

BOARD OF COUNTY COMMISSIONERS
DOLOROS COUNTY

P.O. Box 614

DOVE CREEK, COLORADO 81324

PHONE 303-677-2383

Notice of Adoption of Ordinance
Please take notice that
Ordinance No. 1989-1
an Ordinance revising and Re-enacting
Floodplain Management Regulations

Previously adopted Pursuant to Resolution P3-75 and P4-75
was adopted by the Board of County Commissioners of Dolores
County on January 17, 1989.

No amendments was made to the text of the Ordinance as
originally Published.

This notice given by the order of the Board of County
Commissioners.

Signed - Maxine Sanders
Commissioners Secretary

ORDINANCE NO. 1989-1

AN ORDINANCE REVISING AND REENACTING
FLOODPLAIN MANAGEMENT REGULATIONS
PREVIOUSLY ADOPTED PURSUANT TO RESOLUTION P3-75 and P4-75

WHEREAS, the Board of County Commissioners of Dolores County, Colorado, did, on June 23, 1975, adopt Resolution Nos. P3-75 and P4-75, approving Floodplain Management Regulations for the unincorporated areas of Dolores County, and

WHEREAS, the Board of County Commissioners, in furtherance of said Resolution, adopted Resolution P2-76 on January 5, 1976, requiring issuance of building permits within the unincorporated territory of Dolores County, and

WHEREAS, the Board of County Commissioners deems it necessary to make certain revisions to said Regulations for the more effective administration of areas of special flood hazard and to encompass modern terminology used by Federal Agencies in administration of flood hazard areas, and

WHEREAS, certain changes are further desirable to ease the regulatory burden on County residents, while at the same time making it possible for the County to participate in the Flood Insurance Program of the Federal Emergency Management Agency, thereby making flood insurance and federally insured home loans available to persons whose property is located within areas of special flood hazard, and

WHEREAS, the Board of County Commissioners has determined that the revision and reenactment of Floodplain Management Regulations is necessary for the preservation of the public health, welfare, and safety, and

WHEREAS, such revision and reenactment is governed by Title 30, Article 15, Part 4, C.R.S. 1973, requiring that such Regulations be re-adopted as an Ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DOLORES COUNTY, COLORADO:

The Floodplain Management Regulations adopted June 23, 1975, by Resolution No. P3-75 and P4-75 are hereby revised and reenacted in their entirety as set forth herein.

BE IT FURTHER ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DOLORES COUNTY, COLORADO:

Section 1: Introduction

1.1 The areas of special flood hazard within Dolores 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 hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.2 Statutory Authorization - This Ordinance is adopted pursuant to Title 29, Article 20, Section 101, et seq., and Title 30, Article 15, Part 4 of the 1973 Colorado Revised Statutes.

1.3 Statement of Purpose - The intent and purpose of this Ordinance is to promote the public health, safety and general welfare and to minimize losses due to flood conditions in specific areas by provisions designed to:

- 1.3-1 Protect human life and health;
- 1.3-2 Minimize or eliminate infiltration of, or discharge to, flood waters with respect to new or replacement water supply and waste disposal systems;
- 1.3-3 Ensure that those who occupy areas of special flood hazard assume responsibility for their actions;
- 1.3-4 Protect the public from the burden of avoidable financial expenditures for flood control projects, flood relief measures, and damages to public utilities, streets, and bridges;
- 1.3-5 Prevent avoidable business and commerce interruptions;
- 1.3-6 Ensure that potential buyers are on notice that property is subject to flood hazard and the mitigation requirements which must be met for use of such property;
- 1.3-7 Facilitate the administration of flood hazard areas by establishing requirements which must be met before construction in such areas is permitted; and,
- 1.3-8 Facilitate the County's participation in the Federal Flood Insurance Program;
- 1.3-9 Maintain a stable tax base by protection of property values and minimizing flood blight.

Section 2: Definitions

2.1 For the purpose of this Ordinance, and to aid communication with other officials, certain terms are defined as follows:

Area of shallow flooding - a designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

Area of special flood hazard - the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year; i.e., subject to one hundred year flood. See "base flood".

Base flood - a flood having one percent chance of being equalled or exceeded in any year. The term is used interchangeably with the intermediate regional flood, the one hundred year flood and the one percent flood.

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, drilling operations, or subdivisions.

Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, rivers, or other inland waters, or (b) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood fringe - that area of the floodplain exclusive of the floodway area; plus that portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the base flood more than one (1) foot at any point. Where no floodway has been determined, the flood fringe shall be considered to be that portion of the floodplain in which the waters of a base flood will not attain a maximum depth greater than one and one-half (1.5) feet or a velocity of over three (3) feet per second.

Flood Insurance Rate Map (FIRM) - the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard designated as Zone A.

Floodplain - an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of a base flood and which area thus is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property.

Floodway - that area of the floodplain exclusive of the flood fringe, in which the channel of the watercourse and those portions of the adjoining floodplain which must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.

"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, such as mobile homes, modular homes, and the like. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

New construction - structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

Nonconforming Use - any structure, development, or land use in existence on the effective date of this Ordinance and not permitted under the terms and provisions of this Ordinance.

One Hundred Year Flood - See "Base flood".

Structure - a walled and roofed building that is principally above ground, or manufactured home.

Subdivision - any subdivision as defined in §30-28-110 (10), C.R.S. 1973, as the same may from time to time be amended.

Substantial Improvement - any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement has started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purpose 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 that alteration affects the external dimensions of the structure.

The term does not, however, include either (a) 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 (b) any alteration of a structure listed on the National Register of Historic Places or the Colorado State Historical Society's list of historical places.

Variance - a grant of relief from the requirements of this Ordinance which permits construction in a manner that would otherwise be prohibited by this Ordinance.

Section 3: General Provisions

3.1 Lands to Which This Ordinance Applies:

3.1-1 This Ordinance shall apply to all areas of special flood hazard in the unincorporated portions of Dolores County, as shown on the Flood Insurance Rate Maps (FIRM) adopted pursuant to this Ordinance.

3.2 The Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM), together with the areas of special flood hazard identified therein, dated March 1, 1986, is adopted by reference and declared to be part of this Ordinance. The FIRM is on file at the office of the Board of County Commissioners of Dolores County. Amendments to the FIRM shall be adopted using the procedure specified in Section 3.4.

3.3 Compliance

No structure shall hereafter be constructed, located, extended, or altered nor any land subdivided, without full compliance with the terms of this Ordinance and other applicable regulations.

3.4 Amendments

Any changes or amendments to this Ordinance shall be adopted pursuant to the procedure set forth in §§30-15-401 et. seq., C.R.S. 1973, as the same may from time to time be amended.

3.5 Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered by reasonable for the protection of life and property and is based on engineering and scientific methods of study. Larger floods can occur on rare occasions or the flood height may be increased by man-made or natural causes. This Ordinance does not imply that areas outside the regulated floodplains will be free from flooding or flood damages or that compliance with this Ordinance will prevent any or all damages from flooding. This Ordinance shall not create liability on the part of the County, the Federal Emergency Management Agency, or any officer or employee

thereof, for any damages that result from reliance on this Ordinance or any administrative decision made thereunder. Nothing in this Ordinance, or any activities conducted hereunder, shall be deemed to assume a duty of care on the part of the County, its officers or employees.

3.6 Severability

If any section, clause, provision, or portion of this Ordinance should be found to be unconstitutional or otherwise invalid by a Court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.

3.7 Interpretation

In the interpretation and application of this Ordinance, all provisions shall be:

3.7-1 Considered as minimum requirements;

3.7-2 Deemed neither to limit nor repeal any other powers granted under State statutes.

3.7-3 Liberally construed to further the purposes of this Ordinance.

3.8 Validity of Prior Regulations

Nothing herein shall be deemed to affect the validity of the Regulations adopted pursuant to Resolution P3-75 and P4-75 and all actions taken thereunder.

3.9 Abrogation and Greater Restrictions

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

Section 4: Administration

4.1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a development permit shall be made on forms furnished by the Administrator and may include, but not be limited to:

Plans in duplicate 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 the location of the foregoing. Specifically, the following information is required:

4.1-1 Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

- 4.1-2 Elevation in relation to mean sea level to which any structure has been floodproofed;
- 4.1-3 Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5.2-2; and,
- 4.1-4 Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 Designation of Administrator

The County Administrator or his designee is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 Duties and Responsibilities of the Administrator

Duties of the Administrator shall include but not be limited to:

4.3-1 Permit Review

(a) Review all applications for development permits to determine that the permit requirements of this ordinance have been satisfied.

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

(c) Review all applications for development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this ordinance, "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.

(1) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

(2) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.

(3) If the proposed development is a building, then the provisions of this Ordinance shall apply.

4.3-2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.2, Adoption of Maps, the Administrator shall obtain, review, and reasonably utilize any base flood

elevation and floodway data available from a Federal, State, or other source, including without limitation data contained in applications for development permits under this Ordinance, as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained

(1) 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.

(2) For all new or substantially improved floodproofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

(b) Maintain the floodproofing certifications required in Section 4.1(3).

(3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 Alteration of Watercourses

(1) 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 Emergency Management Agency.

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

4.3-5 Interpretation of FIRM Boundaries

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).

4.3-6 Preparation of Submittals

Technical information shall be prepared and certified by a Professional Engineer, registered in the State of Colorado. Elevation and location data required may be provided by a registered Land Surveyor.

4.3-7 Information to Be Kept on File

Whenever an applicant is required to prepare and submit base flood elevation data in areas designated on the FIRM on an approximate A Zone, the applicant shall also submit all

underlying data and engineering calculations. Such information shall be kept on file for use pursuant to subsection 4.3-2 hereof.

4.4 Variance Procedure

4.4-1 Appeal Board

(a) A Board of Appeals consisting of the Board of County Commissioners is established to hear and decide appeals and request for variances from the requirements of this Ordinance.

(b) The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made in the enforcement or administration of this Ordinance.

(c) Those aggrieved by the decision of the Board of Appeals may seek judicial review of such decision pursuant to C.R.C.P. 106 (a) (4).

(d) In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this Ordinance, and:

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

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

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

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

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

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

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

(viii) the relationship of the proposed use to the master plan and floodplain management program of that area;

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

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

(xi) 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, and streets and bridges.

(e) Upon consideration of the above factors and the purposes of this Ordinance, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

4.4-2 Conditions for Variance:

(a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.

(b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(e) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5.1 General Standards

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

5.1-1 Anchoring

(a) 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.

(b) All manufactured or mobile 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. Specific requirements may be:

(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 five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

(3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

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

5.1-2 Construction Materials and Methods

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

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

(c) 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.

5.1-3 Utilities

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

(b) 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; and,

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

5.1-4 Subdivision Proposals

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

- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less) and the boundaries of the base flood shall be shown on the plat.
- (e) All subdivision plats shall contain notice to prospective purchasers that the property is located within an area subject to the requirements of this Ordinance.

5.1-5 Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

5.2 Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 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.

5.2-2 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. Such certifications shall be provided to the official as set forth in Section 4.1-3.

Section 6: Enforcement

- 6.1 Violation - Penalties - Violations of any provisions of the Ordinance shall be punishable as provided in Section 30-15-402, C.R.S. 1973, as the same may from time to time be amended.
- 6.2 Separate Offenses - Where a development, as defined herein, is in violation of any provision of this Ordinance, each day that such development is in violation shall be deemed a separate offense.
- 6.3 Other Remedies - The Board of County Commissioners may institute an appropriate action for injunction, mandamus, or abatement to prevent, enjoin, abate or remove development not in compliance with this Ordinance.

Section 7: Effective Date

- 7.1 Findings of Fact - The Board of County Commissioners finds that continued participation in the Federal Flood Insurance Program is contingent upon passage of this Ordinance and adoption of the Flood Insurance Rate Maps submitted by the Federal Emergency Management Agency. The Board of County Commissioners therefore finds that this Ordinance is necessary for the immediate preservation of the public health and safety and must therefore take effect immediately upon its adoption, as provided in Section 30-15-405, C.R.S. 1973.
- 7.2 Ordinance to Take Effect Immediately Upon Adoption - This Ordinance shall take effect immediately upon its adoption.

DONE AND ADOPTED in Dove Creek, Colorado this 17 day of January, 1989.

BOARD OF COUNTY COMMISSIONERS
DOLORES COUNTY, COLORADO

Weldon H. Jones
Louis A. Bucher
Wayne Twilley

STATE OF COLORADO)
) ss.
 County of Dolores)

I, Earlene White, County Clerk and Recorder of the County of Dolores, State of Colorado, do hereby certify that the foregoing Ordinance No. 1989-1 constitutes a true and correct copy of the Ordinance adopted by the Board of County Commissioners of said County at its regular meeting held on the 17 day of January, 1989, at the Dolores County Courthouse, Dove Creek, Colorado, and that in regard to said Ordinance, the following proceedings were had and actions taken:

- 1. The Ordinance was introduced and read at the regular meeting of the Board of County Commissioners on the 5th day of December, 1988

2. The proposed Ordinance was published in full in the Dove Creek Press being a newspaper of general circulation in Dolores County, on the 8th day of December, 1988.
3. At the regular meeting on the 17th day of January 1989, Ordinance No. 1 was adopted by majority vote.
4. Following its adoption by the Board of County Commissioners, said Ordinance No. 1989-1 was published by title, together with the full text of all amendments thereto, in the Dove Creek Press, a newspaper of general circulation in Dolores County, on the 23rd day of February, 1989.

Earlene White

Earlene White
County Clerk and Recorder

APPROVAL BY COUNTY ATTORNEY:

Guy B. Dyer, Jr.

Guy B. Dyer, Jr.