

ORDINANCE NO.: 3649

INTRODUCED BY: Matkowsky

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE THORNTON CITY CODE WITH REGARD TO FLOODPLAIN REGULATIONS AND REQUIREMENTS.

WHEREAS, Title 29, Section 20 of the Colorado Revised Statutes delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and; and

WHEREAS, as of January 1, 2021 the National Flood Insurance Program (NFIP), implemented new prerequisites for its Community Rating System (CRS); and

WHEREAS, the City desires to make the Thornton City Code (Code) more protective for health and safety and property preservation against flood associated risks; and

WHEREAS, by making the Code more protective the City will have an improved rating in the NFIP CRS, which will save residents costs with regard to flood insurance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Section 18-618 (a)(5) of the Thornton City Code is hereby amended by the addition of the words double-underlined to read as follows:

(5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in areas of special flood hazard.

2. Section 18-619 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-619. Applicability.

- (a) This division shall apply to all areas of ~~S~~special ~~F~~flood ~~H~~hazard and areas removed from the floodplain by issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F). within the jurisdiction of the city.
- (b) No structure shall be constructed, located, extended, converted or altered without full compliance with the provisions of this division.
- (c) Except as expressly provided in this division, this division is not intended to repeal, abrogate or impair any existing ordinance, easement, covenants or deed restrictions. However, where this division and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restriction shall prevail.

- (d) In the interpretation and application of this division, all provisions shall be considered as minimum requirements, liberally construed in favor of the city and deemed neither to limit nor repeal any other powers granted under state statutes.
- (e) The degree of flood protection required under this division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This division shall not create liability on the part of the city, any officer or employee thereof or the Federal Emergency Management Agency (FEMA) for any flood damage that results from reliance on this division or any administrative decision lawfully made thereunder.
- (f) A Floodplain Development Permit shall be required to ensure conformance with the provisions of this division.
- (g) This division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division and another division, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (h) Interpretation. In the interpretation and application of this ordinance, 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.
- (i) Severability. This division and the various parts thereof are hereby declared to be severable. Should any section of this division be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the division as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.
- (j) Capitalized terms and acronyms in this section shall have the meaning as defined in Thornton City Code Sec. 18-901 Definitions.

3. Section 18-620 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-620. - Establishing areas of special flood hazard.

- (a) Areas of special flood hazard are determined by the application of standard and acceptable scientific and engineering procedures used in the study of rainfall potential and its effect on a given drainage basin in the form of flooding.
- (b) When two or more studies have been completed and accepted by the city for the same drainage basin, the most recently accepted study shall be the basis for regulation under this division.
- (c) When the most recently accepted study and a current flood insurance rate map (FIRM) cover the same area, the more restrictive shall be the basis for regulation under this division.
- (d) The following studies and reports are accepted as an accurate delineation of the areas of special flood hazard within the portion of the city which they cover, and are adopted by reference and declared to be a part of this division:
 - (1) *Flood Insurance Study for the City of Thornton, Adams County, Colorado dated ~~March 5, 2007~~December 2, 2021 with accompanying FIRM, or latest revision by FEMA;*
 - (2) *Grange Hall Creek Watershed and Tributaries; Major Drainageway Plan, ~~February 1997~~July 2018 or latest revision;*
 - (3) *Major Drainageway Planning Study, South Platte River in Adams County, 2005 or latest revision;*
 - (4) *Flood Hazard Area Delineation - South Platte River, April 2005 or latest version;*
 - (5) *Niver Creek Watershed and Tributaries Major Drainageway Planning ~~Study~~, ~~September 1997~~, December 2016 or latest revision;*
 - (6) *Flood Hazard Area Delineation - Direct Flow Area 0054, October 1980 or latest revision;*
 - (7) *Major Drainageway Planning, Direct Flow Area 0054, October 1980 or latest version;*
 - (8) *Flood Hazard Area Delineation - Brantner Gulch and Tributaries, January 1983 or latest revision;*
 - (9) *Brantner Gulch North Tributaries Major Drainageway Planning Study, Hydrology Report, January 2006 or latest revision;*
 - (10) *Lower Brantner Gulch Major Drainageway Planning Update, Preliminary Design - Phase B Report, January 2005 or latest revision;*
 - (11) *Basin 4100 and Direct Flow Area 0056 Outfall Systems Planning Study, July 2002 or latest revision;*

- (12) *Todd Creek and Direct Flow Area 0052 Outfall Systems Planning Study*, December 2003 or latest revision;
 - (13) *Flood Hazard Area Delineation, Todd Creek*, December 1985 or latest revision;
 - (14) ~~*Broomfield and Vicinity Outfall Systems Planning Study, September 1999 or latest revision;*~~
 - ~~(15) *Flood Hazard Area Delineation – Quail Creek and Tributaries and McKay Lake Basin, July 1986 or latest revision; Big Dry Creek Major Drainageway Plan Conceptual Design Report, March 2012 or latest revision;*~~
 - (15) *Flood Hazard Area Delineation - Big Dry Creek (ADCO) North Area Tributaries*, July 1989 or latest revision;
 - (16) *Outfall Systems Planning Update of Big Dry Creek Northern Tributaries, Conceptual Preliminary Design Report*, March 2007 or latest revision;
 - (17) *Flood Hazard Area Delineation - Big Dry Creek*, January 2012 or latest revision.
 - (18) *Flood Hazard Area Delineation - Hoffman Drainage*, October 2007 or latest revision;
 - (19) *Hoffman Drainage Major Drainageway Plan, Phase B, Conceptual Preliminary Design Report*, October 2008 or latest revision.
4. Section 18-640 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-640. Floodways.

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) No new construction or substantial improvement to ~~a~~an occupied structure shall be permitted in the floodway.
- (2) Encroachments, including fill, shall be prohibited unless certification by a registered Colorado ~~registered~~ professional engineer is provided demonstrating through hydrologic and hydraulic analysis based on a standard step backwater computer model performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (3) If subsections (1) and (2) of this subsection are satisfied, all ~~new~~ construction and substantial improvements shall comply with all applicable flood hazard reduction provisions in this division.

- (4) Fences with any mesh pattern (for example chain link or chicken wire, among others) are prohibited in the floodplainfloodway. Fences may have boards or wires parallel with the ground with a minimum open space of eight inches between each, and a minimum open space of ten feet between vertical poles or pilasters, and a total open space of at least 60 percent of the face area of the fence. Pilasters that are more than two feet in cross sections are prohibited. The floodplain administrator may allow chain link fences to secure a critical facility on a case by case basis.

(5) Recreational vehicles placed on a site must be on the site for less than 180 consecutive days and be fully licensed and highway ready.

5. Section 18-641 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-641. Areas outside floodways.

- (a) *General standards.* General standards for areas outside floodways are as follows:

(1) *Anchoring.*

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
- b. All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors or according to manufacturer's recommendation. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:
 1. Over-the-top ties to be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations. Manufactured homes less than 50 feet in length only require one additional tie per side.
 2. Frame ties to be provided at each corner of the manufactured home with five additional ties per side at intermediate locations. Manufactured homes less than 50 feet in length only require four additional ties per side.
 3. All components of the anchoring system to be capable of carrying a force of 4,800 pounds.
 4. Any additions to the manufactured home to be similarly anchored.

(2) *Construction materials and methods.*

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) *Utilities.*

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- b. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and the discharge from systems into the floodwater.
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- d. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) *Fences.* Fences in the floodplain shall meet the requirements of Section 18-640(4).

(5) *Subdivision proposals.*

- a. All subdivisions shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development projects, which contain at least 50 lots or five acres, whichever is less.

e. *Platted lots:*

1. Except as provided in subsections ~~2. through 4.~~ below, no portion of any platted lot shall be permitted within areas of special flood hazard.
2. Exceptions may be granted for non-residential lots, on a lot by lot basis if the entire ~~buildable~~ area of the lot, less setbacks and easements, is at least one foot above the base flood elevation and outside the special flood hazard area (SFHA). Such restriction shall be noted on the Plat.
- ~~3. Upon issuance of a conditional letter of map revision by FEMA, non-residential lots may be platted in the special flood hazard area (SFHA), which are in the area shown to be removed from the SFHA in the conditional letter of map revision.~~
- ~~4. On a case by case basis, the development engineering manager may, with the concurrence of the floodplain administrator, approve platting of lots in the SFHA without a conditional letter of map revision if the applicant can demonstrate a sound engineering basis that lots will be removed from the floodplain based on approved grading plans.~~

~~5. For all platted lots in the SFHA allowed by subsection 3. or 4., above, restrictions shall be placed on the plat prohibiting issuance of any building permit for these lots, prior to final approval of a letter of map revision which removes the entire lot from the SFHA.~~

~~(6). -Recreational vehicles. Recreational vehicles to be placed on a site must;~~

~~(a) be elevated and anchored to the standards in (b(3), below; or~~

~~(b) be on the site for less than 180 consecutive days; or~~

~~(c) be fully licensed and highway ready.~~

(b) *Specific standards.*

(1) *Residential construction.*

~~a. All new construction and substantial improvement of any residential structure shall have the lowest floor, including any basement, elevated at least one foot above the base flood elevation. Upon completion of the structure, a registered Colorado professional engineer, architect or land surveyor shall provide an elevation certificate for review and approval by the floodplain administrator. New construction and substantial improvement and/or reconstruction of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. This includes external mechanical and electrical equipment such as air conditioning compressors, meters, and master switches. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect, or land surveyor on the prescribed FEMA form. Such certification shall be submitted to the floodplain administrator for approval and maintained by the floodplain administrator thereafter.~~

~~b. In addition to the requirement of paragraph a. above, any Ssubstantial improvement, renovation, reconstruction or repair of residential structures that are in the floodplain of the base flood special flood hazard area shall be constructed with the lowest floor, including basements, placed with a minimum of one foot of Freeboard above the Base Flood Elevation or model-backed approximate flood elevation.:~~

~~1. Be floodproofed so that below and at least one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~

~~2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~

~~3. Be certified by a registered professional engineer. The certification shall verify and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.~~

c. All new construction or substantial improvement of residential structures within any AO and AH zone on the FIRM shall be required to have the

lowest floor elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, plus one foot of Freeboard, or at least two feet, if no depth number is specified.

- d. ~~Substantial improvement, renovation or repair of residential structures that are within any AO and AH zone on the FIRM shall be required to be completely floodproofed to that level to meet the floodproofing standards in subsection (b)(1)b of this division.~~

- e. Within zones AO and AH, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures shall be required.

(2) *Nonresidential construction.*

- a. ~~New construction or substantial improvement of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall have the lowest floor elevated one foot above the base flood. Upon completion of the structure, a registered Colorado professional engineer, architect or land surveyor shall provide an elevation certificate for review and approval by the floodplain administrator. With the exception of critical facilities, new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), both internal and external to the structure, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.~~

A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the floodplain administrator.

- b. Substantial improvement, renovation or repair of any commercial, industrial or other nonresidential structures that are in the floodplain of the base flood shall:
 1. Be floodproofed so that below and at least one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 3. Be certified by a ~~registered Colorado~~ professional engineer ~~in the state that the standards of this subsection are satisfied~~. The certification shall verify and record the actual elevation, in relation to the NAVD of 1988 or other applicable datum, to which the structure has been floodproofed.
- c. All new construction or substantial improvement of nonresidential structures within any AO and AH zone on the FIRM shall be required to have the lowest floor elevated at least one foot above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, plus one foot of Freeboard, or at least two feet, if no depth number is specified.
 - d. Substantial improvement, renovation or repair of nonresidential structures that are within any AO and AH zone on the FIRM shall be required to be completely floodproofed to that level to meet the floodproofing standards in subsection (b)(2)b. of this section.
 - e. Within zones AO and AH, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures shall be required.
- (3) *Manufactured homes.*
- a. Manufactured homes shall be anchored as provided in Section 18-641(a)(1).
 - b. All manufactured homes that are placed or substantially improved within zones A1-30, AH, AO, A, and AE shall meet the provisions of paragraph d. below and shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system as provided in this division to resist flotation, collapse and lateral movement if on the following sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision;
or
 4. In an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as a result of a flood ~~shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system as provided in this division to resist flotation, collapse and lateral movement.~~

- c. All manufactured homes that are placed or substantially improved on sites within an existing manufactured home park or subdivision within zones A1-30, AH, ~~AO, A,~~ and AE ~~that are not subject to the provisions of this division shall meet the provisions of paragraph d. below and~~ shall be elevated so that either the lowest floor of the manufactured home is at least one foot above the base flood level or the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than three feet in height above grade, whichever is higher, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- d. New construction, substantial improvement, reconstruction or replacement of any manufactured home shall have the lowest floor, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. This includes external mechanical and electrical equipment such as air conditioning compressors, meters, and master switches. Upon completion of the structure, the elevation of the lowest floor, shall be certified by a registered Colorado professional engineer, architect, or land surveyor on the prescribed FEMA form. Such certification shall be submitted to the floodplain administrator for approval.

(4) *Enclosures.*

- a. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a ~~basement-crawlspace,~~ and which are ~~subject to flooding below the base flood elevation~~ shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- b. Designs for meeting this requirement must be certified by either a registered Colorado ~~P~~professional ~~E~~engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - 2. The bottom of all openings shall be no higher than one foot above grade.
 - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters and do not reduce the net open space below the ratio specified in 1. above.

(5) *Critical facilities.*

- a. *Classification of critical facilities.* It is the responsibility of the city to identify and confirm that specific structures in their community meet the following criteria:

1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
 - i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 - ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions)
 - iii. Designated emergency shelters;
 - iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 - v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 - vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions), and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).
2. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
3. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the city-floodplain administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city floodplain administrator on an as-needed basis upon request.

4. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include;
 - i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - iii. Refineries;
 - iv. Hazardous waste storage and disposal sites; and
 - v. Above ground gasoline or propane storage or sales centers.
5. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either 500 pounds or the TPQ listed (whichever is lower) for extremely hazardous chemicals listed under 40 CFR §§ 302 (2010) and subsequent amendments; or 10,000 pounds for any other chemical. Specific exemptions to this category include:
 - i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
 - ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
 - iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.
 - iv. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this article.
6. At-risk population facilities include medical care, congregate care, and schools. These facilities may include;
 - i. Elder care (nursing homes);
 - ii. Congregate care serving 12 or more individuals (day care and assisted living);
 - iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

7. Facilities vital to restoring normal services including government operations. These facilities may include;
 - i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).
 - iii. These facilities may be exempted if it is demonstrated to the city floodplain administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this article, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city floodplain administrator on an as-needed basis upon request.
- b. *Protection for critical facilities.* All new, substantially damaged and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this article, protection shall include one of the following:
 1. Location outside the SFHA; or
 2. Elevation or flood proofing of the structure to at least two feet above the base flood elevation.
- c. *Ingress and egress for new critical facilities.* New critical facilities shall, when practicable as determined by the city floodplain administrator, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

(6) Encroachments.

No new construction, substantial improvements, or other developments, including fill, shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot (0.50-foot) at any point within the community.

6. Section 18-642 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-642. Floodplain development permit required.

- (a) A floodplain development permit is required before construction or development begins within any area of special flood hazard established under Section 18-620. In addition, any application for any development permit on a parcel which has special flood hazard area shown on any portion of the parcel shall be evaluated to determine whether it involves the area of special flood hazard, and if so, it shall be reviewed under the provisions of this division.
- (b) The development permit review process established in Section 18-48, as amended by the provisions of this division, shall be used to review construction and development proposals located within areas of special flood hazard.
- (c) In addition to the submission requirements for a development permit as required by Section 18-48, the following information is required when an area of special flood hazard is involved:
 - (1) The elevation, in relation to the NAVD of 1988 or other applicable datum of the lowest floor (including basements) of all new and substantially improved structures.
 - (2) The elevation in relation to the NAVD of 1988 or other applicable datum to which any nonresidential structure has been floodproofed.
 - (3) The elevation in relation to the NAVD of 1988 or applicable datum or all electrical and mechanical equipment interior or exterior to a structure.
 - ~~(4)~~(3) Certification by a registered Colorado professional engineer ~~in the state that the floodproofing methods for any nonresidential structure meet the floodproofing criteria.~~ The appropriate FEMA forms shall be used for certification of floodproofing methods.
 - ~~(5)~~(4) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed construction or development.
 - ~~(6)~~(5) Evidence of permit approval from all necessary federal, state and regional agencies.
- (d) When base flood elevation data is not available for areas established under Section 18-620, the applicant shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for the administration of this division. Data obtained and utilized by the applicant shall be submitted to the development engineering manager. Such data shall be maintained by the floodplain administrator with the floodplain development permit.

7. Section 18-650 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-650. Adoption of Storm Drainage Master Plans and Drainage Criteria Manuals.

- (a) All master plans, reports, studies, and manuals regarding storm water drainage and/or storm water quality on file with the floodplain administrator prepared on behalf of the city are adopted by reference and incorporated in this Code. All storm water quantity and storm water quality facilities constructed in the city shall comply with the Standards and Specifications for the city and all documents adopted by reference. The floodplain administrator has the authority to permit variances to any adopted drainage Standards and Specifications provided in this division, when in the best interests of the city, and such variance shall be in accordance with sound engineering practices.
- (b) The UDFCD Urban Storm Drainage Criteria Manual Volumes 1, 2, and 3, as amended is accepted and adopted by reference and declared to be a part of this division.
- (c) In areas where the criteria manuals and Standards and Specifications conflict, the ~~Standards and Specifications~~ more restrictive requirement shall govern.

8. Section 18-652 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-652. Irrigation facilities limited for storm water conveyance.

Storm water discharges and runoff shall be designed to discharge into city approved drainageways and facilities and shall, to the maximum extent possible, avoid conveying storm water discharges in irrigation ditches or facilities. The development engineering manager and floodplain administrator may approve storm water discharges into irrigation ditches and facilities that are maintained by the developer and homeowners' association, and where the ditch company or owner approves of the discharge. The development engineering manager and floodplain administrator may require the dedication of drainage easements, or other evidence to establish the right to discharge storm waters, as is necessary to provide for continuous conveyance of storm water. This provision shall in no way give a ditch company or owner of any irrigation ditch rights to preclude discharge of drainage if otherwise required by law, including discharges established by historical use.

9. Section 18-657 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-657. Prohibition on change of storm water flows after installation of approved grading and drainage plan.

No person shall change, modify, impede, or otherwise block the flow of storm water on or across any private property where it would cause damage to upstream, downstream or adjacent properties, or where there is an approved grading or drainage plan for the properties, without the prior written approval of the ~~public works director~~ infrastructure engineering manager. Changes within a defined Special Flood Hazard Area shall also be approved by the floodplain administrator.

10. Section 18-901 of the Thornton City Code, specifically the definition for *Area of special flood hazard* is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Area of special flood hazard or special flood hazard area (SFHA) means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. Also known as the 100-year floodplain. In the city, it also means those areas identified as provided in Section 18-620 ~~and subsection 18-630(b)(2)~~.

11. Section 18-901 of the Thornton City Code, specifically the definitions for *Flood insurance rate map* and *Flood insurance study* are hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Flood insurance rate map (FIRM) means the official FEMA flood map ~~on which the Federal Emergency Management Agency has delineated~~ both the 100-year floodplain and 500-year floodplain, the floodway, and areas of special flood hazard zone designations ~~and the risk premium zones~~ applicable to a community.

Flood insurance study (FIS) means the ~~official report provided by the Federal Emergency Management Agency that includes the flood profiles, the flood boundary and floodway map, and the water surface elevations of the base flood FEMA compilation and presentation of flood hazard data (information and maps) for watercourses, lakes, and other sources of flood hazard within a community for the NFIP. The FIS report contains detailed flood elevation data in flood profiles and data.~~

12. Section 18-901 of the Thornton City Code, specifically the definition for *Floodway* is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved-kept free of obstructions in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-half foot a designated height.

13. Section 18-901 of the Thornton City Code is hereby amended by the addition of the double-underlined words to be inserted alphabetically among the existing definitions to read as follows:

500-year flood means a flood having a recurrence interval that has a 0.2 percent annual chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The terms “five-hundred year flood” and “0.2 – percent chance flood” are synonymous with the term “500-year flood.” The term does not imply that the flood will necessarily happen once every five hundred years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 500-year-flood.

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

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

National Flood Insurance Program (NFIP) means FEMA’s program of flood insurance coverage and national floodplain management administered in conjunction with the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP with the passage of the National Flood Insurance Act of 1968.

14. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.
15. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.
16. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings,

and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

17. This ordinance shall be effective upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on March 14, 2023.

PASSED AND ADOPTED on second and final reading on April 11, 2023.

CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST:

Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO FORM:

Tami Yellico, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, Thornton Active Adult Center, and Trail Winds Recreation Center after first and second readings.

Published on the City's official website after first reading on March 15, 2023, and after second and final reading on April 12, 2023.

COUNCIL COMMUNICATION

Meeting Date: April 11, 2023	Agenda Item: 10E	Agenda Location: CONSENT CALENDAR	<input type="checkbox"/> 1 st Reading <input checked="" type="checkbox"/> 2 nd Reading
Subject: An ordinance amending certain sections of the Thornton City Code with regard to Floodplain Regulations and Requirements.			
Department Head Review: Brett Henry, Executive Director of Infrastructure		Approved by: Kevin S. Woods, City Manager	Ordinance previously introduced by: <u>Matkowsky</u>
Presenter(s): Jim Kaiser, Infrastructure Engineering Manager, Floodplain Administrator			

SYNOPSIS:

Several updates to the City's current floodplain regulations are needed to maintain the City's standing within the Federal Emergency Management Agency (FEMA) Community Rating System (CRS) program. The proposed changes to the Code have been coordinated with FEMA and State agencies to be consistent with current program requirements, and obsolete language has been removed.

RECOMMENDATION:

Staff recommends Alternative No. 1, approve the ordinance amending certain sections of the Thornton City Code regarding Floodplain regulations and requirements.

BUDGET/STAFF IMPLICATIONS:

There are no budget implications.

The Amended Code sections will need to be enforced by City Development and Infrastructure staff.

ALTERNATIVES:

1. Approve the ordinance amending certain sections of the Thornton City Code regarding Floodplain regulations and requirements.
2. Do not approve the ordinance, which would revert Thornton to the second lowest rating in the FEMA CRS program, significantly reducing the flood insurance premium discount in the community down to only five percent (5%).
3. Approve the ordinance with modifications to the proposed language, which would require concurrence by FEMA and the Colorado Water Conservation Board (CWCB) before adoption.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

The current floodplain regulations and requirements in the City Code were adopted in 2014.

In May 2020, the Insurance Services Office issued a letter to all communities in the CRS program explaining that new prerequisites for the program were coming out in 2021. These new minimum requirements must be in place before the community's next verification visit. These occur every five years for Thornton, as we are a Class 6 CRS community. Our next verification visit is this May.

COMMUNICATION

PAGE 2

Therefore, the adoption of an ordinance to bring the Thornton City Code in compliance with these new minimum standards must be completed by May 1, 2023.

The CRS is a voluntary program that provides discounts on flood insurance for participating communities. To be in this program, higher floodplain regulations need to be adopted. Thornton has been in this program since 1994.

To retain a CRS Classification of 8 or higher, much less our current Class 6 standing, the City must require that all mechanical and electrical equipment, which serves a facility, be elevated at least one foot (1') above the base flood elevation for any structure in the floodplain. The current Code requires all new construction, substantial improvements, or repairs of substantial damages to residential structures to be elevated one foot (1') above the base flood elevation. The new language is more precise in specifying this for electrical and mechanical components as well. For non-residential structures in the floodplain, the commercial and substantially improved commercial is allowed to be floodproofed or elevated up to one foot (1') above the base flood elevation. This is the same for the mechanical and electrical components for these structures in the floodplain: elevated or floodproofed up to one foot (1') above the base flood elevation. Updates to the Code to address these requirements are the primary focus of this proposed ordinance.

At the same time, other sections of the floodplain regulations in the Code are being updated to be consistent with current State and FEMA requirements, as well as with different sections of the City Code, and to delete obsolete language.

Sections of the update concern language restricting the platting of lots in the floodplain before modifications to the floodplain are completed and approved by FEMA and removing conflicting language that has yet to come into play in the nine years since the last update. This section of the Code aims to avoid the inadvertent issuance of a building permit for construction in the regulatory floodplain.

FEMA and the Colorado Water Conservation Board have reviewed the sections of the City Code, as amended by these proposed changes, and have indicated they conform with Federal and State requirements.

Notice of the Public Hearing was published on the City's official website and at City Hall, Margaret W. Carpenter Recreation Center, Thornton Active Adult Center, and Trail Winds Recreation Center on March 2, 2023.

ATTACHMENTS:

AFFIDAVIT OF POSTING

PUBLIC NOTICE

State of Colorado)
) ss.
County of Adams)

I, Lucia Higginbotham, being first duly sworn upon oath depose and say that I did, on March 2, 2023, post the PUBLIC NOTICE of the City Council in City of Thornton, Colorado, for the Public Hearing concerning an Ordinance amending certain sections of the Thornton City Code regarding Floodplain regulations and requirements. This Hearing will be held on March 14, 2023, at 7 p.m. at Thornton City Hall, 9500 Civic Center Drive, Thornton, Colorado and virtually at

https://thorntonco.zoom.us/webinar/register/WN_0GNV3m7NQ4eBlqER6aoSDQ.

or by telephone at **669-900-6833** using meeting ID# **840 0007 6697**, a copy of which posted Notice is attached hereto and posted at the following locations:

1. Thornton City Hall, 9500 Civic Center Dr.
2. Margaret W. Carpenter Recreation Center, 11151 Colorado Blvd.
3. Thornton Active Adult Center, 11181 Colorado Blvd.
4. Trail Winds Recreation Center, 13495 Holly St.

Signed:



Administrative Specialist

Date: 3-2-2023

Subscribed and sworn to before me by Lucia Higginbotham, in the County of Adams, State of Colorado, this 2nd day of March, 2023.

Notary Public

My Commission Expires



04/25/2026



NOTICE OF PUBLIC HEARING
Ordinance amending certain sections of the Thornton City Code regarding Floodplain Regulations and Requirements

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CITY COUNCIL OF THE
CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST: Kristen N. Rosenbaum, City Clerk
APPROVED AS TO FORM: Tami Yellico, City Attorney

COUNCIL COMMUNICATION

Meeting Date: March 14, 2023	Agenda Item: 11B	Agenda Location: PUBLIC HEARINGS	<input checked="checked" type="checkbox"/> 1 st Reading <input type="checkbox"/> 2 nd Reading
Subject: An ordinance amending certain sections of the Thornton City Code with regard to Floodplain Regulations and Requirements.			
Department Head Review: Brett Henry, Executive Director of Infrastructure		Approved by: Kevin S. Woods, City Manager	Ordinance previously introduced by: _____
Presenter(s): Jim Kaiser, Infrastructure Engineering Manager, Floodplain Administrator			

SYNOPSIS:

Several updates to the City's current floodplain regulations are needed to maintain the City's standing within the Federal Emergency Management Agency (FEMA) Community Rating System (CRS) program. The proposed changes to the Code have been coordinated with FEMA and State agencies to be consistent with current program requirements, and obsolete language has been removed.

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) ss.
County of Adams)

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Signed:



Administrative Specialist

Date: 3-2-2023

Subscribed and sworn to before me by Lucia Higginbotham, in the County of Adams, State of Colorado, this 2nd day of March, 2023.

Notary Public

My Commission Expires



04/25/2026



NOTICE OF PUBLIC HEARING
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CITY COUNCIL OF THE
CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST: Kristen N. Rosenbaum, City Clerk
APPROVED AS TO FORM: Tami Yellico, City Attorney



Public Hearing City Council

SIGN BELOW

A public hearing regarding an ordinance amending certain sections of the Thornton City Code with regard to Floodplain Regulations and Requirements.

[illegible]

[illegible]

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PUBLIC NOTICE



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) ss.
County of Adams)

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Signed:


Administrative Specialist

Date: 3-2-2023

Subscribed and sworn to before me by Lucia Higginbotham, in the County of Adams, State of Colorado, this 2nd day of March, 2023.

Notary Public

My Commission Expires



04/25/2026

STACIE FLIS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20224016495
MY COMMISSION EXPIRES 04/25/2026

NOTICE OF PUBLIC HEARING
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CITY COUNCIL OF THE
CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST: Kristen N. Rosenbaum, City Clerk
APPROVED AS TO FORM: Tami Yellico, City Attorney

Floodplain Ordinance Updates

Purpose

To receive City Council approval of an Ordinance to update certain provisions of the Thornton City Code relative to Floodplain Regulations

Agenda:

1. Background
2. Affected Sections of the Code
3. Significant Changes
4. Recommendation

Background

- Thornton participates in the FEMA Community Rating System (CRS) program.
- Thornton is a CRS Class 6 community
 - This provides a 20% discount to FEMA Flood Insurance policy holders
- In 2021, FEMA updated requirements for Communities with a Class 8 or better rating, requiring the Code changes detailed in the next few slides.

Affected sections of the Code

- Floodplain Regulations are primarily contained within:
 - Chapter 18: the DEVELOPMENT CODE
 - Article V: DEVELOPMENT STANDARDS
 - **Division 7: FLOODPLAIN REGULATIONS**
 - Article XI, DEFINITION OF TERMS

Significant Changes

- Elevation of Electrical and Mechanical
 - “Freeboard” requirements for structures in the floodplain do not change.
 - The requirement to elevate* electrical and mechanical equipment is now explicitly stated
 - This would apply to things such as air conditioning compressors and water heaters or furnaces that sometimes are placed in crawl spaces
 - Also includes ductwork
 - (*) for non-residential, “flood proofing”

Significant Changes

- Platted Lots
 - The Code currently has language that would allow Lots to be platted while a development is constructing improvements that would remove areas from the regulated floodplain.
 - This is being simplified to only allow Lots to be platted in the Floodplain for non-residential lots, and only if the Floodplain is in an easement or setback area.

Other Changes

- Clarified that no “floodproofing” of residential structures is allowed per FEMA Regulations.
- Language added to the “Specific Standards” for “Manufactured Homes” to be consistent with “Residential Construction” provisions
- Recreational Vehicles in the floodplain provisions added to be consistent with FEMA regulations
 - Will also apply to temporary “structures” such as job site trailers

Recommendation

Staff recommends approving the ordinance to update Thornton City Code as required by FEMA to maintain a CRS Class 6 certification.