

Sec. 56-200. Legislative intent.

- (a) *Statutory Authorization.* The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City and County of Denver does hereby adopt the following floodplain management ordinance:
- (b) *Findings of fact.* Due to its general terrain and geographical location, the city is particularly subject to damage from storm waters which, from time to time, overflow from existing watercourses and drainage facilities, and imprudent use of these natural hazard areas called floodplains will pose a continuing and greater danger to life and property in the future unless proper regulations are adopted.
- (c) *Statement of purpose.* This article is enacted to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific 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 and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to critical facilities, infrastructure and other public facilities and utilities such as water, sewer and gas mains; electric and communications facilities; and streets and bridges located in the regulatory floodplain;
 - (6) Help maintain a stable tax base by providing for the sound use and development of the regulatory floodplain so as to minimize future flood blight areas;
 - (7) Ensure that potential buyers are notified that property is located in the regulatory floodplain;
 - (8) Ensure that those who occupy the regulatory floodplain assume responsibility for their actions;
 - (9) Encourage and facilitate urban water resources management techniques for reduction of pollution and the enhancement of the urban environment.
- (d) *Methods of reducing flood losses.* In order to accomplish its purposes, this article:
 - (1) Requires that all construction of permitted buildings shall be in compliance with the Denver Building Code;
 - (2) Restricts or prohibits uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
 - (3) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (4) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
 - (5) Controls filling, grading, dredging, and other development which may increase flood damage; and,
 - (6) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 158-86, § 1, 3-17-86; Ord. No. 547-13, § 1, 11-4-13)

Sec. 56-201. Definitions.

- (a) Words, phrases and terms defined herein shall be given the defined meaning.
- (b) Words, phrases and terms not defined herein, but defined in the building code or the zoning code of the city, shall be construed as defined in such code.
- (c) Words, phrases and terms neither defined herein nor in the building code or the zoning code of the city, shall be given usual and customary meanings except where the context clearly indicates a different meaning.
- (d) The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.

Accessory structure: Also known as "appurtenant structure." A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Addition: Any activity that expands an existing structure either horizontally or vertically. See "lateral addition" and "vertical addition."

Appeal: A request for a review of the interpretation of any provisions of this article.

Appurtenant structure: See "accessory structure."

Area of shallow flooding: A designated AO, AH, AR/AO, AR/AH or VO zone on the Flood Insurance Rate Map (FIRM) where the base flood depths range from one (1) to three (3) feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood: Also known as "one-hundred-year flood," "one-percent-annual-chance flood," and "one-percent-chance flood." A flood having a one-percent chance of being equaled or exceeded in any given year. The term does not imply that the flood will necessarily happen once every one hundred years,

Base flood elevation (BFE): The elevation shown on a FEMA Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-A30, AR, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from the occurrence of the base flood.

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

Building: See "structure."

Channel: The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

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

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

Community: Any political subdivision that has the authority to adopt and enforce floodplain management regulations through zoning, including but not limited to: counties, cities, towns, unincorporated areas, Indian tribes, and drainage and flood control districts.

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

Crawl space: A shallow space beneath the ground floor of a structure with clearances less than human height, generally used for storage or to access plumbing, wiring, etc... A crawlspace cannot be used as living space. A crawlspace may be considered a basement for flood insurance purposes.

Critical facility: A structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. The classification and definition of critical facilities shall be as specified in Rule 6 of the Department of Natural Resources, Colorado Water Conservation Board's "Rules and Regulations for Regulatory Floodplains in Colorado," dated November 17, 2010, or as amended.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

DFIRM database: Database (usually spreadsheets) containing data and analyses that accompany the DFIRM. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map (DFIRM): FEMA digital floodplain map. These maps serve as regulatory floodplain maps for insurance and floodplain management purposes.

Dry floodproofing: Method of floodproofing in which the intent is to keep the interior of the structure or property, including all machinery and equipment, watertight using walls that are substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. This includes using flood damage-resistant materials and backwater prevention for storm and sanitary sewers.

Elevated Building: A non-basement building which has the top of the lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, piles, or columns. In Zones A1-A30, AE, A, A99, AO, AH, B, C, X, and D, it also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood damage-resistant materials: Any building product [material, component or system] capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Flood damage-resistant materials must comply with FEMA Technical Bulletin 2 "Flood Damage-Resistant Materials Requirements," dated August 2008, or as amended.

Flood fringe: The portion of land in Zone AE of the regulatory floodplain which is located outside of the designated floodway for a specific waterway.

Flood Hazard Zones: Areas designated by FEMA on the FIRM and/or LOMRs that correspond to differing types and levels of flood risk. These zones include, but are not limited to: A, A1-A30, AE, AH, AO, AR, AR/A1-A30, AR/AE, AR/AH, AR/AO, A99, B,

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C, D, E, M, V, V1-V30, VE, VO, X (shaded) and X (unshaded). The definitions of each zone are as indicated on the associated FIRM.

Flood Insurance Rate Map (FIRM): The official map on which FEMA has delineated both the Special Flood Hazard Areas (SFHA) and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): The official report provided by FEMA which contains the Flood Insurance Rate Map (FIRM), floodway data tables, and flood profiles for studied flooding sources. This information can be used to determine base flood elevations (BFEs) for some areas.

Floodplain: Any land area susceptible to being inundated as the result of a flood.

Floodplain Administrator: The community official designated to administer and enforce the floodplain management regulations and other appropriate sections of Title 44 of the Code of Federal Regulations pertaining to floodplain management.

Flood profile: A graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to a location along a waterway.

Floodproofing: Any combination of structural and/or non-structural provisions, additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, machinery and equipment, and contents of buildings. The two types of floodproofing are "wet floodproofing" and "dry floodproofing."

Flood protection elevation (FPE): The elevation of freeboard plus the base flood elevation (BFE), or in an AO Zone freeboard plus depth of flooding (2' depth if no number specified) above the highest adjacent grade (HAG).

Flood storage area: The flood fringe and areas of shallow flooding portion of the regulatory floodplain in which flows are characteristically of shallow depths and low velocities.

Floodway: 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 more than a designated height. The designated height for all newly studied reaches shall be one-half (0.5) foot. A Letter of Map Revision (LOMR) to an existing floodway designation may continue to use the floodway criteria at the time of the existing floodway designation, at the discretion of the Floodplain Administrator. Existing one (1) foot floodway designations may be used until revised on the regulatory floodplain map.

Freeboard: The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage and increased runoff due to urbanization of the watershed. For purposes of this ordinance, freeboard is measured above the BFE, or above the depth of flooding in AO Zones, defined for the regulatory floodplain.

Highest adjacent grade (HAG): The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Lateral addition: An addition which is horizontal in nature and increases the footprint of the existing structure.

Letter of Map Revision (LOMR): FEMA's official revision of an effective Flood Insurance Rate Map (FIRM). LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the Special Flood Hazard Area (SFHA).

Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee: A man-made structure, usually earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA Flood Insurance Rate Map (FIRM) as providing flood protection, the levee structure must meet the requirements set forth in Section 65.10 of the National Flood Insurance Program (NFIP) regulations.

Levee system: A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest adjacent grade (LAG): The lowest elevation of the ground surface touching a structure.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program (NFIP) regulations.

Machinery and equipment: Utilities and mechanical items that service the building. These items include, but are not limited to: elevators and their associated equipment, transformers, electrical panels, electric meters, junction boxes, receptacles, switches, gas meters, furnaces, hot water heaters, heat pumps, air conditioners, generators, ductwork, communications equipment, and other service facilities.

Manager of public works: Hereinafter called the manager, he shall be the officer in full charge and control of the department of public works (refer to section 56-204(a)).

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

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level: For purposes of the National Flood Insurance Program (NFIP), the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

Mobile home: A type of manufactured home built prior to 1976 and constructed to the American National Standards Institute (ANSI) A-119.1 Standard.

Modular home: A Colorado labeled factory-built residential structure that meets or exceeds the currently adopted building codes in Colorado. Modular housing is custom designed and can be fabricated for both single-family and multi-family use.

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

New Construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. In Denver, the effective date of the initial FIRM is April 15, 1986 and the effective date of the first adopted floodplain management regulation is March 17, 1986.

New manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. In Denver, the effective date of the first adopted floodplain management regulation is March 17, 1986.

No-Rise Certification: A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a licensed Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the floodway shown on the Flood Insurance Rate Map (FIRM).

Obstruction: Any material or item that may impact the flow or storage of floodwaters. This includes, but is not limited to: fill, structures, bridges, roadways, equipment, walls, and fences.

Occupancy: The use or possession of a building by humans for purposes including, but not limited to, residential, office, hospital, or commercial.

One-hundred-year flood: See "base flood."

One-percent-annual-chance flood or one-percent-chance flood: See "base flood."

Phased improvement: Any improvement to a structure that occurs within one (1) year of permit closeout of any previous construction on that structure. Phased improvements may be intentional or unintentional. Examples of phased improvement include, but are not limited to: incomplete work, multiple permits, consecutive permits, modification of existing permits, and unauthorized work. Changes in ownership do not preclude previous improvements. This applies to the entire structure as a whole, including multi-tenant and multi-unit structures.

Recreational vehicle (RV): Means a vehicle which is:

1. Built on a single chassis;
2. 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 not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodplain: The area of land subject to inundation by the base flood as delineated by the Special Flood Hazard Area (SFHA), any other floodplain maps that have been adopted by the manager of public works, and areas that have been removed from the SFHA by a FEMA issued Letter of Map Revision Based on Fill (LOMR-F).

Regulatory floodway: See "floodway."

Special Flood Hazard Area (SFHA): The land within a community subject to inundation by the base flood as shown on the Flood Insurance Rate Map (FIRM).

Start of construction: The date the building permit was issued, including substantial improvement, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the

placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. "Phased improvements" are calculated cumulatively towards the cost of improvement. The term "substantial improvement" does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Use: The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Variance: A grant of relief from the requirements of this article, when specific enforcement would result in unnecessary hardship (hardship that is solely financial is not grounds for a variance). A variance, therefore, permits construction or development in a manner otherwise prohibited by this article.

Vertical addition: An addition which is vertical in nature, but does not increase the horizontal footprint of the existing structure.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in National Flood Insurance Program (NFIP) regulations Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSEL): The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies.

Wet floodproofing: A method of floodproofing to reduce flood damage that typically involves three elements: allowing floodwaters to enter and exit to minimize structural damage, using flood damage-resistant materials, and elevating machinery and equipment. Wet floodproofing cannot be used in lieu of elevation or dry floodproofing requirements.

Zones: See "flood hazard zones."

(Ord. No. 158-86, § 1, 3-17-86; Ord. No. 547-13, § 2, 11-4-13)

Sec. 56-202. General provisions.

- (a) *Disclaimer of liability.* The degree of flood protection required by this article 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 article does not imply that land outside the regulatory floodplain or 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, any officer or employee thereof, the Colorado Water Conservation Board, or the Federal Emergency Management Agency (FEMA), for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.
- (b) *Jurisdiction of this article.* The provisions of this article and implementing regulations adopted by the manager apply to all lands, uses, activities, and structures in all areas of the city located within a regulatory floodplain as defined in section 56-201, "Definitions," of this article.
- (c) *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.
- (d) *Regulatory floodplains.*
 - (1) *Special Flood Hazard Areas (SFHAs).* These areas are identified by FEMA in a scientific and engineering report entitled "Flood Insurance Study for the City and County of Denver," dated November 20, 2013 with accompanying Flood Insurance Rate Maps (FIRM). Any revisions hereto are hereby adopted by reference and declared to be a part of this article.
 - a. *Zone A.* When base flood elevation data has not been provided in accordance with the foregoing paragraph, and an area has been designated Zone A on the FIRM, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from federal, state or other source in order to

administer the applicable conditions of section 56-203, "Regulatory floodplain use and limitations," of this article.

- (2) Any other areas that are subject to inundation by the base flood, which are delineated in floodplain maps that have been adopted for regulatory use by the manager in accordance with section 56-202(e).
 - (3) Areas removed from the SFHA by fill. These areas are identified by FEMA by issuance of a Letter of Map Revision Based on Fill (LOMR-F). For purposes of this article this includes all existing and proposed LOMR-F areas, if the LOMR-F area has not previously been superseded by a standard LOMR.
- (e) *Adoption of regulatory floodplain map.*
- (1) The maps which define the regulatory floodplains established by this article shall be adopted by the manager. Such adoption shall be accomplished by:
 - a. Filing one (1) copy thereof with the city clerk;
 - b. Filing one (1) copy thereof with the city attorney;
 - c. Concurrently with the filings required under a. and b., above, the manager shall publish a notice stating that the filings have been made and list the dates of such filings. Such notice shall be published once in the official newspaper.
 - (2) The adopted maps collectively shall constitute the official regulatory floodplain map.
 - (3) The various individual floodplain maps constituting the official regulatory floodplain map shall be marked and maintained pursuant to a system of identification established by the department of public works.
 - (4) The manager and the Floodplain Administrator shall make all maps available to public inspection at all reasonable times.
- (f) *Amendments to official regulatory floodplain map.*
- (1) Upon the recommendation of the Floodplain Administrator, amendments to the official regulatory floodplain map, except as in Sec. 56-202(f)(2) below, shall be referred to the manager for adoption. Amendments shall be adopted as in paragraph (e) above.
 - (2) Those individual maps constituting a part of the official regulatory floodplain map which were originated by FEMA, shall only be amended following FEMA review and approval of data, and subsequent amendment by FEMA thereof.
 - (3) All amendments to the official regulatory floodplain map shall be listed in the order in which they were adopted, in a separate register maintained in and kept current by the department of public works.
- (g) *Effect of other ordinances and regulations.* Wherever higher or more restrictive standards are established by the provisions of any other applicable statute, ordinance or regulation than are established by the provisions of this article, the provisions of such other statute, ordinance or regulation shall govern.
- (h) *Effect of private covenants.* Nothing herein contained shall be construed to render inoperative any restrictions established by covenants running with the land unless such are prohibited by or are contrary to the provisions of this article.
- (i) *Floodplain disclaimer.* As a part of the sale of any property within the city, a disclaimer shall be provided to the potential buyer by the seller indicating the relationship of the property to any regulatory floodplain.
- (j) *Grandfathering.* The floodplain requirements in effect at the time of submittal of development plans for City review, or at the time of application for building permit, or Sewer Use and Drainage Permit, shall be applied to such development or building project.

(Ord. No. 158-86, § 1, 3-17-86; Ord. No. 711-94, § 1, 9-6-94; Ord. No. 547-13, § 3, 11-4-13)

Sec. 56-203. Regulatory floodplain use and limitations.

- (a) *General.* The following provisions shall apply to all uses within all areas of regulatory floodplains as defined and adopted under section 56-202(d) and (e) of this article.
- (b) *Existing uses.* An existing use in a regulatory floodplain may be changed to any use which is allowed by the ordinances of the city; provided, however, that such change of an existing use shall be limited by and shall be in accordance with the regulations herein established.
- (c) *Regulatory floodplain.* In all areas of the regulatory floodplain, the following provisions are required:
 - (1) No development, use, fill, excavation, construction or alteration within a regulatory floodplain shall be permitted, which acting alone or in combination with existing or future uses, would cause or result in any of the following:
 - a. The storage or processing of materials that are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life in time of flooding;
 - b. The disposal of garbage, sludge, waste materials or other potentially injurious substances;
 - c. An obstruction or depositing of any material which would impair the flow capacity of a regulatory floodplain or increase floodwater depths or velocities so as to cause probable damage to others wherever located;
 - d. A substantial increase in sedimentation and/or erosion.
 - (2) All new construction, lateral additions, and substantial improvements shall be approved by the department of public works for location and shall be:

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Regulations prohibiting
storage of hazardous
materials in the floodplain.

- a. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
 - b. Designed and constructed with flood damage-resistant materials below the FPE; and
 - c. Designed and constructed by methods and practices that minimize flood damages; and
 - d. Designed and constructed with gas, electrical, heating, ventilation, plumbing, air conditioning, and communications equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components, or otherwise damaged, during conditions of flooding.
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) No new manufactured home, new manufactured home park, or expansion to an existing manufactured home park shall be located in the regulatory floodplain.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into flood waters.
- (7) For all proposed uses or developments that alter a watercourse within a regulatory floodplain, the following standards apply:
- a. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
 - b. Channelization and flow diversion projects shall evaluate the residual floodplains.
 - c. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
 - d. Any stream alteration activity shall be designed and sealed by a licensed Colorado Professional Engineer or Certified Professional Hydrologist.
 - e. All activities within the regulatory floodplain shall meet all applicable Federal and State requirements and regulations, as well as the provisions of this article and implementing regulations adopted by the manager.
 - f. Within the floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a licensed Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a No-Rise Certification, unless a CLOMR for the floodway revision has been approved by FEMA.
 - g. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
- (8) For waterways with base flood elevations for which a regulatory floodway has not been designated, no proposed use or development shall be permitted within Zone AE, 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 (0.5) foot at any point within the community; unless a FEMA approved CLOMR has been issued for that use or development.
- (9) Permitted uses: The following uses shall be permitted within the regulatory floodplain to the extent that they will comply with all requirements of this article and the Denver Zoning Code:
- a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting;
 - b. Uses such as loading areas, parking areas, airport landing strips and storage yards for equipment or machinery easily removed from the site or not subject to flood damage;
 - c. Private and public recreational uses such as parks, golf courses, driving ranges, archery ranges, picnic grounds, boat launching ramps, and hiking, biking and horseback riding trails;
 - d. Utility facilities that are not considered to be critical facilities including, but not limited to, wastewater facilities, water, gas and electric distribution facilities, roadways and bridges;
 - e. Fill, excavation or deposit of materials:
 - 1. Any such fill, excavation or deposit of materials shall be permitted only upon a finding that the fill, excavation or deposit of materials will have some beneficial purpose and the amount thereof will not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the final dimensions of the proposed fill, excavation or material and the use to which the altered land will be put;
 - 2. The fill or material does not encroach on the floodway;
 - 3. Any fill or deposit that reduces the hydraulic capacity shall require appropriate hydraulic studies and a review of the urban impact on such reduction;

4. The fill or material will be protected against erosion by rip-rap, strong vegetative cover or bulkheading.

- (d) *The floodway.* The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential. In addition to section 56-203(c), the following provisions shall also apply to all uses within the floodway:
- (1) No encroachments, including fill, obstructions, new construction, lateral additions, substantial improvements, or other development shall be permitted within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requiring a No-Rise Certification) in flood levels during the occurrence of the base flood.
 - (2) No building designed for human occupancy shall be placed in the floodway.
 - (3) Encroachments may be permitted in the floodway that result in an increase in base flood elevations, provided that a CLOMR for the floodway revision is approved by FEMA.
- (e) *Flood storage area.* In addition to the provisions of section 56-203(c), the following requirements shall also apply to all uses in the flood storage area:
- (1) *Residential construction.* New construction, lateral addition, and substantial improvement of any residential structure shall meet the following requirements:
 - a. Have the lowest floor (including basement) and all associated machinery and equipment, elevated with a minimum of one and one-half (1.5) feet of freeboard.
 - b. Within Zones AH and AO, have adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
 - c. Upon completion of construction, and prior to Certificate of Occupancy, a "finished construction" version of the FEMA Elevation Certificate must be submitted to, and approved by, the Floodplain Administrator.
 - (2) *Nonresidential construction.* New construction, lateral addition, and substantial improvement of any commercial, industrial, or other nonresidential structure, with the exception of critical facilities, shall meet the following requirements:
 - a. Either have the lowest floor (including basement) and all associated machinery and equipment:
 1. Elevated with a minimum of one and one-half (1.5) feet of freeboard; or,
 2. Together with attendant utility and sanitary facilities, be dry floodproofed with a minimum of one and one-half (1.5) feet of freeboard.
 - b. Within Zones AH and AO, have adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
 - c. Upon completion of construction, and prior to Certificate of Occupancy, a "finished construction" version of the FEMA Elevation Certificate must be submitted to, and approved by, the Floodplain Administrator. If dry floodproofed, a "construction drawings" version of the FEMA Floodproofing Certificate must be submitted to, and approved by, the Floodplain Administrator prior to permit issuance and a "finished construction" version of the FEMA Floodproofing Certificate must be submitted to, and approved by, the Floodplain Administrator prior to validation of Certificate of Occupancy.
 - (3) *Crawlspaces.* New construction, lateral addition, and substantial improvement involving any crawlspace shall meet the following requirements:
 - a. The crawlspace, and all machinery and equipment, must either:
 1. Have the interior grade elevated with a minimum of one and one-half (1.5) feet of freeboard; or
 2. Be wet floodproofed with a minimum of one and one-half (1.5) feet of freeboard.
 - b. Wet floodproofing shall only be permitted for crawlspaces meeting the following requirements:
 1. They shall be used solely for parking of vehicles, building access, or limited storage and not used for human habitation; and
 2. All associated machinery and equipment shall be elevated or dry floodproofed to a minimum of the FPE; and
 3. The interior grade elevation that is below the FPE shall not be lower than two (2) feet below the lowest adjacent grade; and
 4. The height of the crawlspace, measured from the bottom of the floor joist to the top of footing, shall not exceed four (4) feet at any point; and
 5. An adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood shall be provided; and
 6. The enclosed area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters as required under NFIP regulations Sec. 60.3(c)(5).
 - (4) *Accessory structures.* New construction, lateral addition, and substantial improvement of any accessory structure shall meet the following requirements:
 - a. Have the lowest floor (including basement) and all associated machinery and equipment be either:

432.b FRB -
Regulations providing
1.5 feet of freeboard.

432.h PCF - State UMC -
Critical Facilities out of
floodplain or have 2 ft
freeboard or floodproofed.

1. Elevated with a minimum of one and one-half (1.5) feet of freeboard; or
2. Wet floodproofed with a minimum of one and one-half (1.5) feet of freeboard.
- b. Within Zones AH and AO, have adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- c. Upon completion of construction, and prior to Certificate of Occupancy, a FEMA Elevation Certificate must be submitted to, and approved by, the Floodplain Administrator.
- d. Wet floodproofing shall only be permitted for accessory structures meeting the following requirements:
 1. They shall be used solely for parking of vehicles, building access, or limited storage and not used for human habitation; and
 2. They shall be designed to have low flood damage potential, and be no more than 600 square feet; and
 3. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and
 4. They shall be firmly anchored to prevent floatation, collapse and lateral movement; and
 5. All associated machinery and equipment shall be elevated or dry floodproofed to a minimum of the FPE; and
 6. The enclosed area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters as required under NFIP regulations Sec. 60.3(c)(5); and
 7. They shall not be placed in the floodway unless it meets the provisions of section 56-203(d).
- (5) **Critical facilities.** New construction, lateral addition, and substantial improvement of critical facilities shall be regulated as in section 56-203(e)(2), except critical facilities shall be protected to a higher standard than structures not determined to be critical facilities. For the purposes of this article, protection shall include:
 - a. Location outside of the regulatory floodplain; or
 - b. Elevation of the lowest floor (including basement), and all machinery and equipment, with a minimum of two (2) feet of freeboard; or
 - c. Dry floodproofing (including attendant utility and sanitary facilities) with a minimum of two (2) feet of freeboard.
 - d. New critical facilities shall, when practicable, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during the base flood.
- (6) **Recreational Vehicles (RV):** All RVs placed on sites within Zones A1-30, AH, and AE on the regulatory floodplain map shall either:
 - a. Be on the site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use. A RV is ready for highway use if it is on wheels or a jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (f) **Areas removed from SFHA by LOMR-F:** For purposes of this article, areas that have been removed from the SFHA by a FEMA issued LOMR-F are hereby subject to the same provisions as section 56-203(e)(1), (2), (3), (4) and (5). These areas will not be subject to floodplain regulation if the LOMR-F area has since been superseded by a standard LOMR.

(Ord. No. 158-86, § 1, 3-17-86; Ord. No. 547-13, § 4, 11-4-13)

Sec. 56-204. Administration.

- (a) **Administration of article by manager of public works.** The administration of the provisions of this article is hereby vested in and shall be exercised by the manager who may, in accordance with article VI of chapter 2 of the Revised Municipal Code, prescribe forms and rules and regulations in conformity with this article for the proper administration and enforcement hereof. The manager may delegate the administration of this article or any part thereof, subject to the limitations of the Charter and this Code, to duly qualified deputies and agents of the manager. For the purposes of this article, the manager shall delegate the administration thereof to the designated Floodplain Administrator except section 56-202(e)(1), "Adoption of regulatory floodplain map," and section 56-204(f), "Administrative review."
- (b) **Responsibilities of the Floodplain Administrator.**
 - (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article, including required FEMA Elevation Certificates and Floodproofing Certificates.
 - (2) Review, approve, or deny all FEMA Elevation Certificates and Floodproofing Certificates required as a condition of the Sewer Use and Drainage Permit.
 - (3) Review, approve, or deny all applications related to construction in the regulatory floodplain.
 - (4) Review applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 - (5) Review permits for proposed development to assure that all necessary water and/or floodplain permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

- (6) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this article, including proper elevation of the structure.
 - (7) Where interpretation is needed as to the exact location of the boundaries of the regulatory floodplain (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
 - (8) When base flood elevation data has not been provided in accordance with section 56-202(d), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of this article.
 - (9) Notify, in riverine situations, adjacent communities and the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 - (10) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (c) *Responsibilities of land developers.*
- (1) Each developer of land within the city has a duty to provide on his/her property all reasonably necessary drainage and detention facilities to ensure the adequate drainage and control of storm waters which fall on his/her properties or which contribute runoff to his/her property.
 - (2) All subdivision or other development proposals shall:
 - a. Be reasonably safe from flooding and minimize flood damage; and
 - b. Meet all other requirements of this article; and
 - c. Generate BFE data for subdivisions greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided; and
 - d. Have adequate drainage provided to reduce exposure to flood hazards; and
 - e. Have public utilities and facilities such as sewer, gas, electrical, communications, and water systems located and constructed to minimize or eliminate flood damage.
 - (3) A storm drainage plan shall be submitted and approved prior to issuing a wastewater permit for new construction, lateral addition, or substantial improvement of a building located in a regulatory floodplain. Such plan shall be reviewed with regard for generally accepted engineering principles and standards as follows:
 - a. The storm drainage plan shall provide the base flood elevations for those areas where no base flood elevation had previously been provided, and shall define the alignment and boundary of any natural drainage course, drainage facility or subdrainage area on the land in question, and it shall include drawings, profiles, specifications for the construction of channels, conduits, detention ponds, culverts, bridges and all other drainage facilities reasonably necessary to ensure that flood and storm waters, including drainage from other lands which will contribute runoff to the subject property, will be adequately drained, stored, or otherwise controlled; plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; size and location of existing and/or proposed structures, fill, storage of materials, drainage facilities; regulatory floodplain area and the location of the foregoing. Specifically, the following information is required:
 1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certification from a licensed Colorado Professional Engineer or Architect that the nonresidential floodproofed structure meets the floodproofing criteria of section 56-203(e)(2).
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - b. Included in the plan shall be a schedule containing the estimated dates of completion of construction for all storm drainage facilities shown on the plan. If and when the plan is approved and the wastewater permit issued, the owner and applicant shall comply with said schedule.
 - (4) Any improvements to an existing drainageway which will result in a change of the regulatory floodplain will be constructed consistent with applicable city criteria and standards. Development within the regulatory floodplain will not be permitted until the approved drainage improvements have been constructed and the amended floodplain maps have been approved and adopted by the manager and/or FEMA.
 - (5) Proposed revisions or amendments to the SFHA shall be requested of FEMA by the applicant by submitting all required supporting information to FEMA following approval by the Floodplain Administrator.
 - (6) Proposed changes or improvement to a watercourse which will result in a request for a physical revision to the SFHA must be preceded by a receipt from FEMA of a CLOMR Request for this letter shall be made as in Section 56-204(c)(5) above. Construction of the proposed improvements may not commence until such letter is received. After construction of the drainageway improvements, "as constructed" information and any additional supporting data shall be submitted to FEMA following approval by the Floodplain Administrator for a LOMR to accomplish revision of the SFHA. Permits for non permitted uses will not be issued until physical map revisions become effective.
 - (7) Any alteration or relocation of a watercourse or drainageway will require that a notification report be made to adjoining communities, the Colorado Water Conservation Board and FEMA that the conveyance capacity of the watercourse or drainageway shall be maintained within the altered portion of the drainageway. This report shall be the owner's responsibility and shall be made prior to construction, but subsequent to approval by FEMA and coordinated through the Floodplain Administrator.

- (8) For waterways with base flood elevations for which a regulatory floodway has not been designated, the land developer shall demonstrate 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 (0.5) foot at any point within the community.
- a. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half (0.5) foot, provided that the developer first applies for a FEMA CLOMR, fulfills the requirements for such revisions as established under the provisions of Section 65.12 of the NFIP regulations, and receives FEMA approval.
- (9) Obtain a CLOMR whenever an activity in the floodway is known or suspected to cause more than a 0.00-foot rise in the proposed conditions compared to existing conditions BFEs. An exception may be made, at the discretion of the Floodplain Administrator, when the activity is strictly drainageway maintenance in which the intent is to restore the natural conditions or hydraulic capacity of the drainageway provided that the activity does not cause more than a 0.00-foot rise in the proposed conditions compared to effective conditions BFEs and that any BFE rise compared to existing conditions is contained entirely within public property which would not otherwise require adverse impact notification.
- (10) Obtain a LOMR:
- a. Upon completion of an activity approved in a CLOMR; or,
 - b. Whenever an activity in the floodway is known or suspected to increase or decrease the BFE in excess of 0.3 vertical feet.
- (d) Boundary mapping disputes. The boundaries of the regulatory floodplain shall be as they appear on the official regulatory floodplain maps. Where there appears to be a conflict between the boundary lines illustrated on the map and actual field conditions, the person contesting the location of the boundary shall be given an opportunity to submit his own technical evidence.

No deviation from the boundary line as mapped shall be allowed unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect. However, if the evidence submitted, after review, clearly shows that the recorded boundary does not reflect the true condition, an exception may be granted. If the location of the boundary line should still be in dispute, that person may appeal as provided in Section 56-204(f).

(e) *Variances.*

- (1) The manager or his designee may authorize, upon application in specific cases, such variances from the terms of this article, subject to terms and conditions fixed by the manager or his designee, as will not be contrary to the purposes of this article where, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this article will result in unnecessary hardship. No variance shall be authorized hereunder unless the manager or his designee shall find:
- a. The variance will not result in an increase in the flood levels in a designated floodway during a base flood discharge;
 - b. The variance is the minimum necessary to afford relief considering the flood hazard;
 - c. The variance will not result in an increased risk to public safety, a substantial increase in public expense or a nuisance;
 - d. The lowest floor, including the basement, of any residential structure will be elevated to a minimum of the FFE;
 - e. The proposed change or development will not unreasonably endanger the life, health, safety, welfare or property of any person in time of floods, or result in the damming of floodwaters or the contribution of potentially damaging debris to floodwaters;
 - f. The use requested is a permitted use under the zoning ordinance;
 - g. The applicant is the owner of the subject property.
- (2) The following matters shall be considered by the manager or his designee in determining all applications for variances:
- a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location where applicable;
 - f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with the existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

- j. The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, communications, and water systems, and streets and bridges.
- (3) Each and every application for a variance shall contain adequate technical information certified by a professional engineer licensed in the State which shall include, unless waived in writing by the manager or his designee, the following:
- a. A certified topographic survey by a licensed land surveyor of the applicant's property and surrounding areas that may be affected by any proposed change; said survey data shall include plan, profile and cross-sections showing accurate elevations of all points, based upon North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), within the limits of flooding under both existing and proposed conditions;
 - b. Drawings and descriptions of any proposed change to ground surface, topography or natural features or any proposed construction or modification of any structure or facility within a regulatory floodplain;
 - c. Drawings and descriptions defining the probable behavior of floodwaters across and in the vicinity of the applicant's property and for a reasonable distance upstream and downstream, under both existing and proposed conditions; together with all supporting hydrologic data and hydraulic analysis, computations, backwater curves, flow quantities and approximate velocities;
 - d. Any other information either the applicant, Floodplain Administrator, or the manager or his designee may deem necessary for a thorough and informed evaluation of the proposed activity;
- (4) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built, added onto, or substantially improved with a lowest floor elevation below the FPE and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest story elevation.
- (5) The Floodplain Administrator shall maintain the records of all appeal actions and report through a notice the issuance of any variance to FEMA upon request which shall include the following:
- a. The owner's name, address, phone number and the address of the project.
 - b. An explanation of the variance including justification for granting a variance, base flood elevations, lowest floor elevations, and any other relevant information.
 - c. Any appropriate hydraulic studies.
- (f) *Administrative review.* Any person who disputes any determination made by or on behalf of the city pursuant to and by authority of the manager, which determination adversely affects such person, may petition the manager for a hearing concerning such determination no later than thirty (30) days after having been notified of any such determination by the procedure described in D.R.M.C. section 56-106.
- (g) *Compliance.* No structure in a regulatory floodplain shall hereafter be located, constructed, enlarged, converted, altered and/or the profile of the land changed without full compliance with the terms of this article and other applicable regulations. Nothing herein shall prevent the City and County of Denver from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the NFIP.

(Ord. No. 158-86, § 1, 3-17-86; Ord. No. 547-13, § 5, 11-4-13)

Sec. 56-205. Enforcement; violations; penalties.

- (a) The violation of the provisions of this article or of the rules and regulations of the manager issued pursuant to this article by any person shall be unlawful.
- (b) Any person who fails to obey a lawful order to correct any condition which is in violation of this article shall be subject to a civil penalty of not more than nine hundred ninety-nine dollars (\$999.00) per day for each day said person remains in violation.
- (c) Penalties shall be determined by the manager after a hearing as to propriety and amount thereof. The manager shall consider the history of violations, whether the owner was negligent, the effect of the owner's ability to continue in business, the gravity of the violation, and demonstrated good faith of the owner in attempting to achieve rapid compliance after notification of a violation.
- (d) If not paid, penalties may be collected by the manager by action initiated in the district court for collection of such penalty.
- (e) If the owner of land, use of land, or structure which is in violation of this article fails to begin activity which will bring the land, the use of land, or the structure into compliance with this article, after notice of said violation or violations and within the time specified in said notice, the department may proceed to correct said violations. If a violation of this article is determined to be an immediate hazard to life, health, property or public welfare, the manager may order and/or cause the immediate correction of the condition. The city's costs in correcting any condition which violated this article shall be recovered as follows:
 - (1) In the event the owner or owners fail to pay the costs and expenses for correction of the condition, the department shall serve notice upon the person or persons having a recorded interest therein, of the amount of such costs and expenses, and that it will, at a time and place specified in the notice, hold a hearing when and where such persons shall be required to show cause why the amount should not be paid or a lien should not be placed against the property.

- (2) In the event said persons fail to show cause as provided herein, the amount shall constitute a lien against the real property upon which the condition existed. The department shall thereafter pay the cost and expense of the correction of the condition violating this article, from any appropriation made available for that purpose, and shall certify a statement thereof to the manager of finance who shall record a notice of such lien with the clerk and recorder. The manager of finance shall assess and charge the same against the property involved, and collect the same due, plus interest thereon, in the manner as are delinquent real property taxes. If the lien remains unsatisfied, the manager of finance shall sell the property involved in the manner prescribed for sales of property for delinquent property taxes. The lien created hereby shall be superior and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and special assessments. In addition to the remedies set forth herein, an action or other process provided by law may be maintained by the city to recover or collect any amounts, including interest, owing under this provision.
- (3) The lien created thereby shall be superior and prior to other liens, regardless of date, except liens for general and specific taxes.
- (f) The city may also petition the district court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of this article.

(Ord. No. 158-86, § 1, 3-17-86; Ord. No. 464-98, § 11, 7-6-98; Ord. No. 775-07, § 231, 12-26-07; Ord. No. 547-13, § 6, 11-4-13)

Sec. 56-206. Documents

- (a) The following documents shall be maintained by the manager or his designee in perpetuity:
 - (1) All Sewer Use and Drainage permits issued for floodplain which shall, at a minimum, list the lowest floor elevation of the structure and the base flood elevation at its location.
 - (2) All FEMA Elevation Certificates or Floodproofing Certificates required as a condition of the Sewer Use and Drainage Permit.
 - (3) All regulatory floodplain maps and revisions thereto.
 - (4) All appeals actions.
 - (5) All variance and administrative review actions.

(Ord. No. 547-13, § 7, 11-4-13)