

Published by Municipal Code Corporation

ORDINANCE NO. 1482

AN ORDINANCE AMENDING CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION BY ADDING THERETO A ZONING CATEGORY AND REGULATIONS THEREUNDER TO CONTROL LAND USE AND CONSTRUCTION, ALTERATION OR RECONSTRUCTION OF BUILDINGS WITHIN ANY FLOOD REGULATORY AREA WITHIN THE CITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

Section 1. That Section 3(b) of Chapter 32 of the Code of Ordinances of the City of Grand Junction is amended by the addition thereto of a Section 16 which shall read as follows:

Section 16. Flood Plain Zoning and Regulations Thereunder

The following provisions and regulations shall apply in those areas as the City Council may from time to time determine and shall be in addition to any other zoning category having application in the particular area.

Section 3. ZONE CLASSIFICATIONS

b. Zone Districts:

(16) FLOOD PLAIN ZONING AND REGULATIONS THEREUNDER

A. PURPOSES. This article regulating certain areas subject to flooding is adopted to promote the public health, safety and welfare;

1. By reducing the hazard of floods to life and property through:

a. Prohibiting certain uses which are dangerous to life or property in time of flood;

b. Restricting uses which would be hazardous to the public health and safety in time of flood;

c. Requiring, on uses allowed, that structures be erected to prevent their being washed away as well as protecting such structures from severe damage;

2. By protecting those intending to occupy the flood plain through:

a. Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures;

b. Regulating the method of construction of water supply and

sanitation systems so as to prevent disease, contamination and unsanitary conditions;

c. Requiring recording of the within regulations and maps delineating areas subject to such regulations so as to protect individuals from purchasing lands for purposes which are not suitable.

3. To protect the public from the burden of extraordinary financial expenditures for flood control and relief by regulating a method of construction and a pattern of development which will reduce the probability of damage to property and loss of life or injury to the inhabitants of the flood hazard areas.

4. To protect the natural areas required to convey flood flows and retain slow flow characteristics;

5. To regulate and control the area subject to flood ponding so that it develops in a manner consistent with reasonable flood plain management;

6. To protect and preserve the water-carrying characteristics and capacities of all water courses, including gulches, sloughs, and artificial water channels, used for conveying flood waters.

B. DEFINITIONS.

"Channel" means a natural or artificial low lying land area of perceptible extent with definite bed and banks to confine and conduct continuously or periodically flowing water of which ordinarily confines standing water such as a lake.

"Director" shall mean the Director of Development of the City of Grand Junction.

"Flood" means water from a river, stream, water course, lake or other body of standing water, that temporarily overflows the boundaries within which it is ordinarily confined.

"Flood plain" means a river, stream, water course, lake or other body of standing water, along with the relatively flat or low land areas which are inundated by a one hundred year flood. This term is synonymous with "flood regulator area"; and includes "flood storage areas" and "floodway areas."

"Flood storage areas" means those portions of the flood plain that serve as temporary storage areas for flood waters and that lie landward of the floodway area; such areas tend to reduce downstream flood peaks.

"Floodway area" means that portion of the flood plain or flood regulatory area required for the passage or conveyance of the one hundred year flood. Waters will flow at significant depths with significant velocities.

"Flood profile" means engineering conclusions, based both upon historical facts and-or generally accepted engineering principles, represented on a graph or other medium showing the relationship of the water surface elevation of a flood to the lands surrounding a channel.

"Flood proofing" (Flood Proof, Flood Proofed) means combination of provisions, changes, or adjustments to structures and moveable objects located on properties primarily for the reduction or elimination of flood damages and the washing away of the same during a flood.

"Flood protection elevation" means an elevation two feet above the flood profile under existing conditions.

"Moveable objects" means items such as trailers, automobiles, mobile homes, tanks, lumber or other materials not anchored to the ground which are subject to being transported by water.

"One hundred year flood" means a flood which has a frequency of occurrence of one hundred years determined from an analysis of floods on a particular water course and other water courses in the same general region; there is approximately a one percent chance of its occurring or its being exceeded in any given year.

"Permanent structure" means a structure which is built of such materials and in such a way that it would commonly be expected to last and remain useful for a substantial period of time.

"Temporary structure" means 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.

"Water course" means stream, creek, pond, natural or artificial depression, slough, gulch, arroyo, reservoir, or lake in, or into, which storm run-off and flood water flows either regularly or infrequently. This includes established drainage ways, natural as well as man-made, for carrying urban storm run-off.

C. FLOOD REGULATORY AREA.

1. Areas included. The flood regulatory area is the channel along with those areas of inundation and projected water elevation on all sides of water courses arising from a one hundred year flood based upon approved flood profiles. Such area is subdivided into the floodway district (which includes the entire floodway area) and the flood storage district (which includes all flood storage area).

The extent of both the floodway district and the flood storage district shall be set forth and delineated upon official maps which shall be approved by motion of the City Council. The City

Council shall satisfy itself that the studies, resulting in the flood profiles, the extent of the one hundred year flood and the delineation of each of said districts, have been conducted by people competent in the field of open channel hydrology and that the information and conclusions stated therein are accurate and that the map(s) has (have) received approval of the Colorado Water Conservation Board. An advisory report and recommendations by the planning board shall be required prior to action by the City Council, but the City Council shall always retain the discretion to disapprove any map or any amendment proposed thereto or to repeal by motion any official map, including amendments thereto, which has previously been approved or adopted.

When any such map has been so approved by the City Council, it shall be an official map of the flood regulatory area, the floodway district and the flood storage district and it shall be kept on file with the Director and the City Clerk. a true copy thereof shall be maintained by the officers responsible for the administration of this article.

2. Notice--Adoption of Official Map. The planning board and the City Council shall each hold a public hearing prior to adopting an official map for any flood regulatory area. A copy of the proposed map shall be on file in the office of the Director and available for inspection at least forty-five days before each of the scheduled hearings. Anything to the contrary notwithstanding in this chapter contained, notice of such public hearing shall be given by publication in the newspaper of general circulation within the city. The notice shall be published not less than fifteen days prior to the date of the hearing. The notice shall indicate the water course involved and shall state generally the lands which are proposed to be included within the flood regulatory area. The notice shall state that the proposed map is on file in the office of the Director and available for inspection by any interested party. Such notice and adoption procedures shall not apply to the adoption of the map prepared by the Department of the Army Corps of Engineers for the flood regulatory area on the Gunnison and Colorado rivers in the City.

3. Changes in Official Map(s). In the event at any time there is a proposed change in or amendment to an official map, the Director shall certify the same to the planning board. The planning board, after holding a hearing shall forward its recommendation to the City Council. The City Council shall act upon such recommendation in accordance with the provisions of Section 8(g) of the City Zoning Ordinance of Grand Junction, Colorado.

4. Recording. A copy of the within provisions shall be recorded in the office of the City Clerk. A copy of any official map, and changes in or amendments to the same, shall also be recorded in the Office of the City Clerk.

The public may also obtain information regarding any changes or amendments which are proposed or in process by making inquiry at

the office of the Director of Development, City of Grand Junction, Colo.

D. APPLICABILITY AND ADMINISTRATION OF REGULATIONS.

1. The regulations as contained in this article shall apply to all lands in the respective districts as delineated on any official map. Where a lot or parcel of land lies partly within the floodway district or the flood storage district, the part of such lot or parcel lying within the said respective district(s) shall meet all the standards and requirements of such district as hereinafter set forth.

The regulations as contained in this article shall be construed as being supplementary to the regulations imposed on the same lands by any underlying zoning ordinance. In the event of a conflict of one with the other, the more restrictive of the regulations shall control.

2. The Director shall be responsible for administering the within regulations and the provisions of this article.

E. NONCONFORMING USES--STANDARDS AND CONDITIONS OF USE.

Within any flood regulatory area, all existing lawful uses of land may be continued if they meet the conditions set forth in this section. No permitted nonconforming uses, except residential, shall be expanded or enlarged without complying with the provisions of this article. Residential uses may be expanded subject to compliance with all other applicable City building regulations. If any such lawful nonconforming use is discontinued for twelve consecutive months, any further use shall conform to the regulations of this article. Alterations and repairs required as a result of ordinary wear and tear, deterioration or depreciation, and which are insubstantial and do not create any substantially new or substantially different nonconformity will be permitted so long as all other applicable city building regulations are complied with. The Director, when reviewing an application for a building permit to restore a structure damaged by fire, explosion or act of God other than a flood, shall ensure that, under the circumstance, appropriate flood proofing is accomplished and if the structure is to be completely rebuilt that it is placed so as to offer the minimum resistance to flood, provided, however, such requirement shall not apply to the restoration of residential uses.

F. PERMITTED USES IN FLOODWAY DISTRICT--STANDARDS AND CONDITIONS OF USE.

The following open uses shall be permitted within the flood district to the extent that they are not prohibited by underlying zoning ordinance:

1. Agricultural uses such as general farming, grazing of horses

and livestock, truck farming, forestry, sod farming, wild crop harvesting and the raising of plants, flowers and nursery stock;

2. Industrial--Commercial types of use such as a loading area; railroad rights-of-way not including freight yards or switching, storage or industrial sidings; airport landing strips, storage yards for materials, equipment or machinery easily moved out or not subject to being washed away by flood but not including junk yards;

3. Recreational uses such as swimming pools, golf courses, golf driving ranges, open air theaters, parks, picnic grounds, camp sites, horseback riding and hiking areas;

4. Wildlife and nature preserves, game farms and fish hatcheries;

5. Open pit mining for the removal of top soil, sand, gravel or other minerals;

6. Utility transmission lines, pipelines, water monitoring devices and roadways (not including bridges); provided, however, that unless a permit is first obtained, in accordance with the provisions of Section G.

The following uses are prohibited except as provided in Section G:

1. Structures, permanent or temporary, shall not be erected;

2. No more than normal filling shall be done or accomplished;

3. No changes shall be made in a channel of a water course.

4. There shall be no storage or processing of materials that are buoyant, flammable, poisonous, explosive; or in times of flooding could be harmful, detrimental or injurious to human, animal or plant life.

5. There shall be no storage of moveable objects;

6. All other accessory uses are prohibited.

G. PERMITS FOR OTHER USES--FLOODWAY DISTRICT.

1. In the floodway district, in order to accomplish more than nominal filling, or to build a solid fence or wall, or to store materials or moveable objects, or to build a permanent or temporary structure, or to build a bridge, dam or irrigation structure, or to make any change in a channel, or to construct public utility facilities including electrical substations, static transformer stations, gas regulator stations and telephone exchange facilities, or to make a use of land other than that which is permitted under the provisions of this section (but such an applied for use must conform to the provisions of an underlying zoning ordinance) an application, therefore, shall be submitted to

the Director and processed according to the standards, provisions and procedures as contained in this section.

2. The applicant shall submit two copies of an aerial photograph and two copies of contour maps, if available, or plan certified by a registered engineer competent in open channel hydrology, which accurately locates the flood plain proposal with respect to the district limits, channel or stream, existing developments and prospects for undeveloped areas, together with all pertinent information such as the legal description of the property, the zoning of the property, the addresses of affected property owners, the nature of the proposal, the fill limits and elevations; building floor elevations and proposed flood proofing measures.

The applicant may also be required to furnish such additional information and details as is deemed necessary by the Director for evaluation relating to the effects of the proposal upon the floodway areas and flood storage areas which can include, but are not limited to the following:

a. A typical valley cross-section showing the channel, the flood plain surrounding the channel, a cross-sectional of the area to be occupied by the proposed development, and high water information.

b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevation; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets, water supply, sanitary facilities, and soil types.

c. Profile showing the slope of the bottom of the channel or thalweg of the watercourse.

d. Specifications for building construction and materials, filling, dredging, grading, channel improvement or changes, storage of materials, water supply and sanitary facilities.

3. The Director will, when reviewing an application for a permit, judge the same as to whether or not it meets the purposes of this article by considering, by way of illustration but not limitation, the following;

a. The effects upon the efficiency or capacity of the floodway area;

b. The effects upon lands upstream, downstream and in the immediate vicinity;

c. The effects upon the flood profile and flood heights;

d. The effects upon the flood storage district and lands beyond the flood storage district;

e. The effects upon any tributaries to the main stream, drainage

ditches or any other drainage facilities or systems;

f. Whether additional public expenditures for flood protection or prevention will be necessitated;

g. Whether the applicant would obtain an undue advantage compared to later applicants who might request a permit;

h. Whether the proposed use is a dwelling unit or will otherwise be inhabited;

i. The potential danger to persons upstream, downstream and in the immediate vicinity.

If the Director is satisfied that the purposes have been fulfilled by the applied for use, he shall issue the permit and may attach such conditions as he deems necessary in furtherance of the purposes of this article.

4. Such conditions may include, by illustration but not limitation, any, or a combination of, the following:

a. Modification of sewage and other waste disposal facilities;

b. Modification of water supply facilities;

c. The placement or location of the structure on the site so that it offers the minimum obstruction to the flow of flood waters by requiring:

(1) The structure to be placed with the longitudinal axis parallel to the direction of flow of flood waters; and

(2) The structure to be placed so that its longitudinal axis is placed on the same line as those of adjoining structures;

d. Floodproofing measures;

e. That structures especially dwelling units or those which will otherwise be inhabited, be constructed upon caissons or stanchions, or that they be constructed on fill;

f. Where filling is to occur, that it will be protected against erosion by rip-rap, strong vegetative cover or bulkheading;

g. That where the use allows, storage or processing of materials that are buoyant, flammable, poisonous, explosive, or in times of flooding could be harmful, detrimental or injurious to human, animal or plant life, the same shall be at or above a point two feet above the one hundred year flood elevation for the particular area;

h. Operational controls and the period of operation;

i. Where a bridge is involved, it is designed and constructed so as to allow the passage of flood waters or give way and disintegrate in the path of a flood.

If the Director issues the permit, such permit shall not be effective for thirty days from the date of such issuance. During such period the Director shall forward to the City Council a report including the relevant data on the applied for use, his reasons for approving the application and any conditions which have been imposed. The City Council can, upon receipt of such report, direct that the application be brought before the Council for a hearing de novo. The permit shall then be considered revoked.

At such a hearing, both the applicant and the Director shall make a presentation to the City Council. The City Council shall judge the application by the provisions and standards as in this section contained and if it determines that the permit is to be issued, conditions as set forth in subsection (5) hereof, may be imposed upon the applicant.

5. If the Director denies the applied for permit, the applicant shall have two months from the date of such denial to appeal the adverse decision to the City Council. The City Council shall hold a hearing and follow the same guidelines as set forth in the provisions of 3. above.

6. A certificate of compliance shall be required before final approval of any permitted use. The applicant shall submit a certificate by a registered professional engineer that the proposal has been completed in accordance with the approved plan and all conditions have been satisfied. The Director, within ten days after receipt thereof, shall verify the same and the final permit shall be issued.

H. PERMITTED USES--FLOOD STORAGE DISTRICT--STANDARDS AND CONDITIONS OF USE.

1. Nonconforming uses shall be allowed as hereinabove set forth.
2. Open uses shall be allowed as hereinabove set forth.
3. Floodproofing must be accomplished if movable objects are to be stored; however, automobiles may be parked or located without the necessity for flood proofing.
4. Storage or processing of materials that are buoyant, flammable, poisonous, explosive or in times of flooding could be detrimental or injurious to human, animal or plant life, shall be at or above a point two feet above the one hundred year flood elevation for the particular area, or if not, appropriate flood proofing shall be accomplished.
5. All other uses as allowed by the underlying zoning within the

flood storage district shall be permitted as long as the conditions hereinabove set forth are satisfied. Before a building permit for a building or structure, including accessory building and fences, is issued, the Director and Building Department shall review the plans to see that the following are satisfied;

a. All utility lines shall be designed to withstand flood conditions.

b. Every structure shall be constructed, erected and placed upon the land or lot so that its longitudinal axis, wherever possible, is parallel to the direction of flood waters and is on the same line as those of adjoining structures. The intent in this subsection set forth is to have the structure present the minimum resistance to the flow of flood waters;

c. When any part of a dwelling unit is to be located below the flood protection elevation, the lowest point of all openings, including those for doors, windows or other areas where water might enter, must be at or above the said flood protection elevation or flood-proofed. The footings and foundation shall be floodproofed. Mechanical and electrical equipment such as furnaces, fuse boxes and other items to serve the structure shall be floodproofed or be on a plane higher than the flood protection elevation;

d. Structures, other than dwelling units and those which will be inhabited, shall be floodproofed so as to prevent their being washed away in time of flood. Dwelling units shall be floodproofed so as to protect the inhabitants and prevent such units from being washed away in time of flood;

e. No material or substantial adverse effect will result to the floodway or to any tributaries of the main water course or any other established drainage facility or system by the intended use or work which has to be accomplished to make such use;

If the above standards are met, and the plans meet all the other applicable laws, a building permit shall be issued and the construction shall comply in all respects with the plans as finally approved. If the Director is of the opinion that the standards have not been satisfied, the permit shall be denied.

Within two months after the date of denial, the applicant shall have the right to appeal the adverse decision to the City of Grand Junction Planning Commission and City Council. The applicant shall have the burden to establish by clear and convincing evidence that the standards in fact have been satisfied. The applicant may at any time during regular working hours, apply for a permit under the provisions as set forth in this ordinance.

I. FLOODPROOFING. The following is a list of items which shall be designed consistent with the flood protection elevation for the particular area and flood velocities, forces and other relevant

factors. They shall consist of, but not be limited to, the following:

1. Anchorage to resist flotation and lateral movement;
2. Installation of watertight doors, bulkheads and shutters;
3. Reinforcement of walls to resist water pressure;
4. Use of paints, membranes or drainage tiles to reduce seepage of water through walls;
5. Addition of mass or weight to structures to resist flotation;
6. Installation of pumps to lower water levels in structures;
7. Construction of water supply and waste treatment systems to prevent the entrance of flood waters;
8. Pumping facilities for subsurface drainage systems for building to relieve external foundation wall and basement floor pressures;
9. Construction to resist rupture or collapse caused by water pressure or floating debris;
10. Cutoff valves on sewer lines or the elimination of gravity drains below the flood protection elevation;
11. Electrical equipment, heating units and other service facilities shall be flood proofed or be located on a plane at or above the flood protection elevation for the particular area.

J. ENFORCEMENT AND PENALTIES

1. Violations: It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any provisions of this ordinance or any amendment thereof. Any person, firm or corporation, either as owner, lessee, occupant or otherwise, who violates any of the provisions of this ordinance or any amendment thereof or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this ordinance shall be guilty of a violation of this ordinance.

2. Penalties:

a. Any person, firm or corporation upon conviction of a violation of this ordinance shall be fined not less than \$10.00 nor more than \$300.00 for each offense. Each day that a violation exists shall constitute a separate offense.

b. The City may, at its discretion, proceed against any violation or violator of this ordinance by abatement, injunction or other civil action, which remedies shall be cumulative to the penalties

in Section J.2.a. above.

3. Every structure, building, fill or development placed or maintained within any flood regulatory area contrary to the terms of this article is deemed by the City Council to be a public nuisance and the same may be enjoined and abated by suit or action instituted in the Mesa County district court by the City or by any citizen of the City of Grand Junction individually.

K. NONLIABILITY OF CITY

The degree of flood protection provided by the terms of this article is, after considering numerous relevant factors, considered reasonable for regulatory purposes. Floods of greater magnitude may occur and flood heights may be increased as a result of natural or man-made causes. Further, provisions of this article do not imply that areas outside the flood regulatory area boundaries or land uses permitted within the flood regulatory area are free from flooding or flood damages.

The grant or approval by the City under the regulations as herein contained shall not constitute a representation, guarantee or warranty of any kind or nature by the City, or by any officer, board member, or employee thereof, of the practicability of safety of any structure, building, or other proposed use; and shall create no liability upon or cause of action against such public body, officer, board member or employee of the City for any damages, from flood or otherwise, that may result from such use.

Section 2. In accordance with Charter provision, this Ordinance shall be published in pamphlet form available in the office of the City Clerk for inspection during normal working hours.

PASSED and ADOPTED this 16th day of January, 1974.

Stanley R. Anderson

President of the Council

ATTEST:

Neva B. Lockhart

City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 1482, was introduced, read, and ordered published in pamphlet form by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 2d day of January, 1974, and that Notice of the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the

official seal of said City this 17th day of January, 1974.

Neva B. Lockhart

City Clerk

Notice published of final passage:
January 20, 1974