

TOWN OF RICO ORDINANCE NO. 2014-1

AN ORDINANCE OF THE TOWN OF RICO, COLORADO AMENDING RICO LAND USE CODE, SECTION VIII, REGARDING DEVELOPMENT IN FLOODPLAINS, TO ADD PROVISIONS NECESSARY TO COMPLY WITH THE COLORADO RURAL CONSERVATION BOARD'S NEWLY ADOPTED RULES AND REGULATIONS

WHEREAS, flooding poses a threat to the health, safety and welfare of Colorado communities;

WHEREAS, the Colorado Water Conservation Board (CWCB) has recently enacted regulations to protect persons and property from the consequence of floods by requiring stricter development regulations in designated floodplain areas;

WHEREAS, the Town of Rico currently regulates development in the floodplain under Rico Land Use Code, Section VIII;

WHEREAS, in order to fully comply with newly adopted regulations at the State level, it is necessary to amend the Rico Land Use Code provisions which address development in floodplains to fully comply with CWCB requirements as set forth herein.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

Section VIII of the Rico Land Use Code regarding development in the floodplain is hereby amended as follows:

Section 1.

Rico Land Use Code, Section 851, titled *GENERAL PROVISIONS*, shall be amended as follows:

852.1 Lands to Which the Flood Plain Development Regulations Apply

The Flood Plain Development Regulations shall apply to all areas of special flood hazard **and areas removed from the floodplain by the issuance of a FEMA letter of Map Revisions based upon fill (LDMR-F)** within the jurisdiction of the Town of Rico as designated by the Flood Insurance Rate Map and the Flood Hazard Map adopted by the Town of Rico.

Section 2.

Rico Land Use Code, Section 852, titled *REVIEW PROCEDURES*, shall be amended to add a Section 852.1, to include provisions regarding the duties of the Building Official as follows:

852.1 DUTIES & RESPONSIBILITIES OF THE BUILDING OFFICIAL

Duties and responsibilities of the Building Official shall include, but not be limited to the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any flood-proofing certificate required in order to comply with the provisions set forth herein.**
- B. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.**
- C. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.**
- D. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.**
- E. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Building Official shall make the necessary interpretation.**
- F. When Base Flood Elevation data has not been provided as set forth herein, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State or other source, in order to administer the provisions of ordinance.**

Section 3.

Rico Land Use Code, Section 854.6, titled *ENCROACHMENTS*, shall be amended as follows:

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half foot at any point.

Section 4.

Rico Land Use Code, Section 854.7(B)(1) regarding manufactured homes shall be amended as follows;

Require that manufactured homes that are placed or substantially improved on a site (a) outside of a manufactured home park or subdivision, (b) in a new manufactured home park or subdivision, (c) in an expansion to an existing manufactured home park or subdivision, or (d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to **one foot** above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Section 5.

Rico Land Use Code Section VIII shall be further amended to add a Section 854.9 and Section 854.10 as follows:

854.9 PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- A. RESIDENTIAL CONSTRUCTION: The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.**
- B. NONRESIDENTIAL CONSTRUCTION: The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.**

854.10 STANDARDS FOR CRITICAL FACILITIES

A. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. Essential services facilities include, but are not limited to, the following:

- (1) Public safety facilities such as police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers;**
- (2) Emergency medical facilities such as hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions;**
- (3) Designated emergency shelters;**
- (4) Communications centers such as main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits;**
- (5) Public utility plant facilities for generation and distribution including hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution line, and service lines;**
- (6) Air transportation lifelines, such as airports, helicopter pads and structures serving emergency functions, and associated infrastructure, including aviation control towers, air traffic control centers, and emergency equipment aircraft hangars;**
- (7) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances;**
- (8) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain, or are compliant with the provisions of this Ordinance, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Rico on an as-needed basis upon request.**

B. PROTECTION FOR CRITICAL FACILITIES

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

(1) Location outside the Special Flood Hazard Area; or

(2) Elevation of the lowest floor or flood-proofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

C. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the Floodplain Administrator, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

Section 6.

Rico Land Use Code, Section 855.3 (B) shall be deleted in its entirety.

Section 7.

Rico Land Use Code, Section 855.3, titled *CONDITIONS*, shall be amended to add a Section F as follows:

F. Prerequisites for Granting Variances:

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

(2) Variances shall only be issued upon:

i. Showing a 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.

(3) Any applicant to whom a variance 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 commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 8.

Rico Land Use Code, Section 856, titled *SUBDIVISION AND PUD PROPOSALS*, shall be amended to add a Section 856.6 as follows:

856.6 Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to the requirements of this ordinance.

READ AND ADOPTED THIS 19th DAY OF FEBRUARY, 2014.

READ AND ADOPTED FOLLOWING A PUBLIC HEARING ON THIS 19th DAY OF MARCH, 2014.



MAYOR: Gregg Anderson



ATTEST: Linda Yellowman,
Town Clerk