

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER WOODEN
Council Bill No. 19
Ordinance No. 1581
Series of 2015

TITLE: AN ORDINANCE AMENDING CHAPTER 26, ARTICLE VIII, OF THE WHEAT RIDGE CODE OF LAWS CONCERNING FLOODPLAIN REGULATIONS

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-301(1), the City, acting through its City Council (the "Council"), is authorized to adopt rules and regulations concerning the location, construction, occupancy and use of buildings and structures on and along any storm or floodwater runoff channel or basin; and

WHEREAS, under such authority, the Council previously adopted floodplain regulations, codified as Article VIII of Chapter 26 of the Wheat Ridge Code of Laws ("Code"); and

WHEREAS, the Council desires to amend certain sections of said Article VIII in the interests of promoting compliance with said regulations, prohibiting the location of new septic systems within floodplains and ensuring that tenants are aware of potential floodplain issues.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Paragraph 9 of Subsection 26-806.D. of the Code, concerning development standards for all permitted development and uses within the special flood hazard area, is hereby amended as follows:

9. All new and replacement water supply, AND sanitary sewage, ~~or onsite disposal~~ systems AND ALL REPLACEMENT ONSITE DISPOSAL SYSTEMS shall be designed and located so as to minimize or eliminate infiltration of floodwaters into them and discharge from the systems into floodwaters. THE LOCATION OF ANY NEW ONSITE DISPOSAL SYSTEM IS PROHIBITED. EXISTING SYSTEMS MAY BE REPAIRED AND MAINTAINED, INCLUDING REPLACEMENT, SUBJECT TO THE REQUIREMENTS OF THIS PARAGRAPH 9.

Section 2. Paragraph 4 of Subsection 26-808.C. of the Code, concerning floodplain permit application submittal requirements, is hereby amended by the addition of a new subparagraph e, to read in its entirety as follows:

E. THE APPLICANT FOR A BUILDING PERMIT FOR WORK WITHIN A SPECIAL FLOOD HAZARD AREA SHALL INCLUDE AS A PART OF ITS APPLICATION A LOT SURVEY THAT ILLUSTRATES ALL APPLICABLE FLOODPLAIN BOUNDARIES, INCLUDING THE FLOODWAY, IF PRESENT.

Section 3. Section 26-808 of the Code, concerning the administration of the floodplain regulations, is hereby amended by the addition of two (2) new subsections, F and G, to read in their entirety as follows:

F. *STAKING AT CONSTRUCTION SITES.* THE OWNER OF ANY PROPERTY LOCATED IN WHOLE OR IN PART WITHIN THE SPECIAL FLOOD HAZARD AREA UPON WHICH CONSTRUCTION IS OCCURRING SHALL LOCATE, OR CAUSE TO BE LOCATED, STAKES THAT MARK THE BOUNDARIES OF THE FLOODPLAIN, INCLUDING THE FLOODWAY, IF PRESENT.

G. *NOTICE TO TENANTS.* THE OWNER OF ANY PROPERTY LOCATED IN WHOLE OR IN PART WITHIN THE SPECIAL FLOOD HAZARD AREA THAT IS MADE AVAILABLE FOR RENT, LEASE OR ANY OTHER FORM OF TENANT OCCUPANCY SHALL DISCLOSE TO EACH POTENTIAL TENANT THE EXISTENCE AND BOUNDARIES OF THE FLOODPLAIN ON THE PROPERTY. AT A MINIMUM, SUCH DISCLOSURE MUST BE INCLUDED IN THE LEASE, RENTAL AGREEMENT OR OTHER WRITTEN INSTRUMENT.

Section 4. Section 26-810 of the Code, concerning enforcement and penalties for violations of the floodplain regulations, is hereby amended as follows:

Sec. 26-810. - Enforcement and penalties.

Every structure, building, fill, or development placed or maintained within the SFHA in violation of these regulations is a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the City of Wheat Ridge, the state, or any citizen thereof. Any person who places or maintains any structure, building, fill, or development within the SFHA in violation of these regulations OR FAILS TO PERFORM ANY ACT REQUIRED BY THESE REGULATIONS shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year or both. Each day during which such violation exists is a separate offense.

In the event it becomes necessary for the city to bring action to enjoin or abate any such violation of this section, the city shall be entitled to recover, in addition to any fine or penalty imposed hereby, its cost of bringing said action and/or abating any such structure, building, fill, or development placed or maintained within the SFHA, which costs shall include attorneys' fees as well as the actual costs incurred by the city.

Section 5. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 6. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the

remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 7. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 10th day of August, 2015, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for September 14, 2015, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 7 to 0, this 14th day of September, 2015.

SIGNED by the Mayor on this 14th day of September, 2015.



ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk

Joyce Jay
Joyce Jay, Mayor

Approved As To Form
Gerald E. Dahl
Gerald E. Dahl, City Attorney

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