ORDINANCE NO. 161, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF FORT COLLINS
REGARDING FLOOD HAZARD AREAS TO
CLARIFY CERTAIN PROVISIONS

WHEREAS, requirements and restrictions specific to development and related activities in the flood hazard areas in the city are set forth in Article II of Chapter 10 of the Code of the City of Fort Collins (the "City Code"); and

WHEREAS, the City's regulation of flood hazard areas is subject to the requirements of the Federal Emergency Management Agency ("FEMA") and the Colorado Water Conservation Board ("CWCB"), which each promulgate and enforce their own related regulations; and

WHEREAS, in January 2011, the CWCB promulgated new minimum statewide floodplain regulations (the "CWCB Regulations"), which require that all local communities adopt regulations at least as strict as the CWCB Regulations by January 2014; and

WHEREAS, although many of the requirements included in the CWCB Regulations are already included in the City Code, some revisions to the City Code are needed in order to fully comply with the CWCB Regulations; and

WHEREAS, in its review of the City Code for conformance to the CWCB Regulations, staff identified certain revisions that would improve the clarity and consistency of Chapter 10; and

WHEREAS, the City Council considered the proposed revisions to the City Code to clarify and correct existing provisions in Chapter 10, together with other related revisions, at its work session on September 24, 2013; and

WHEREAS, the City Council believes it would be in the best interests of the City to approve the revisions set forth herein, in order to clarify and correct existing provisions in the City Code regarding activities in flood hazard areas.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 10-16 of the Code of the City of Fort Collins is hereby amended by adding the following new definitions, and amending existing definitions, to read in their entirety as follows:

…

Abandoned shall mean any structure that has been used or was intended for use as an occupied structure, in whole or in part, including an accessory building, that has become vacant or unused for a period of at least three hundred sixty-five (365) consecutive days, and meets at least two (2) of the following conditions:

1. Is open to casual entry or trespass;

2. Is damaged by fire, flood, weather, or vandalism to an extent that prevents safe occupation;

3. Is the site of loitering or vagrancy;

4. Demonstrates a lack of property maintenance and upkeep as evidenced by one or more violations of the International Property Maintenance Code, as adopted in § 5-47;

5. Is under notice for being in violation of one or more City ordinances;

6. Has been secured or boarded up for at least three hundred sixty-five (365) consecutive days;

7. Has utilities disconnected or not in use;

8. Is subject to a condemnation notice or legal order to vacate;

9. Is structurally unsound to an extent that prevents safe occupation; or

10. Is a potential hazard or danger to the public.

…

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~~ during the time the structure has been located in a designated floodplain, 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. Also, *cumulative substantial improvement* shall not include ordinary maintenance activities such as interior or exterior painting or decoration, replacement of windows, doors or other nonstructural elements, repair or replacement of heating or air conditioning appliances or hot water heaters, reroofing, and utility connections, provided that such improvements shall not be excluded from the overall work when carried out in connection with structural improvements.

…

Hardship shall mean the effect of a floodplain designation on the use of a property in light of unusual physical characteristics of the land that are exceptional or peculiar to the property and not shared by adjacent parcels. *Hardship* does not include personal or financial circumstances of the current owner of the land, such as increased costs, inconvenience, aesthetic considerations,

physical disability, timing, mistakes by contractors or advisors, personal preferences, or the disapproval of neighbors.

…

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.

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~~the structure, or may be established by an independent certified appraisal consistent with FEMA standards for the appraisal of improvements.

…

Start of construction shall mean the date the building permit was issued for the relevant improvements, provided that the actual start of construction, repair, reconstruction, placement or other improvement ~~was~~ occurred within one hundred eighty (180) days of the building permit date and the work proceeded in accordance with such building permit. 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.

Substantial improvement shall mean any combination of repairs, demolition, reconstruction, rehabilitation or other improvements of a structure ~~taking place~~ for which the actual start of construction occurred during the~~a~~ twelve-month period preceding the floodplain use permit application date, 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. Also, *substantial improvement* shall not include ordinary maintenance activities such as interior or exterior painting or decoration, replacement of windows, doors or other nonstructural elements, repair or replacement of heating or air conditioning appliances or hot water heaters, reroofing, and utility connections, provided that such improvements shall not be excluded from the overall work when carried out in connection with structural improvements.

Section 2. That Section 10-26(4) of the Code of the City of Fort Collins hereby is amended to read as follows:

(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;

Section 3. That Section 10-27 of the Code of the City of Fort Collins is hereby amended by the addition of a new subsection (g), and revision of newly renumbered subsection (h), to read as follows, with all subsequent subsections renumbered accordingly:

…

(g) All floodplain mapping shall meet the requirements set forth in the version of the FEMA publication "Guidelines and Specifications for Flood Hazard Mapping Partners" in effect at the time of the completion of the mapping.

(h~~g~~) If the Utilities Executive Director determines that the application meets the purposes and requirements of this Article, he or she shall issue the permit and may attach such conditions as he or she deems necessary to further the purposes of this Article or to ensure compliance with the same. The Utilities Executive Director may require the deposit of escrowed funds or other means of securing the performance of permit conditions, and may request that the City building official condition the release of a certificate of occupancy or other final approval upon submission of final documentation of compliance with conditions, as appropriate.

(i~~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.

(j~~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.

(k~~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.).

Section 4. That Section 10-37 of the Code of the City of Fort Collins is hereby amended by the addition of a new subsection (e), which reads in its entirety as follows:

…

(e) Elevation certificate required. A FEMA elevation certificate, signed and certified by a registered professional land surveyor, accurately documenting the as-built elevation of the improvements, must be submitted to the Utilities Executive Director and accepted before release of a certificate of occupancy for the structure.

Section 5. That Section 10-38(3)(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

a. A pre-construction floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the proposed floodproofing elevation;

Section 6. That Section 10-38(4) of the Code of the City of Fort Collins is hereby amended to read as follows:

(4) A post-construction 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.

Section 7. That Section 10-41 of the Code of the City of Fort Collins is hereby amended to read in its entirety as follows:

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~~,~~ "Protecting Manufactured Homes from Floods and Other Hazards," FEMA P-85, November 2009 ~~"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.

Introduced, considered favorably on first reading, and ordered published this 5th day of November, A.D. 2013, and to be presented for final passage on the 19th day of November, A.D. 2013.

_____
Mayor

ATTEST:

_____
City Clerk

Passed and adopted on final reading on the 19th day of November, A.D. 2013.

_____
Mayor

ATTEST:

_____
City Clerk