertical addition is being added to a structure and a substantial improvement is not being made, then the foundation of the existing structure, as existing or as modified by proposed improvements, assuming the completion of the vertical addition, must be certified by a registered professional engineer to be sufficient to withstand the hydrostatic and hydrodynamic loads against the structure expected to occur in a one-hundred-year flood.
 - d. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.
 - e. No basement below the regulatory flood protection elevation may remain upon completion of any substantial improvement of a residential structure.
- (4) Redevelopment.
- a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37 are met.
 - b. No new basement may be constructed below the regulatory flood protection elevation upon any redevelopment of a residential structure.
 - c. No basement below the regulatory flood protection elevation may remain upon any redevelopment of a residential structure.
- (5) Manufactured homes.
- a. Manufactured homes, other than nonconforming manufactured homes, are prohibited, except that:
 - 1. A nonconforming manufactured home may be replaced, provided that the replacement manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - 2. Installation of a manufactured home on a nonconforming previously improved lot in a nonconforming manufactured home park is allowed, provided that the new manufactured home complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 - b. Development of a manufactured home park is prohibited.
 - c. Expansion of a manufactured home park is prohibited.
- (6) Attached garages.
- a. Addition of an attached garage to a residential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
 - b. For a garage attached to a residential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- (7) Accessory structures.
- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(8) Critical facilities. Critical facilities are prohibited.
(Ord. No. 37, 2005, 3-15-05)

Sec. 10-139. Specific standards for nonresidential development in flood fringe of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) New construction.
 - a. Construction of a new nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (2) Additions.
 - a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- (3) Remodeling and repair.
 - a. Remodeling or repair of a nonresidential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
 - b. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
 - c. For remodeling or repair of a nonresidential structure, any improvements on a floor that is entirely above the base flood elevation, including any vertical addition, may be excluded from the calculation of the cost of improvements for the purpose of determining whether the improvements constitute a substantial improvement.
 - d. For remodeling or repair of a nonresidential structure, if a vertical addition is being added to a structure and a substantial improvement is not being made, then the foundation of the existing structure, as existing or as modified by proposed improvements, assuming the completion of the vertical addition, must be certified by a registered professional engineer to be sufficient to withstand the hydrostatic and hydrodynamic loads against the structure expected to occur in a one-hundred-year flood event.
 - e. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
 - f. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a nonresidential structure, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(4) Redevelopment.

- a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(5) Mobile buildings.

- a. Mobile buildings, other than nonconforming mobile buildings, are prohibited, except that:
 1. A nonconforming mobile building may be replaced, provided that the replacement mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
 2. Installation of a mobile building on a nonconforming previously improved lot in a nonconforming mobile building development is allowed, provided that the new mobile building complies with all applicable requirements, including but not limited to the requirements of § 10-41.
- b. Development of a mobile building development is prohibited.
- c. Expansion of a mobile building development is prohibited.

(6) Attached garages.

- a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
- b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable elevation requirement of Subsection 10-37(b).

(7) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(8) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-140. Specific standards for mixed-use development in flood fringe of City basin floodplain.

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood

fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

(1) New construction.

- a. Construction of a new mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For a new mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable elevation requirement of Subsection 10-37(b).
- c. A new basement may be constructed below the regulatory flood protection elevation in a new mixed-use structure, provided that:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

(2) Additions.

- a. Addition to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For an addition to a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable elevation requirement of Subsection 10-37(b).
- c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed-use structure, provided that:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

(3) Remodeling and repair.

- a. Remodeling or repair of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For remodeling or repair of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. For remodeling or repair of a mixed-use structure, any improvements on a floor that is entirely above the base flood elevation, including any vertical addition, may be excluded from the calculation of the cost of improvements for the purpose of determining whether the improvements constitute a substantial improvement.
- d. For remodeling or repair of a mixed-use structure, if a vertical addition is being added to a structure and a substantial improvement is not being made, then the foundation of the existing structure, as existing or as modified by proposed improvements, assuming the completion of the vertical addition, must be certified by a registered professional engineer to be sufficient to withstand the hydrostatic and hydrodynamic loads against the structure expected to occur in a one-hundred-year flood.
- e. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a mixed-use structure, provided that:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, upon completion of any substantial improvement:
 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

(4) Redevelopment.

- a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. For redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.
- d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that:
 - 1. All residential use is on a floor completely above the regulatory flood protection elevation; and
 - 2. All applicable requirements, including but not limited to the requirements of § 10-38, are met.

(5) Attached garages.

- a. Addition of an attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met by the attached garage.
- b. For a garage attached to a mixed-use structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

(6) Accessory structures.

- a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including but not limited to the requirements of § 10-37, are met.
- d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).
- e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including but not limited to the requirements of § 10-38, are met.
- f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including but not limited to the requirements of § 10-38, are met.

(7) Critical facilities. Critical facilities are prohibited.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-141. Specific standards for nonstructural development in flood fringe of City basin floodplains.

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

- (1) Fencing. Fencing is not restricted.
- (2) Detention ponds. Detention ponds are not restricted.
- (3) Hard surface paths, trails and walkways. Hard surface paths, trails and walkways are not restricted.

(4) Fill. Placement of fill is not restricted.

(5) Outdoor storage. Outdoor storage, whether temporary or permanent, is not restricted.

(6) Driveways and parking areas. Construction of driveways and parking areas is not restricted.

(7) Vegetation. Placement of vegetation is not restricted.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-142. Change of use in flood fringe of City basin floodplains.

No person shall change the use of any structure or property, or any portion thereof, located in the flood fringe of a City basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05)

Sec. 10-143. Removal of property from flood fringe of City basin floodplains.

Property located in the flood fringe may be removed from the flood fringe upon approval by the Utilities Executive Director of a final map revision based upon floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the Utilities Executive Director demonstrating that the property is no longer located in the flood fringe. Such modeling and analysis shall be required as the basis for a map revision regardless of fill or other physical changes to a property.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-144. Waiver of requirements for City basin floodplains.

The Utilities Executive Director may waive any or all of the requirements of this Article otherwise applicable to the issuance of a floodplain permit for a proposed development in a City basin floodplain because of the Utilities Executive Director's applicable flood hazard designation pursuant to Subsection 10-19(b). The Utilities Executive Director may waive such requirements and issue a floodplain permit in such event, if he or she is satisfied that there is a sufficient degree of certainty that the property will be removed from the floodway or flood fringe as a result of a City funded capital project to allow a floodplain permit to issue for the proposed development hereunder considering:

- (1) The nature of the proposed development and related flood risks; and
- (2) The level of certainty that the capital project will proceed to completion, which shall at a minimum include the prior issuance of a notice to proceed for the capital project, and the expectation that the capital project is progressing and will continue to completion; and
- (3) A technical analysis consistent with the City's technical standards for such analysis that has been completed by a registered professional engineer and that documents and proves to the satisfaction of the Utilities Executive Director that the property will be completely removed from the floodway or flood fringe, as applicable, after completion of the capital project.

New structures that are constructed pursuant to a waiver under this Section and upon completion of the relevant capital project are determined to not have been removed from the floodway or flood fringe as anticipated at the time of said waiver will be deemed to be nonconforming structures in the floodway or flood fringe, as applicable, and all future activities and development shall be subject to the requirements of this Article as the same would apply to any nonconforming structure.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Secs. 10-145—10-200. Reserved.

DIVISION 7. EROSION BUFFER ZONES

Sec. 10-201. Designation of erosion buffer zones.

In accordance with § 10-19, the erosion buffer zones designated by the Utilities Executive Director for the Fossil Creek basin, Boxelder Creek basin, the Mail Creek basin and McClellands Creek basin, as described therein, shall be considered erosion buffer zones and shall be subject to the requirements of this Division, and all other requirements of this Article applicable to erosion buffer zones. Property within an erosion buffer zone that has also been determined to be a floodway or flood fringe and designated as such in accordance with § 10-19, shall be subject to the requirements and restrictions of this Article applicable to said property by virtue of said separate designation in addition to the requirements and restrictions set forth in this Division.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 015, 2007 § 24, 2-20-07; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-202. Specific standards for erosion buffer zones.

In addition to complying with all other applicable provisions of this Article, all development in an erosion buffer zone shall comply with the following applicable provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

(1) Development of structures.

- a. New construction. Construction of any new structure in an erosion buffer zone, including any accessory structure, is prohibited.
- b. Addition. Addition to a structure, if the addition is in an erosion buffer zone, is prohibited.
- c. Remodeling and repair. Remodeling and repair of a structure in an erosion buffer zone is allowed.
- d. Redevelopment. Redevelopment of any structure in an erosion buffer zone is allowed.

(2) Nonstructural development.

- a. Fencing. Construction of new fencing is allowed in an erosion buffer zone, but fencing must be constructed as follows:
 1. The fencing must be designed and installed as post-and-rail or post-and-board fencing with the lowest rails or boards no less than eighteen (18) inches above the adjacent ground surface, and the posts spaced at intervals of no less than thirty (30) inches;
 2. The fencing must be designed and installed so as to break away from its base;
 3. The fencing must be cabled together and tethered to a fixed location on the property so as to not float downstream; and
 4. The fencing must be oriented parallel to the general direction of flood flows.
- b. Detention Ponds. Construction of new detention ponds or water quality ponds are prohibited in an erosion buffer zone.
- c. Hard surface paths, trails and walkways. Construction of new hard surface paths, trails and walkways are prohibited in an erosion buffer zone, except as necessary to cross waterways or to provide passage under bridges. If this exception is applicable, the issuance of a floodplain use permit shall be subject to the following requirements:
 1. The design and construction of any such development shall be planned and carried out so as to minimize to the extent reasonably possible any disturbance to the channel bed and banks; and
 2. A stability study to determine possible impacts upon erosion buffer characteristics may be required by the Utilities Executive Director and, in such event, the Utilities Executive Director may impose standards for design and construction of the proposed development in order to minimize erosion buffer impacts as a condition of a floodplain use permit.
- d. Fill. Placement of fill in an erosion buffer zone is prohibited.
- e. Outdoor storage. Outdoor storage associated with nonresidential uses in an erosion buffer zone, whether temporary or permanent, is prohibited.
- f. Driveways and parking areas. New driveways and parking areas are prohibited in an erosion buffer zone.
- g. Vegetation. New irrigated vegetation and nonnative trees grasses or shrubs are prohibited in an erosion buffer zone. New native grasses, shrubs and trees are generally allowed, provided that such vegetation is

not in a location or of a quantity or type that is determined by the Utilities Executive Director to likely result, upon maturity, in a decrease in channel stability.

- h. Utilities. New utilities are prohibited in erosion buffer zones, except as necessary to cross streams or other waterways. If this exception is applicable, the issuance of a floodplain use permit shall be subject to the following requirements:
 - 1. The design and construction of any such development shall be planned and carried out so as to minimize to the extent reasonably possible any disturbance to the channel bed and banks; and
 - 2. A stability study to determine possible impacts upon erosion buffer characteristics may be required by the Utilities Executive Director and, in such event, the Utilities Executive Director may impose standards for design and construction of the proposed utility development in order to minimize erosion buffer impacts as a condition of a floodplain use permit.
- i. Road, bicycle and pedestrian bridges. New road, bicycle and pedestrian bridges in an erosion buffer zone shall be designed and constructed so as to span the entire erosion buffer zone, except to the extent physical constraints preclude such a design. If this exception is applicable, issuance of a floodplain use permit shall be subject to the following requirements:
 - 1. The design and construction of any such bridge development shall be planned and carried out so as to minimize to the extent reasonably possible any disturbance to the channel bed and banks; and
 - 2. A stability study to determine possible impacts upon erosion buffer characteristics may be required by the Utilities Executive Director and, in such event, the Utilities Executive Director may impose standards for design and construction of the proposed bridge development in order to minimize erosion buffer impacts as a condition of a floodplain use permit.
- j. Grading or excavation. Grading or excavation is prohibited in an erosion buffer zone, except to the extent required to carry out development in the erosion buffer zone for which a floodplain use permit has been issued pursuant to this Article.
- k. Construction traffic. Operation of vehicles and equipment in an erosion control buffer zone is prohibited, except to the extent required to carry out development in the erosion buffer zone for which a floodplain use permit has been issued pursuant to this Article.

- (3) Change of use. No person shall change the use of any structure or property, or any portion thereof, located in an erosion buffer zone so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-203. Erosion buffer zone waivers.

(a) Any person or organization may apply for a waiver of the erosion buffer zone requirements of this Division by filing a verified application with the Utilities Executive Director on a form supplied by the Utilities Executive Director. Persons desiring to request a waiver pursuant to this Section shall submit a waiver application together with a floodplain use permit application and shall at the time of said application pay the floodplain use permit fee of twenty-five dollars (\$25.) and any additional floodplain analysis fee determined by the Utilities Executive Director to apply, consistent with Subsection 10-27(j). The Utilities Executive Director may require the submission of such additional information as he or she may determine to be reasonably necessary to take action on a waiver application, and no application shall be considered complete until all required information has been submitted.

(b) The Utilities Executive Director shall approve, conditionally approve or deny an application on the grounds set forth in this Subsection, and the Utilities Executive Director's action and the basis for that action shall be stated in a written notice to the applicant, no later than thirty (30) business days after receipt of a fully completed application. The Utilities Executive Director may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect public safety or prevent property damage, or based on the Utilities Executive Director's determination of the impacts of the proposed development or activity on bed and bank stability, flood hazard impacts that may result, the engineering or other feasibility issues posed in the specific circumstances presented, and the economic hardships that may result from the imposition of the requirements for which a waiver is requested.

(c) A decision by the Utilities Executive Director pursuant to this Section may be appealed to the Water Board within thirty (30) days of issuance by the Utilities Executive Director. In the event of such appeal, the appeal shall be submitted as an application for a variance, to be considered by the Water Board using the process for and in accordance with the requirements and criteria for variances provided in §§ 10-28 and 10-29. The Water Board may consider, but shall not be bound by, the findings or determinations of the Utilities Executive Director, or the record for said Utilities Executive Director's decision, in a subsequent variance process.
(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)

Secs. 10-204—10-300. Reserved.

ARTICLE III. IRRIGATION DITCHES

Sec. 10-301. Definition.

The following term, when used in this Article, shall have the meaning indicated.

Main lateral shall mean any lateral running on a line outside the outer line of any block and parallel with the outer line of such block.

(Code 1972, § 65-2)

Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 10-302. Headgate required.

Any person using water for irrigation or domestic purposes within the City or conducting water through the City for the purpose of irrigation shall be required to construct and maintain at the point where such water is taken from any main lateral a good and sufficient headgate of sufficient capacity to furnish the amount of water required for such purposes. The headgate shall be constructed and placed in position under the supervision of the Utilities Executive Director.

(Code 1972, § 65-1; Ord. No. 130, 2002, § 19, 9-17-02; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-303. Escape ditch for wastewater.

Any person using water for irrigation or other purposes within the City shall be required before using it to construct upon the lower side and outer side of the limits of the block in which the land irrigated is situated a good and sufficient ditch or escape passage for water. The ditch or passage shall be constructed to connect with some main lateral already constructed and of sufficient capacity to carry off all wastewaters. Such ditch or passage constructed on the outside of the block shall be constructed under the superintendence of the Utilities Executive Director and at the expense of the party using such water.

(Code 1972, § 65-3; Ord. No. 130, 2002, § 19, 9-17-02; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-304. Main ditches.

All main ditches shall be constructed upon a line parallel with the outer line and shall cross that street at right angles.

(Code 1972, § 65-4)

Sec. 10-305. Obstruction and pollution of ditches prohibited.

It shall be unlawful to place any obstruction in any main lateral or to place or to throw into any such lateral any rubbish or other thing which shall obstruct the natural flow of water in such lateral. It shall be unlawful to place or cause to be placed in or near any ditch, main lateral or private ditch within the City, the carcasses of dead animals or any other impure thing or substance calculated to pollute the water flowing therein.

(Code 1972, § 65-5)

Sec. 10-306. Main lateral to be constructed.

Any person desiring to use water for irrigation, domestic or other purposes shall construct by the consent or under the supervision of the proper authorities of the City a main lateral from the canal or source of supply of good and sufficient capacity to conduct the water from the source of supply to the place, lot or lots where they may desire to use it so that the water running through it shall not flood the streets or alleys of the City or cause damage to the property of any person. The parties constructing laterals shall be required to do the construction at their own expense and build the first bridge and crosswalks over it subject to the approval of the City Council.
(Code 1972, § 65-6)

Sec. 10-307. Repairs of laterals by City; costs recovered.

The City shall have the power and it shall be the duty of the Utilities Executive Director in case any person shall fail or neglect to keep in repair any lateral through which they receive water for any of the uses herein described to repair it at the expense of the City, and the City shall have a private action for collection of such costs.
(Code 1972, § 65-7; Ord. No. 130, 2002, § 19, 9-17-02; Ord. No. 080, 2011, § 1, 9-6-11)

Sec. 10-308. Ditches across streets.

Any person owning or constructing any ditch in, upon or across any public street, avenue, alley or other highway within the City shall keep such street, avenue, alley or highway open and safe for convenient travel by tiling the ditch entirely across such street, avenue, alley or highway. The tiling shall be covered with not less than six (6) inches of earth. The tiling shall be laid and covered within five (5) days after the excavation for such ditch is made.
(Code 1972, § 65-8)
Cross-reference—Streets, § 24-91 et seq.

Sec. 10-309. Deposits on banks unlawful.

It shall be unlawful for the owners of any ditch within the City to deposit upon the banks or elsewhere within the City any muck, vegetable or animal matter or any substance partly composed of vegetable or animal matter which may have been taken from the ditch.
(Code 1972, § 65-9)

Sec. 10-310. Water flowing on streets unlawful.

It shall be unlawful for any person to permit water to flow from the premises which they occupy upon that part of any street, avenue or alley within the City set apart for vehicle travel.
(Code 1972, § 65-10)

Sec. 10-311. Permitting irrigation water on streets unlawful.

(a) It shall be unlawful for any person while irrigating either by means of a ditch or a hose to permit the water used in such irrigation to flow upon that part of any street, avenue or alley within the City set apart for vehicle travel.

(b) In all actions brought to enforce this Section, the person actually irrigating shall be deemed equally guilty with the principal, and the principal shall likewise be deemed equally guilty with the agent.
(Code 1972, § 65-11)
Cross-reference—Streets, § 24-91.