

FLOOD DAMAGE PREVENTION RESOLUTION

CARBON COUNTY, WYOMING /

RESOLUTION 1983-11, AS AMENDED AND REENACTED

BY RESOLUTION 1989-10

September 5, 1989

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RESOLUTION NO. _____

FLOOD DAMAGE PREVENTION RESOLUTION

CARBON COUNTY, WYOMING

BE IT RESOLVED by the Board of Commissioners, Carbon County Wyoming, pursuant to the authority conferred by the provisions of Wyoming Statute 18-5-201, to amend and reenact Resolution 1983-11 as follows:

SECTION 1: GENERAL PROVISIONS

1.1 Title.

This resolution shall hereafter be known, cited, and referred to as the Flood Plain Management Regulations of Carbon County, Wyoming.

1.2 Statutory Authorization.

The Legislature of the State of Wyoming has in W.S. 18-5-201 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

1.3 Findings of Fact.

The flood hazard areas of Carbon County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.4 Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

(6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,

(8) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

1.5 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

1.6 Applicability.

The provisions of this ordinance shall apply to all areas of special flood hazards as delineated on the most recent Flood Insurance Rate Maps (FIRM), or revisions thereto, issued by the Federal Emergency Management Agency (FEMA), within the jurisdiction of Carbon County, Wyoming.

1.7 Determination of Areas of Special Flood Hazard.

The areas of special flood hazard, identified by the FEMA in its most recent FIRM, are adopted by reference and declared to be part of this ordinance. The FIRM is on file in the Carbon County Planning & Development Office in Rawlins, Wyoming.

1.8 Compliance.

No structure or land shall hereafter be constructed, located, extended, altered or developed without full compliance with the terms of this resolution and other applicable regulations.

1.9 Abrogation and Greater Restrictions.

This resolution is not intended to repeal, abrogate, or impair any other existing resolutions, laws, easements, covenants, or deed restrictions. However, where this resolution and another resolution, law, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

1.10 Interpretation.

In the interpretation of this resolution, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

1.11 Warning and Disclaimer of Liability.

The degree of flood protection required by this resolution 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 resolution does not imply that land outside the areas of special flood hazards or uses permitted within such areas of

special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This resolution shall not create liability on the part of Carbon County, Wyoming, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this resolution or any administrative decision lawfully made thereunder.

1.12 Separability.

If any part or provision of this resolution or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this resolution or the application thereof to other persons or circumstances. The Board of Commissioners of Carbon County hereby declares that it would have enacted the remainder of this resolution even without any such part, provision, or application.

SECTION 2: DEFINITIONS

2.1 Usage.

Unless specifically defined below, words or phrases used in this resolution shall be interpreted so as to give them the meaning they have in common usage and to give this resolution its most reasonable application.

2.2 Words and Terms Defined.

Appeal: A request for review of an interpretation or decision made by the Director in carrying out the provisions of this resolution.

Area of special flood hazard: The area which is subject to inundation by the base flood that is, the area which is subject to a one percent or greater chance of flooding in any given year. The area of special flood hazard is designated on the FIRMS as Zone A.

Base Flood: The flood having a one percent chance of being equalled or exceeded in any given year; also referred to as a "100 year flood".

Board of Commissioners: The Carbon County Board of Commissioners.

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.

Director of Planning & Development: The Director of the Carbon County Office of Planning & Development or his designee. Known also as Director.

FEMA: The Federal Emergency Management Agency.

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 usual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): An official map of a community, issued by FEMA which delineates areas of special flood hazard designated as Zone A.

Floodplain: The area which is inundated by the base flood; also referred to as the area of special flood hazard.

Manufactured Home: 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. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

Office of Planning & Development: The agency designated by the Board of Commissioners to administer these regulations; and, the office of the Planning Commission, also referred to as the "Planning Office".

Planning Commission: The Planning & Zoning Commission of Carbon County, Wyoming. The Director acts under the Planning Commission's guidance.

Structure: A walled and roofed building or manufactured home that is principally above ground.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent 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. "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 that alteration affects the external dimensions of the structure. This 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.

Violation: The failure of a structure or other development to be fully compliant with these regulations. Violation is presumed until such time as documentation showing otherwise is provided.

SECTION 3: ADMINISTRATION AND ENFORCEMENT

3.1 Designation and Duties of the Office of Planning & Development.

The Office of Planning and Development is hereby appointed to administer and implement this resolution under the authority and supervision of the Carbon County Planning & Zoning Commission and the Carbon County Board of Commissioners. The duties and responsibilities of the Office of Planning & Development shall include but not be limited to the following:

(1) Review permit applications to determine that the permit requirements of this resolution have been satisfied; and, approve or deny permits accordingly.

(2) Review permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(3) Review permit applications to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this resolution, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

(4) Issue permits if it is determined that there is no adverse effect, and the development is not a building. If it is determined that there is an adverse effect, issue permit after technical justification (i.e., a registered professional engineer's certification) for the proposed development is given and other provisions of this resolution have been met.

(5) When base flood elevation data is not available from FEMA, the Director of Planning & Development shall obtain, review, and reasonably utilize any base flood

elevation and floodway data available from a Federal, State, or other source in order to administer the provisions of the resolution.

(6) 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 whether or not the structure contains a basement.

(7) For all new or substantially improved floodproofed structures; verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed; and, maintain the floodproofing certifications required herein.

(8) Maintain for public inspection all records pertaining to the provisions of this resolution.

(9) Notify adjacent communities and the Wyoming Emergency Management Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(10) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(11) Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

3.2 Development Permits and Application Requirements.

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 1.7. Application for a Development Permit shall be made through the Office of Planning and Development and shall include the following:

(1) Plans drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and/or drainage facilities; and the location of the foregoing in relationship to the areas of special flood hazard;

(2) The elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(3) The elevation in relation to mean sea level to which any structure has been floodproofed;

(4) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 4.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

(6) Any other information deemed necessary to appropriately describe the development and its impacts to flooding; and,

(7) A fee of ten dollars (\$10) payable to the Carbon County Treasurer.

3.3 Review and Approval Procedures.

(1) Approval or denial of Development Permits by the Director of Planning and Development shall be based on all of the provisions of this resolution together with the following factors:

(a) The danger of life and property due to flooding or erosion damage;

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

(c) The danger that materials may be swept onto other lands to the injury of others;

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

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets, bridges, and public utilities such as sewer, gas, electrical and water systems;

(g) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters;

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

(i) The availability of alternative locations or designs which would reduce the degree of flood hazard to the proposed development or surrounding properties;

(j) Conformance of the proposed use or development with the provisions of the County's Subdivision and Zoning Regulations, official land use plans and policies, and other applicable local regulations;

(k) Compliance with any Federal and State permit or approval requirements applicable to the development.

(2) The Director of Planning and Development shall act upon an application for Development Permits as filed, or as amended. However, such permit shall not be issued until all required approvals have been granted for the particular development work to be covered by the permit.

(3) When the Director of Planning and Development determines that an application for a Development Permit does not meet the requirements of this resolution, or that such application proposes development which is inconsistent with the purpose of this resolution, not in conformance with the provisions herein, or inappropriate on the basis of one or more of the factors set forth in Section 3.3(1) herein, the application shall be denied. Upon request, the Director of Planning and Development shall provide the applicant with a written notice stating the reasons for denial.

3.4 Conditions of Approval.

(1) Issuance of a Development Permit shall be construed as a license to proceed with the work specifically authorized by such permit, subject to the provisions of these and other applicable regulations and to approval of any other permits required for the development. A Development Permit shall not be construed to provide any authority to violate, cancel, alter, or set aside any of the provisions of this resolution or of other applicable laws and regulations. Nor shall issuance of such permit prevent the Director of Planning and Development from thereafter requiring a correction of errors in plans or in construction, or of violations of this resolution.

(2) Development Permits shall become invalid if the work authorized thereby is not commenced within one year of the date of issuance.

(3) Development Permits are conditioned upon the development being carried out in accordance with the application information and plans on which the approval of the permit is based. Prior approval must be obtained from the Director of Planning and Development for any changes in the approved plans which may affect the extent or degree of

flood hazard or of compliance with this resolution. When such changes will result in significant variation from the previously approved application or plans, a new or amended Development Permit application shall be submitted.

(4) The Director of Planning and Development may attach such conditions to the approval of a Development Permit as he deems necessary to further the purposes or to insure conformance with the provisions of this resolution. Such conditions shall be set forth in writing as a part of or attachment to the permit, and shall have the same force and effect as the provisions of this resolution. The applicant shall be given a reasonable opportunity to appeal the attachment of such conditions as provided in Section 3.5.

3.5 Appeals.

(1) The Carbon County Planning Commission shall hear and render judgement on appeals when it is alleged that there is an error in any order, decision, or determination made by the Director of Planning and Development in interpreting, applying, or carrying out the provisions of this resolution.

(2) In acting upon appeals, the Planning Commission shall have all powers conferred upon the Director of Planning and Development with respect to interpretation of this resolution and approval or denial of Development Permits. The Planning Commission may reverse, affirm, or modify, wholly or partly, the order, decision, or determination appealed from.

(3) The concurring vote of a majority of a quorum of the Commission shall be necessary to reverse or modify any order, decision, or determination made by the Director of Planning and Development.

(4) The burden of proof on any appeal rests upon the applicant.

(5) Requests for appeal must be submitted in writing to the Office of the Planning and Development not less than twenty (20) days before the meeting of the Board at which the appeal is taken.

(6) The decision of the Carbon County Planning Commission may be appealed to the Board of County Commissioners by any person aggrieved or affected by any decision of the County Planning Commission. Such appeal shall be taken within 10 days from the date of the action appealed from by filing a notice of appeal with the Board of County Commissioners and the County Planning Commission specifying the grounds thereof.

(7) The Director of Planning and Development shall maintain a record of all action involving an appeal and shall report such actions to FEMA upon request.

3.6 Variances.

(1) The Carbon County Planning Commission shall hear and render judgement on all requests for variances from the requirements of this resolution.

(2) Variances may be issued generally for the following purposes, subject to all of the requirements and limitations of this subsection:

(a) New construction and substantial improvements to be erected below the base flood elevation in areas which are contiguous to and generally surrounded by other lots with existing structures constructed below the base flood level. As the lot size increases, the technical justification for the variance likewise increases.

(b) New construction, substantial improvements, and for other development necessary for the conduct of a functionally dependent use, provided that the other variance criteria are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and creates no additional threats to public safety.

(c) Reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or State Inventory of Historic Places without regard to the requirements and limitations of this resolution.

(3) Variances shall only be issued after consideration of all of the factors set forth in Section 3.3(1) of this resolution and upon the Planning Commission's determinations that:

(a) Good and sufficient cause has been shown for granting a variance;

(b) Failure to grant the variance would result in exceptional hardship to the applicant;

(c) The granting of the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, and will not create a nuisance, contribute to fraud on or victimization of the public, or conflict with local laws and ordinances;

(d) The variance to be granted is the minimum necessary, considering the flood hazard, to afford relief;

(4) Applications for variances must be submitted to the Office of Planning and Development not less than twenty (20) days before the meeting of the Planning Commission at which the application is to be considered. An application for a variance shall include all information required for a development permit application by Section 3.2 of this resolution and be accompanied by a \$10.00 fee. The Planning Commission shall hold a public hearing on each request for a variance and give public notices thereof at least fourteen (14) days before the date of the hearing.

(5) After a variance has been granted, a Development Permit may be issued when the Director of Planning and Development has determined that the proposed development complies with the terms and conditions of the variance and all other applicable provisions of this resolution. Such permit shall include a notation that the issuance thereof is based on a variance from the requirements of this resolution.

(6) To compensate for this increased flood hazard which might otherwise result from the granting of a variance, the Planning Commission may attach such conditions to a variance as it deems necessary to further the purposes of this resolution.

(7) Any applicant to whom a variance is granted shall be given written notice that the cost of flood insurance for the structure subject to such variance will be commensurate with the increased risk.

(8) Any person or persons jointly or severally aggrieved by any decision of the Planning Commission, may appeal the decision in to the Board of County Commissioners. Notice of such appeal must be filed with the Board of County Commissioners within ten (10) days of the Planning Commission's decision.

(9) The Director of Planning and Development shall maintain a record of all actions involving a variance and shall report such actions to FEMA upon request.

3.7 Enforcement.

(1) The Director of Planning and Development may inspect any development, construction work, building, structure, or premises to enforce compliance with the provisions of this resolution.

(2) Upon notice from the Director of Planning and Development, any development, occupancy, or use conducted or

established contrary to the provisions of this resolution shall be immediately stopped or discontinued. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person conducting the development, occupancy, or use, and shall state the conditions, if any, under which such development, occupancy, or use may be resumed.

(3) The Director of Planning and Development may revoke a Development Permit or other approval issued under the provisions of this resolution in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the approval was based. When approval for a development is revoked under the provisions of this resolution, any permits issued by the County for such development may also be revoked.

(4) Appropriate actions or proceedings may be taken by the Office of the County Attorney at the direction of the Board of Commissioners, at law or in equity, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure of premises, and these remedies shall be in addition to the measures described above and any penalties provided by law.

(5) Any person, firm, or corporation who shall fail to comply with any of the provisions hereof shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine no more than \$500.00, together with the cost of prosecution; and in default of payment thereof, by imprisonment for no more than thirty (30) days. Each day of violation constitutes a separate offense.

3.8 Administration Standards.

Whenever an administrative decision is necessary or desirable in the course of administration and enforcement of this resolution and standards for the making of such decision are not otherwise specified herein, then the decision shall be made so that the result will not be contrary to the purposes set forth in Section 1.4 of this resolution.

SECTION 4: PROVISIONS FOR FLOOD HAZARD REDUCTION

4.1 General Standards.

In all areas of special flood hazards, the following standards are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or

lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

(2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

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

(5) All new construction and substantial improvements shall be constructed 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;

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

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

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

4.2 Subdivisions.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

(4) Base flood elevation data shall be provided with the subdivision proposals, and other proposed developments that contain at least 50 lots or 5 acres (whichever is less).

4.3 Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided, the following standards are required:

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

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

(a) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

(c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph.

SECTION 5: ADOPTION OF THIS RESOLUTION

This resolution, "The Flood Damage Prevention Resolution", shall take effect immediately upon adoption by the Board of Commissioners of Carbon County, Wyoming, in the manner prescribed by State law.

PASSED, ADOPTED AND APPROVED this 5th day of September, 1989.

Board of County Commissioners
of Carbon County, Wyoming

O. R. "Bud" Daily
O. R. "Bud" Daily, Chairman

Gary Graalman
Gary Graalman

O. R. Wille
O. R. "Bud" Wille

Attest: W. E. Harshman
William E. Harshman
County Clerk