

ORDINANCE 2010 - 11

AN ORDINANCE AMENDING CHAPTER 45, SECTIONS 060, 070, 260, AND 270 PART V, OF TITLE 17, FRUITA LAND USE CODE, OF THE FRUITA MUNICIPAL CODE

WHEREAS, the City of Fruita participates in the National Flood Insurance Program, and

WHEREAS, part of this participation requires specific floodway, floodplain, and flood hazard area regulations regarding development in flood hazard areas, and

WHEREAS, changes were recently made to the National Flood Insurance Program, and

WHEREAS, changes must be made to the Fruita Land Use Code (Title 17 of the City's Municipal Code) to comply with National Flood Insurance Program requirements, and

WHEREAS, the Fruita Planning Commission held a public hearing on June 8, 2010, and recommended approval with no conditions to the City Council regarding proposed amendments to the Land Use Code, and

WHEREAS, a public hearing was held before the City Council on July 6, 2010, regarding proposed amendments to the Land Use Code.

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

Section 1. Chapter 45, Section 060, of Title 17 of the Fruita Municipal Code is hereby amended as follows (deletions in ~~striketrough~~ and additions in **BOLD CAPS**):

17.45.060 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.
The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled **THE "FLOOD INSURANCE STUDY OF MESA COUNTY, COLORADO AND INCORPORATED AREAS"** dated **JULY 6, 2010**, with an accompanying Flood Insurance Rate Map (FIRM) which is adopted by reference and declared to be part of this Chapter. The Flood Insurance Study and FIRM are on file at City of Fruita, 325 East Aspen, #155, Fruita, Colorado.

Section 2. Chapter 45, Section 070, of Title 17 of the Fruita Municipal Code is hereby amended as follows (deletions in ~~striketrough~~ and additions in **BOLD CAPS**):

17.45.070 COMPLIANCE REQUIRED. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and the other applicable regulations. **VIOLATION OF THE PROVISIONS OF THIS CHAPTER BY FAILURE TO COMPLY WITH ANY OF ITS REGULATIONS (INCLUDING VIOLATIONS OF CONDITIONS AND SAFEGUARDS ESTABLISHED IN CONNECTION WITH CONDITIONS)**

SHALL COMMIT A CLASS B MUNICIPAL OFFENSE IN ACCORDANCE WITH SECTION 17.01.100.

Section 3. Chapter 45, Section 260, of Title 17 of the Fruita Municipal Code is hereby amended as follows (deletions in ~~strike through~~ and additions in **BOLD CAPS**):

17.45.260 FLOODWAYS. Located within areas of special flood hazards established in Section 17.45.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- A. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited *unless* **IT HAS BEEN DEMONSTRATED THROUGH HYDROLOGIC AND HYDRAULIC ANALYSES PERFORMED IN ACCORDANCE WITH STANDARD ENGINEERING PRACTICE THAT THE PROPOSED ENCROACHMENT WOULD NOT RESULT IN ANY INCREASE IN THE BASE FLOOD LEVEL MORE THAN ONE (1) FOOT.**
- B. If subsection (A) of this Section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Part IV of this Chapter (Sections 17.45.160 through 17.45.260).
- C. **UNDER THE PROVISIONS OF 44 CFR CHAPTER 1, SECTION 65.12, OF THE NATIONAL FLOOD INSURANCE REGULATIONS, THE CITY OF FRUITA MAY PERMIT ENCROACHMENTS WITHIN THE ADOPTED REGULATORY FLOODWAY THAT WOULD RESULT IN AN INCREASE IN BASE FLOOD ELEVATIONS, PROVIDED THAT THE CITY FIRST APPLIES FOR A CONDITIONAL FIRM AND FLOODWAY REVISIONS THROUGH FEMA.**
- D. **WHEN A REGULATORY FLOODWAY HAS NOT BEEN DESIGNATED, NO NEW CONSTRUCTION, SUBSTANTIAL IMPROVEMENTS, OR OTHER DEVELOPMENT (INCLUDING FILL) SHALL BE PERMITTED WITHIN ZONES A1-30 AND AE ON THE COMMUNITY'S FIRM, 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 FOOT AT ANY POINT WITHIN THE COMMUNITY.**

Section 4. Chapter 45, Section 270, Part V, of Title 17 of the Fruita Municipal Code is hereby amended as follows (deletions in ~~strike through~~ and additions in **BOLD CAPS**):

FLOOD CONTROL DEFINITIONS. The following definitions are applicable to the flood control regulations:

- A. APPEAL - A request for a review of the Floodplain Administrator's interpretation of any provision of this Title or a request for a variance.
- B. SPECIAL FLOOD HAZARD AREA (SFHA)- The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.
- C. BASE FLOOD - The flood having a one (1) percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.
- D. DEVELOPMENT - Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- E. 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, installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) are completed before the effective date of this Title.
- F. EXPANSION TO EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots **OR SITES** 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).
- G. FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters, and/or;
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- H. FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- I. FLOOD INSURANCE STUDY (FIS)- The official report provided by the Federal Emergency Management Agency that includes flood profiles, used to administer the National Flood Insurance Program.

- J. FLOOD PROOFING – ANY COMBINATION OF STRUCTURAL AND NON-STRUCTURAL ADDITIONS, CHANGES, OR ADJUSTMENTS TO STRUCTURES WHICH REDUCE OR ELIMINATE FLOOD DAMAGE TO REAL ESTATE OR IMPROVED REAL PROPERTY, WATER AND SANITARY FACILITIES, STRUCTURES AND THEIR CONTENTS.**
- JK.** 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 one (1) foot.
- L. HIGHEST ADJACENT GRADE – THE HIGHEST NATURAL ELEVATION OF THE GROUND SURFACE PRIOR TO CONSTRUCTION NEXT TO THE PROPOSED WALLS OF A STRUCTURE.**
- KM.** 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 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 requirements of this Title.
- LN.** MANUFACTURED HOME - A structure that is 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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- MO.** NEW CONSTRUCTION - Structures for which the "start of construction" commenced on or after the effective date of the original ordinance codified in this Title, and includes any subsequent improvements to such structures.
- NP.** 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 the city's flood control regulations.
- OQ.** OBSTRUCTION - (Relating to floodplains) A dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter, in, along, across, or projecting into any drainway, channel, or watercourse, which might impede, retard or change the direction of the flow of water, either by itself or by catching and collecting debris carried by the water, or which is placed where the one hundred-year flood may carry the debris downstream.

PR. ONE HUNDRED YEAR FLOODPLAIN – See Special Flood Hazard Area.

QS. RECREATIONAL VEHICLE - A vehicle which is:

1. Built on a single chassis;
2. Four hundred (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.

RT. START OF CONSTRUCTION - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means 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 a 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.

SU. STRUCTURE - A walled and roofed building or manufactured home that is principally above ground.

TV. 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 fifty percent (50%) of the market value of the structure before the damage occurred.

UW. SUBSTANTIAL IMPROVEMENT - Any reconstruction or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term 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 to assure safe living conditions, or
 2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as an "historic structure".
- ~~VX.~~ VARIANCE - A grant of relief from the requirements of the flood control regulation contained in Chapter 17.45 of this Title which permits construction in a manner that would otherwise be prohibited by this Title.
- Y. 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 AS REQUIRED BY THIS CHAPTER IS PRESUMED TO BE IN VIOLATION UNTIL SUCH TIME THAT DOCUMENTATION IS PROVIDED.**
- Z. WATER SURFACE ELEVATION – THE HEIGHT, IN RELATION TO THE NATIONAL AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) OF FLOODS OF VARIOUS MAGNITUDES AND FREQUENCIES IN THE FLOODPLAINS OF RIVERINE AREAS.**

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS
_____ DAY OF _____, 2010.**

City of Fruita

ATTEST:

H. Kenneth Henry, Mayor

City Clerk