

ORDINANCE NO. 1208

AN ORDINANCE AMENDING CHAPTER 21 ARTICLE 14 OF THE CITY OF FORT MORGAN MUNICIPAL CODE CONCERNING FLOODPLAIN HAZARD MITIGATION

WHEREAS, the City of Fort Morgan adopted floodplain hazard mitigation regulations in 2014 for the safety and welfare of the community and updated Federal Emergency Management Agency (“FEMA”) map references in 2017; and

WHEREAS, the accuracy of the reference to the FEMA maps is essential to maintain compliance with Colorado State and FEMA regulations; and,

WHEREAS, upon further review of the adopted floodplain hazard mitigation regulations adopted in 2014, clarifications are needed to the definitions and variance procedures; and

WHEREAS, additional updates to the Fort Morgan Municipal Code are needed to bring the City of Fort Morgan’s regulations and map references into compliance.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN,

Section 1: Chapter 21 Article 14 section 5 of the Fort Morgan Municipal Code, is hereby added to provide:

Sec. 21-14-5. – Authorization and findings of fact

- (a) 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 Council of the City of Fort Morgan, Colorado, does hereby adopt the following floodplain management regulations.
- (b) The flood hazard areas of the City of Fort Morgan are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (c) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and

hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Section 2: Chapter 21 Article 14 section 10 of the Fort Morgan Municipal Code, is hereby repealed and replaced as follows:

Sec. 21-14-10. - Purpose and applicability.

The City desires to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in areas designated as Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Morgan County Colorado, and Incorporated Areas," dated April 4, 2018, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the City of Fort Morgan. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, and FIRMs on file and available for public inspection.

Therefore, the City hereby:

- (1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;
- (2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controls the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Controls filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Section 3: Chapter 21 Article 14 section 20 of the Fort Morgan Municipal Code, is hereby amended to include the following definitions:

Sec. 21-14-20. – Definitions

Base Flood Elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing manufacture home park or subdivision means 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 means 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).

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

Manufactured Home means 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" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means the construction of a new structure (including the placement of a mobile home) or facility or the replacement of a mobile home) or facility or the replacement of a structure or facility which has been totally destroyed.

Recreational vehicle means vehicle which is: 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projections; 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.

Special Flood Hazard Area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start 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 means 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 means 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 means 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. The term 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."

Section 4: Chapter 21 Article 14 section 130 of the Fort Morgan Municipal Code, is hereby repealed and replaced as follows:

Sec. 21-14-130. – Variance procedures

Variance procedures shall follow the process provided in Section 20-3-150 of this Code and shall also include the following requirements specific to floodplain hazard mitigation.

- 1) In addition to the criteria in Section 20-3-150(b) of this Code, prerequisites for granting variances related to floodplains include:
 - a. Consideration of the factors contained in Section 20-14-120 and a technical showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site renders the elevation standards inappropriate.
 - b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - e. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- 2) When granting a variance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in Section 21-14-120.
- 3) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.
- 4) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 21-14-120 of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- 5) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 6) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
 - a. The criteria outlined in this Section 21-14-130(1)-(7) are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**INTRODUCED, READ, ADOPTED ON FIRST READING AND ORDERED
PUBLISHED** on the 20th day of March, 2018.



THE CITY COUNCIL OF THE CITY OF FORT
MORGAN, COLORADO


By: Ronald Shaver
Mayor

Attest:


John Brennan
City Clerk

**PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED
PUBLISHED** this 3rd day of April, 2018.



THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO


By: Ronald Shaver
Mayor

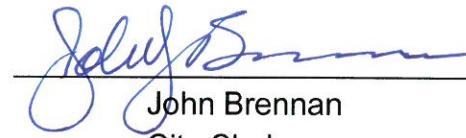
Attest:



John Brennan
City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN) ss. **CERTIFICATE**
CITY OF FORT MORGAN)

I, John Brennan, the duly appointed, qualified Clerk of the City of Fort Morgan, Colorado, do hereby certify that the foregoing **Ordinance No. 1208** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 20th day of March, 2018. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 23rd day of March, 2018, published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed ordinance was again taken up and read a second time, duly and legally, passed, approved and adopted at a regular meeting of the City Council held on the 3rd day of April, 2018. Within five (5) days after its final passage, said **Ordinance No. 1208** was published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.



John Brennan
City Clerk