

ORDINANCE NO. 3

Series 1987

AN ORDINANCE OF THE TOWN OF LAKE CITY, COLORADO, AMENDING THE LAKE CITY MUNICIPAL CODE, TO PROVIDE REVISED FLOOD PLAIN MANAGEMENT REGULATIONS.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LAKE CITY, COLORADO, as follows:

Section 1.

Ordinance No. 4 (Series, 1975) is hereby repealed and Chapter 15 of the Lake City Municipal Code, is amended by the addition of a new Section 7 to read as follows:

CHAPTER 15

Section 7

FLOOD PLAIN MANAGEMENT REGULATIONS

SUBSECTIONS:

- 15.7-1: General Provisions
- 15.7-2: Development Permits
- 15.7-3: Duties of Building Official
- 15.7-4: Standards
- 15.7-5: Additional Restrictions in Floodway
- 15.7-6: Appeals
- 15.7-7: Variances
- 15.7-8: Adoption of Maps, Study and Report
- 15.7-9: Enforcement

15.7-1: General Provisions:

(A) The regulations adopted by this section shall be in addition to and supplementary to all other ordinances and regulations of the Town of Lake City. Whenever any conflict exists between these regulations and any other ordinance or regulations, those providing the more stringent limitation or requirement shall apply.

(B) As used in this section, "development" means 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.

(C) As used in this section, "base flood" means a flood having a 1% chance of being equaled or exceeded in any given year.

(D) As used in this section, "flood" or "flooding" means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by "flooding" and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (a)(1) of this subsection.

(E) As used in this section, "flood insurance rate map" (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

(F) As used in this section, "flood insurance study" or "flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(G) As used in this section, "regulatory floodway" means 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 foot. The term "floodway" refers to the area designated as such on the Flood Plain Information Report adopted in Subsection 15.7-8.

(H) As used in this section, "new construction" means, for the purpose 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. For flood plain management purposes, "new construction"

means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

(I) As used in this section, "start of construction" [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L.98-348)] 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 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 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.

(J) As used in this section, "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. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(K) As used in this section, "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.

(L) As used in this section, "substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.

The term does not, however, include either:

(1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(M) Unless another definition is specifically provided, the terms used in these Flood Plain Management Regulations shall have the same meaning provided by regulations issued by the Federal Emergency Management Agency for the National Flood Insurance Program as found in 44 CFR, § 59.1.

(N) The degree of flood protection required by this section 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 man-made or natural causes. This section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the Town, any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(O) Amendments to these regulations shall be processed in accordance with procedures for amending the Lake City Zoning Ordinance and copies of all amendments shall be provided to the Federal Emergency Management Agency.

(P) As used in this section, "Floodplain" or "Area of Special Flood Hazard" shall both mean the land in the flood plain within the Town, subject to a one percent or greater chance of flooding in any given year and it shall include such areas as shown in the Flood Insurance Study and its related maps and plates as adopted in Subsection 15.7-8.

15.7-2: Development Permits:

(A) Within the designated "Floodplain, as shown on the Maps and Study adopted by subsection 15.7-8, a development permit shall be obtained prior to commencing any construction or development, or placement of any manufactured home.

(B) Application for a development permit shall be made on forms furnished by the Town which may require plans drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and their locations,

and other information appropriate for the administration of these regulations.

(C) Submitted with the application for a development permit for property within the Floodplain shall be the following information:

(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 structure has been floodproofed.

(3) Certification by a registered professional engineer or architect that the floodproofing methods of any non-residential structure meet the criteria of subsection 15.7-4(M).

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

(5) Other information required by the Town as necessary to administer and enforce the provision of these regulations.

15.7-3: Duties of Building Official:

The Building Official or other officer or employee designated by the Board of Trustees shall administer and enforce the provisions of these regulations, including the performance of the following duties:

(A) Review all development and other permits to determine that all requirements of these regulations have been met prior to any permit being approved.

(B) Review all development and other permits to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.

(C) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and record whether or not the structure contains a basement.

(D) For all new or substantially improved floodproofed structures, verify and record the actual elevation (in relation to mean sea level) to which the structure is floodproofed; and maintain on file the floodproofing certification required by subsection 15.7-4(M).

(E) Maintain for public inspection all records pertaining to these regulations.

(F) Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator.

(G) Require as a condition of permit approval that maintenance will be provided by the owner within an altered or relocated portion of any watercourse so that the flood carrying capacity is not diminished.

(H) Review all development permits and other permits and applications, including subdivision proposals and other new developments including manufactured home parks or subdivisions to determine whether such development will be reasonably safe from flooding.

(I) Require that an evacuation plan indicating alternate vehicular access and escape routes be filed with the Town and County of Hinsdale for manufactured home parks and manufactured home subdivisions located within the Floodplain.

(J) When base flood elevation data has not been provided in accordance with Subsection 15.7-8, obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Subsection 15.7-4(K), in order to administer Subsection 15.7-4.

15.7-4: Standards:

(A) The standards provided in this section shall apply within the designated Floodplain.

(B) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(C) All manufactured homes to be placed within said Floodplain shall be installed using methods and practices which minimize flood damage, and shall be elevated and anchored to resist floatation, collapse or lateral movement. Methods of anchoring may include, but are not limited to use of over the top or frame ties to ground anchors. The requirements of this paragraph (C) shall not apply when the grade of the ground itself has been elevated by compacted fill above the elevation of the base flood. Special requirements shall be that:

(1) Over the top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations; with manufactured homes less than 50 feet long requiring one additional tie per side.

(2) Frame ties be provided at each corner of the home with 5 additional ties per side at intermediate points; with manufactured homes less than 50 feet long requiring 4 additional ties per side.

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds.

(4) Any additions to the manufactured home be similarly anchored.

(5) In lieu of the special requirements of paragraphs (C)(1)(2) and (3) an alternative anchoring system may be used if a licensed professional engineer certifies or technical evaluation demonstrates that such system will adequately anchor the manufactured home with respect to a base flood discharge.

(D) All new construction and substantial improvements shall be constructed with materials resistant to flood damage, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(F) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

(H) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(I) All subdivision proposals shall be consistent with the need to minimize flood damage, and shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(J) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(K) Base flood elevation data shall be provided with subdivision proposals and other proposed development [including proposals for manufactured home parks and subdivisions] which contain at least 50 lots or 5 acres, whichever is less.

(L) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above base flood elevation.

(M) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor (including basement) elevated to or above the level of the base flood elevation, or, together with the attendant utility and sanitary facilities, shall:

(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water,

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and

(3) Have structural design, specifications and plans for the construction developed and/or reviewed by a registered professional engineer or architect who shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable provisions of this Subsection. Such certification, including elevations to which the structure is floodproofed, shall be provided to the Building Official.

(N) All manufactured homes to be placed within the Floodplain or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and are securely anchored to an adequately anchored foundation system according to subsection 15.7-4(C).

(O) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

15.7-5: Additional Restrictions in Floodway:

(A) In addition to the other requirements of these Flood Plain Management Regulations, the restrictions of this subsection shall apply within the floodway as designated in the Flood Plain Information Report adopted by Subsection 15.7-8.

(B) Until a regulatory floodway is designated by the Federal Energy Management Agency, no encroachments, including fill, new construction, substantial improvements, and other development shall be allowed within the boundaries of the floodway as shown on the FPIR, nor within the floodplain, unless a technical evaluation demonstrates that the cumulative effect of the proposed development when combined with all other existing and anticipated developments will not increase the water surface elevation of the base flood more than one foot at any point within the Town or adjacent areas of Hinsdale County.

(C) No manufactured home may be placed within any floodway.

15.7-6: Appeals:

(A) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building official in the enforcement or administration of these Regulations.

(B) In passing upon such application, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and

(1) the danger that materials may be swept into other lands to the injury of others;

(2) the danger to life and property due to flooding or erosion damage;

(3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) the importance of the services provided by the proposed facility to the community;

(5) the necessity to the facility of a waterfront location, where applicable;

(6) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

(7) the compatibility of the proposed use with the existing and anticipated development;

(8) the relationship of the proposed use to the comprehensive plan and floodplain management program for the Town;

(9) the safety of access to the property on times of flood for ordinary and emergency vehicles;

(10) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(11) 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, and water systems, streets and bridges.

(C) The Board of Adjustment may attach such conditions to the granting of an appeal as it deems necessary to further the purposes and requirements of these Regulations.

15.7-7: Variances:

(A) The Building Official is hereby authorized to grant a variance from these regulations for the reconstruction, rehabilitation, or restoration of structures listed on the National Register or State Inventory of Historic Places without regard to the other criteria of this Subsection.

(B) The Board of Zoning Adjustment shall have authority to grant a variance from the provisions of these regulations in accordance with the criteria provided in this Subsection following a hearing of which reasonable notice has been published.

(C) Application for a variance shall be accompanied by an application fee of \$25.00, and by all information necessary to show that the variance is justified in accordance with the criteria of this Subsection.

(D) Generally, 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, provided that all relevant technical considerations have been fully considered. As lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(E) In considering any variance, all technical considerations, all relevant factors, and the standards provided in these regulations shall be considered.

(F) A variance shall be issued only upon the determination that all of the following exist:

(1) The variance is a minimum necessary considering the flood hazards to afford relief.

(2) There is good and sufficient cause.

(3) Failure to grant the variance would result in exceptional hardship to the applicant, and

(4) The granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing laws.

(G) A variance shall be disallowed within the floodway if any increase in flood levels during the base flood discharge would result.

(H) The applicant for any variance shall have the burden of proof to show that the above criteria are met. Any technical or engineering data or information shall be prepared and certified by a registered professional engineer or other qualified professional. The Board of Adjustment may improve conditions as necessary to insure the above criteria are met.

(I) Records shall be maintained of all variance actions, including justification of their issuance, and they shall be included in the annual report submitted to the Federal Emergency Management Agency. The applicant for a variance which 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 increased commensurate with the increased risk resulting from the reduced lowest floor elevation, as high as \$25 per \$100 of insurance coverage, and that such construction increases risk to life and property. Copies of such notices shall be kept by the Town.

15.7-8: Adoption of Maps, Study and Report:

(A) The "Flood Insurance Study (FIS)" and "Flood Insurance Rate Map (FIRM)" for the Town of Lake City, Colorado, as promulgated by the Federal Insurance Administration, effective September 30, 1987, and the "Flood Plain Information Report, Lake Fork of the Gunnison and Henson Creek at Lake City" (FPIR),

as prepared by Westwater Engineering, Inc., dated August, 1985 and adopted by the Colorado Water Conservation Board are hereby adopted by reference for the purpose of administration and enforcement of these regulations.

(B) The Building Official shall interpret the exact locations of the boundaries of Floodplain as provided on the FIRM and in the FIS, and of the floodway as provided in the FPIR.

(C) In interpreting the boundaries of the Floodplain or of the floodway and in determining base flood elevation the Building Official shall obtain, review and reasonably utilize any base flood elevation data and other data available from other federal sources or sources officially approved by the Colorado Water Conservation Board.

15.7-9: Enforcement:

(A) It shall be unlawful for any person to violate any of the provisions of this section. Any person convicted of such a violation may be punished by a fine of up to \$300, or a jail sentence of up to 90 days, or by both such fine and imprisonment; provided, however, no person under the age of 18 years shall be subject to any term of imprisonment except for contempt of court. Each day any violation continues shall be considered a separate offense.

(B) The Town may maintain an action in any court of competent jurisdiction to enjoin or abate any violation of the requirements of this section.

(C) Any property, building or structure existing or maintained in violation of the requirements of this section is hereby declared to be a nuisance which may be abated in accordance with law.

Section 2.

If any provision of this ordinance or the application of it to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications. The provisions of this ordinance are expressly declared to be severable.

INTRODUCED, READ and ADOPTED by the Board of Trustees of the
Town of Lake City, Colorado, the 3rd day of June,
1987.

TOWN OF LAKE CITY, COLORADO

by Robert E. Hall
Mayor

ATTEST: .

Michelle L. Lauer
Town Clerk