

ORDINANCE NO. 87

AN ORDINANCE THAT SATISFIES FEDERAL REQUIREMENTS FOR PARTICIPATION IN THE REGULAR PHASE OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP).

SECTION 1.0

1.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

STATUTORY AUTHORIZATION

The Legislature of the State of Montana has in the Montana Codes Annotated, Title 76 Chapter 1 through 5 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Town Council of the Town of Ennis, Montana does ordain as follows:

1.2 FINDINGS OF FACT

- (1) The flood hazard areas of the Town of Ennis 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.
- (2) 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 floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 METHODS OF REDUCING FLOOD LOSSES

In order to limit flood damages in The Town of Ennis, this ordinance has provisions for restricting, prohibiting, or guiding development activities that are subject to flood damage.

1.4 DISCLAIMER

This ordinance shall not create liability on the part of any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

1.5 DEFINITIONS

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Flood" or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of waters, and/or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

1.5 Definitions cont.

"Flood Insurance Rate Map" means the official map issued by the Federal Emergency Management Agency where areas of special flood hazard are designated as Zone A.

"Lowest Floor" means the lowest floor of a structure including the basement.

"Mobile Home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Structure" means a walled and roofed building, including mobile homes and gas or liquid storage tanks above ground.

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

The term does not, however, include either:

- (1) any project for improvement or structure to comply with existing state local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alterations of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

1.6 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Ennis as identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map dated June 1, 1986. This map is adopted by reference and declares to be part of this ordinance. It is on file at the Ennis Town Hall.

SECTION 2.0
PERMIT PROCEDURES

2.1 PERMITS

Before construction or development begins within any area of special flood hazard, a permit shall be approved by the Board of Adjustment and issued by the Ennis Town Clerk, hereinafter referred to as the responsible person(s). The permit shall specifically include:

- (1) For residential structures:
elevation in relation to mean sea level of the building site before construction and, of the lowest floor (including basement) of all proposed structures;
- (2) For non-residential structures:
elevation in relation to mean sea level to which any structure will be floodproofed;
- (3) certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 3.2 (2) c; and
- (4) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2.2 PERMIT REVIEW

All permit applications shall be reviewed using the best available base flood elevation data from any federal, state, or local source to: a) assure sites are reasonably safe from flooding, b) determine that all necessary permits have been obtained from those federal, state, or local agencies from which prior approval is required; and c) to determine if the proposed development adversely affects the flood carrying capacity of a flood-prone area. 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, the permit shall be granted without further consideration.
- (2) If it is determined that there is an adverse effect, technical justification (i.e., a registered professional engineer) for the proposed development shall be required.
- (3) If the proposed development is a building, the following provisions of this ordinance shall apply.

SECTION 3.0

STANDARDS

3.1 GENERAL STANDARDS

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

(1) Anchoring

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All mobile homes should be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(2) Construction Materials and Methods

All new construction and substantial improvements shall be constructed using methods, materials, and utility equipment that resist or minimize flood damage.

(3) Utilities

- (a) All new and replacement water supply systems and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(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.
- (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).

3.2 SPECIFIC STANDARDS

Where base flood elevation data have been provided by FEMA the provisions below are required. If data is not available, the responsible person must use judgment and be guided by the mapped 100-year flood boundaries, past flood accounts described in newspaper, photos, and eyewitness accounts, or by high water marks on buildings, telephone poles, bridges or other structures. The responsible person, wherever, possible, should designate the floodproofing elevation. The following provisions would than be required:

(1) Residential Construction

- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- (b) Mobile homes shall be placed so that the lowest floor is at least 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 or above the base flood elevation or, together with attendant utility and sanitary facilities shall:

- (a) be floodproofed so that to or above the base flood level 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 standards of this subsection are satisfied. Such certification shall be provided to the responsible person as set forth in Section 4.1.

SECTION 4.0 ADMINISTRATIVE REQUIREMENTS

4.1 INFORMATION TO BE OBTAINED AND MAINTAINED

The responsible person shall:

- (1) For new or substantially improved nonresidential and residential structures
 - (a) obtain and record the actual elevation (in relation to mean sea level) of the building site prior to construction and the lowest floor (including basement) of all new or substantially improved structures; and
 - (b) whether or not the structure contains a basement.
- (2) for all new or substantially improved nonresidential structures where base flood elevations have been established:
 - (a) obtain 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 3.2 (2) C.
- (3) maintain for public inspection all records pertaining to the provisions of this ordinance.

4.2 ALTERATION AND ENCROACHMENT OF WATERCOURSES

The responsible person shall:

- (1) notify adjacent communities and the Montana Floodplain Management Section (DNRC) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency and
- (2) require that the flood carrying capacity is not diminished within the altered or relocated portion of said watercourse; and

4.2 ALTERATION AND ENCROACHMENT OF WATERCOURSES

- (3) where the watercourse is filled, impounded, dredged or diverted or where levees or floodwalls are constructed require that the flood carrying capacity not be diminished.

SECTION 5.0

5.1 PENALTIES FOR VIOLATIONS

- (1) Violation of the provisions of this ordinance or failure to comply with any of its requirements, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding \$500.00 or by imprisonment not to exceed six months or by both such fine and imprisonment for each offense and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- (2) Nothing herein contained shall prevent the governing body of the Town of Ennis from taking such other lawful action as is necessary to prevent or remedy any violation.

5.2 ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH HEREBY REPEALED.

5.3 THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT THIRTY (30) DAYS AFTER ITS FINAL PASSAGE AND APPROVAL.


E. A. GARRETT, MAYOR

Attest:


VICKI J. MANNING, TOWN CLERK

First Reading March 13, 1986

Second Reading April 10, 1986

Posted March 14, 1986