

PUBLIC WORKS MEMORANDUM
#41-2021

DATE: Nov. 8, 2021

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager *hmg*

FROM: Kent Kisselman PE, Director of Public Works *KK*
Tamara Moon, Environmental Manager *FM*

SUBJECT: CB-1977 – Modifications to Regulations to Minimize Flood Losses

PURPOSE

To consider CB-1977, an emergency ordinance, to amend Chapter 11 of the Municipal Code, Regulations to Minimize Flood Losses (Section 11-4-3 of the Unified Development Ordinance). This update is required due to updated mapping and studies/reports regarding the floodplain areas within Northglenn.

This ordinance needs emergency approval because the revised mapping takes effect on Dec. 2, 2021, and the ordinance must be updated prior to that date.

BACKGROUND

The Mile High Flood District (MHFD), previously the Urban Drainage and Flood Control District, was established to work with local governments to address multi-jurisdictional drainage and flood control challenges to protect people, property, and the environment. This work includes updates to master drainage plans and flood hazard area delineations – mapping of floodplains. The results of this work assist the community and property owners in planning for appropriate precautions to take relative to their position within or adjacent to mapped floodplains. It also provides more accurate mapping based on updated information and mapping technologies.

In 2015, the MHFD, Northglenn, Thornton, and Adams County began the process of updating the 1997 Master Drainage Plan and Flood Hazard Area Delineation for Grange Hall Creek and all its tributaries. The updated planning work was used to develop the documentation necessary to apply to the Federal Emergency Management Agency (FEMA) regarding floodplain mapping revisions. The process is now at the point that FEMA has issued Physical Map Revisions for the Flood Insurance Study report and all Flood Insurance Rate Maps (FIRMs) affected by Grange Hall Creek and its tributaries.

FIRMs reflect potential flood risk and are valuable tools for protecting lives and property. Knowing your flood risk is the first step to flood protection, which makes using the most accurate mapping materials available critically important.

The new flood maps help residents and business owners make informed decisions about personal safety and protecting financial assets. Up-to-date flood maps allow community planners, local officials, engineers, builders, and others to make determinations about where and how new structures, substantial improvements, development, and redevelopment should be built to reduce the risk of flood damage.

Flood risk changes over time due to erosion, land use, weather events and other factors. Flood risk can vary within the same neighborhood and even property to property, and it is important for property owners to have the latest and most reliable information to keep their property and families safe.

This mapping effort also identified existing backwater flooding (not previously mapped) of various properties along the South Tributary, the North Tributary, and the Northeast Tributary of Grange Hall Creek. This is due to more accurate topography information, mapping technologies, rainfall information and undersized culverts that cause water to back up and inundate the properties before the water level is high enough to flow over the various roads or railroad tracks. With this update, roughly 2% of the City is in a floodplain.

The revised FIRMs are final. FEMA issued the Letter of Final Determination to Northglenn on June 2, 2021. The maps will become effective on Dec. 2, 2021, as will any new flood insurance requirements.

Staff also took this opportunity to add language regarding temporary structures in a floodplain, as recommended by MHFD.

In October 2019, MHFD passed a resolution expressly prohibiting tents and makeshift structures from within its floodplains. These floodplain regulation changes were made for the sole purpose of public safety. The MHFD's enabling statutes state that "In the event of any conflict between this floodplain regulation and any floodplain regulation adopted by any other public body within MHFD, the more restrictive regulation shall control," making this prohibition the controlling regulation within the flood district.

Staff is taking this opportunity to update the ordinance language to match that of the MHFD, to reduce enforcement confusion and continue to put public safety first. Attached is a position paper (Attachment 1) from the MHFD that gives more information on this issue.

This ordinance change was presented at the Planning Commission meeting on Oct. 19, 2021, which included a public hearing on the proposed amendments.

BUDGET/TIME IMPLICATIONS

This ordinance update has no budget impacts. The updated map does not change the floodplain status of any City land or facility.

STAFF RECOMMENDATION

Staff recommends approval of CB-1977 on first and final reading.

STAFF REFERENCE

If Council members have any questions, please contact Kent Kisselman, Director of Public Works, at kkisselman@northglenn.org or 303.450.4005.

ATTACHMENT

1. MHFD Position Paper

Date: February 28, 2020

Subject: Position Paper – Tents and Makeshift Structures in Floodplains

In October 2019, the Mile High Flood District (MHFD) passed a resolution expressly prohibiting tents and makeshift structures from within the floodplains of MHFD. These floodplain regulation changes were made for the sole purpose of public safety. The MHFD’s enabling statutes state that “In the event of any conflict between this floodplain regulation and any floodplain regulation adopted by any other public body within MHFD, the more restrictive regulation shall control,” making this prohibition the controlling regulation within the Flood District.

The dangers of allowing the proliferation of tents and other makeshift structures for human habitation within your community’s floodplains are fourfold:

1. The individuals living in these structures put themselves at grave risk of serious injury and death by drowning during flooding.
2. The frequent swift-water rescue attempts of inhabitants of these makeshift structures during times of flood puts at risk the lives of first responders.
3. The building materials and furnishings of tents and makeshift structures within floodplains add to the debris load of the flood, clogging bridge and culvert openings, exacerbating flooding, and endangering the rest of the community.
4. The byproducts of human inhabitation of these structures (feces and refuse) pollute the floodwaters with fecal bacteria and other hazardous substances, endangering the rest of the community.

MHFD is well aware that urban camping is a complex issue, and that there are many other aspects to the situation than tents and makeshift structures in the floodplain. These other aspects are well beyond the jurisdiction of MHFD; however, we cannot allow the proliferation of unauthorized structures within our floodplains. We have never allowed the building of homes or businesses in the floodplain for safety reasons, and this is an effort to be consistent and protect a vulnerable population. The risk to the inhabitants, the first responders, and the rest of the community is too high. Our mission has always been to put public safety first, and that is the intent of this revised regulation—to do everything possible to prevent drowning deaths from occurring, while also protecting the health, safety, and wellbeing of the entire community.

MHFD has drafted several example model ordinances for the 41 jurisdictions’ consideration for adoption and are currently scheduling meetings with the local governments to discuss enforcement issues and solutions.

For a full copy of our revised amendment, please reach contact David Bennetts at dbennetts@MHFD.org

SPONSORED BY: MAYOR LEIGHTY

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1977
Series of 2021

Series of 2021

A BILL FOR AN EMERGENCY ORDINANCE AMENDING CHAPTER 11 OF THE NORTHGLENN MUNICIPAL CODE AMENDING VARIOUS SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE REGARDING FLOOD PLAIN REGULATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 11-4-3, subsection (c)(1) of the Northglenn Municipal Code is hereby amended to read as follows:

(1) **Jurisdiction AND STATUTORY AUTHORIZATION.**

(A) Section 11-4-3 shall apply to all areas of special flood hazard and areas removed from the floodplain by the issuance of a Federal Emergency Management Agency (FEMA) letter of map revision based on fill (LOMR-F) within the jurisdiction of the City of Northglenn.

(B) FEMA HAS IDENTIFIED THE AREAS OF SPECIAL FLOOD HAZARD IN THE FLOOD INSURANCE STUDY FOR ADAMS COUNTY, COLORADO AND INCORPORATED AREAS, DATED ~~January 20, 2016~~ DECEMBER 2, 2021, WITH ACCOMPANYING FLOOD INSURANCE RATE MAPS AND/OR FLOOD BOUNDARY FLOODWAY MAPS (FIRM AND/OR FBFM), AND THIS STUDY AND ACCOMPANYING FLOOD INSURANCE RATE MAPS, ARE HEREBY ADOPTED BY REFERENCE AND DECLARED TO BE A PART OF SECTION 11-4-3. FOR THE PURPOSE OF FINAL DETERMINATION OF THE AREAS OF SPECIAL FLOOD HAZARD, THE FLOOD PROFILE SHALL CONTROL. THE FLOOD INSURANCE STUDY AND THE FLOOD INSURANCE RATE MAPS ARE ON FILE IN THE DEPARTMENT OF PUBLIC WORKS.

(C) 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 COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, DOES HEREBY ADOPT THE FOLLOWING FLOODPLAIN MANAGEMENT REGULATIONS.

Section 2. Section 11-4-3, subsection (c)(2) of the Northglenn Municipal Code is hereby amended to read as follows:

(2) **Basis for Establishing Areas of Special Flood Hazard.**

FEMA has identified the areas of special flood hazard in the Flood Insurance Study for

Adams County, Colorado and Incorporated Areas, dated ~~January 20, 2016~~ DECEMBER 2, 2021, with accompanying flood insurance rate maps and/or flood boundary floodway maps (FIRM and/or FBFM), and this study and accompanying Flood Insurance Rate Maps, are hereby adopted by reference and declared to be a part of Section 11-4-3. For the purpose of final determination of the areas of special flood hazard, the flood profile shall control. The Flood Insurance Study and the Flood Insurance Rate Maps are on file in the Department of Public Works.

Section 3. Section 11-4-3, subsection (f)(3) of the Northglenn Municipal Code is hereby amended by the addition of a new sub-subsection (D) to read as follows:

(D) TEMPORARY STRUCTURES, INCLUDING BUT NOT LIMITED TO TENTS AND MAKESHIFT STRUCTURES, ENCLOSURES, OR OTHER SHELTERS USED FOR HUMAN HABITATION, SHALL NOT BE PERMITTED IN ANY SPECIAL FLOOD HAZARD AREA, UNLESS OTHERWISE APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

Section 4. Section 11-4-3, subsection (h) of the Northglenn Municipal Code is hereby amended by the addition of a new sub-subsection (h)(4), to read as follows [with the remaining subsections previously referenced as (h)(4) and (h)(5) renumbered to (h)(5) and (h)(6)]:

(4) TEMPORARY STRUCTURES, INCLUDING BUT NOT LIMITED TO TENTS AND MAKESHIFT STRUCTURES, ENCLOSURES, OR OTHER SHELTERS USED FOR HUMAN HABITATION, SHALL NOT BE PERMITTED IN ANY FLOODWAY, UNLESS OTHERWISE APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

Section 5. Section 11-7-4, entitled Definitions Related to Floodplain Regulations, is hereby amended by the amended definitions of Flood Insurance Study (FIS) and the addition of the definition of Structure, Temporary, as follows:

Flood Insurance Study (FIS)

The official report entitled, the Flood Insurance Study for Adams County, Colorado and Incorporated Areas, dated ~~January 20, 2016~~ DECEMBER 2, 2021, with accompanying flood insurance rate maps and/or flood boundary floodway maps (FIRM and/or FBFM), in which the Federal Emergency Management Agency has provided flood profiles, the Floodway Map, and the water surface elevation of the base flood, and any subsequent additions, updates, revisions or modifications to said study

* * *

STRUCTURE, TEMPORARY

A STRUCTURE WHICH IS BUILT OF SUCH MATERIALS AND IN SUCH A WAY THAT IT WOULD COMMONLY BE EXPECTED TO HAVE A RELATIVELY SHORT USEFUL LIFE, OR IS BUILT FOR A PURPOSE THAT WOULD COMMONLY BE EXPECTED TO BE RELATIVELY SHORT-TERM. EXAMPLES OF TEMPORARY STRUCTURE SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING: TENTS

AND MAKESHIFT STRUCTURES, ENCLOSURES, OR OTHER SHELTERS USED FOR HUMAN HABITATION.

Section 6. Authority. The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: (i) Section 31-15-103, C.R.S. (concerning municipal police powers); (ii) Section 31-15-401, C.R.S. (concerning municipal police powers); (iii) Article 20 of Title 29 of the Colorado Revised Statutes; (iv) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (v) the powers contained in the City of Northglenn Home Rule Charter (the "Charter").

Section 7. Emergency Declared. Pursuant to Section 4.11 of the Charter, the City Council finds, determines and declares that passage of this Ordinance is necessary for the immediate preservation of public property, health, peace and safety in order to have final approval of the new Flood Insurance Study for Adams County, Colorado and Incorporated Areas, dated December 2, 2021, with accompanying flood insurance rate maps and/or flood boundary floodway maps (FIRM and/or FBFM) prior to the federal-imposed deadline.

Section 8. The City Council finds and determines that this ordinance is necessary for the immediate preservation of public property, health, peace, or safety based on the emergency declaration set forth herein. Accordingly, pursuant to Section 4.11 of the Northglenn City Charter, **this ordinance shall take effect immediately upon enactment.**

PASSED ON FIRST AND FINAL READING this ____ day of _____, 2021.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney