

TOWN OF BLUE RIVER, COLORADO

ORDINANCE NO. 2024-03

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BLUE RIVER, COLORADO, ESTABLISHING A TEMPORARY MORATORIUM ON CERTAIN DEVELOPMENT ACTIVITIES THAT DISTURB LARGER AREAS OF LAND WITHIN THE TOWN TO ALLOW FOR THE STUDY AND POTENTIAL REGULATION OR AMENDMENT OF REGULATION OF NATURAL HAZARD AREAS OR NATURAL RESOURCES OF STATEWIDE IMPORTANCE FOR PURPOSES OF THE COLORADO AREAS AND ACTIVITIES OF STATE INTEREST ACT, TO STUDY WATERSHED AREAS AND REGULATION THEREOF, AND DECLARING AN EMERGENCY

WHEREAS, the Town of Blue River, Colorado (“Town”) is a statutory municipality incorporated and organized pursuant to the provisions of Section 31-2-101, et seq., C.R.S.; and

WHEREAS, the Town is authorized to exercise police powers and to enact laws that promote the health, safety, and welfare of its citizens and to plan and regulate the use of land within its jurisdiction; and

WHEREAS, Colorado Revised Statutes § 31–15–103 grants municipalities the power to adopt ordinances “necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience” of the municipality and its inhabitants; and

WHEREAS, Colorado Revised Statutes § 31–15–301 grants municipalities police powers, which include the power to regulate the location of uses and the use of land within the community; and

WHEREAS, Colorado Revised Statutes § 31-15-101(3) permits municipalities to coordinate with the United States secretary of the interior to development management plans that address watershed protection; and

WHEREAS, in 1974, the Colorado General Assembly enacted House Bill 74-1041, codified at Colorado Revised Statutes § 24-65.1-101 (titled the Areas and Activities of State Interest Act or “AASIA”) which authorizes local governments to identify, designate and regulate areas and activities of state interest through a local permitting process with the intention of allowing local governments, such as the Town, to maintain control over particular development projects even where the development project has statewide impacts, specifically authorizing local governments to designate areas as natural hazard areas in accordance with the statute (C.R.S. §24-65.1-201); and

WHEREAS, the AASIA (Colorado Revised Statutes § 24-65.1-101(2)(c)) provides that “[a]ppropriate state agencies shall assist local governments to identify, designate, and adopt guidelines for administration of matters of state interest;” and

WHEREAS, the Colorado division of parks and wildlife, Colorado state forest service, the Colorado department of natural resources, and other divisions and departments of state government are commissioned with the role of assisting local government in the determination of areas subject to the AASIA; and

WHEREAS, in the exercise of its police powers and the regulation of the use of land within the Town, including those areas which are designated as areas and activities of state interest under the AASIA, the Town’s regulations should be made in accordance with a comprehensive or master plan, as is contemplated by Colorado Revised Statutes § 31-23-206; and

WHEREAS, the Town has adopted a Comprehensive Plan, which includes a Mission Statement to guide all use of land, and which provides:

Mission Statement

The Town of Blue River endeavors to *nurture our serene mountain community by conserving our natural residential environment*, promoting unity with our neighbors and surroundings, channeling the voice of our residents, and enhancing the quality of life for all (emphasis added).

WHEREAS, the Town of Blue River adopted zoning and development regulations codified in Chapters 16, 16A, 16B, 16C, and 17) of the Town of Blue River Municipal Code, which regulations are known as the Town’s Land Use Code (“LUC”); and

WHEREAS, Section 16-1-40 of the LUC explicitly states an intent and policy of the Town to protect the natural character of the Town and to preserve the natural environment:

Sec. 16-1-40. Background, Purpose, and Intent of the Land Use Code.

- (a) Background. The Town of Blue River *values and places great importance on the natural character of the area as defined by the existing forest and vegetation, natural water features, wildlife, geology, geography, view corridors, and ridgelines. The Town seeks to recognize and protect these unique characteristics of the Town.*

* * *

The Land Use Code was prepared with reasonable consideration, among other things, of the *largely residential and environmentally sensitive characteristics of the Town and with a regard for the preservation of these characteristics when authorizing and permitting the development and use of property. The Land Use Code establishes zoning, specific development regulations and standards, and processes designed to preserve and the*

Town's valued character, trees, vegetation, views, waterways, wildlife, and to minimize to the extent lawfully permitted and reasonable the visual impact of development. (Emphasis added)

WHEREAS, the Town adopted the “*Blue River Regulations for Areas and Activities of State Interest*” (1041 Regulations), codified at Chapter 19 of the LUC, as authorized by Colorado Revised Statutes Sections 24-65.1-101, *et seq.*, 31-23-101, *et seq.*, 29-20-101, *et seq.*, 24-32-111, and Article 15 of Title 31 (“Town’s 1041 Regulations”); and

WHEREAS, the Colorado Water Conservation Board is presently partnering with the Federal Emergency Management Agency (FEMA) to update floodplain and risk mapping for Summit County and the Town of Blue River; and

WHEREAS, in light of this present effort by the Colorado Water Conservation Board and FEMA and in order to assure that the Town’s 1041 Regulations fully protect the Town’s residents to the extent allowed by law, the Town Board of Trustees finds a present need to review, evaluate, and consider updates to and amendments, if any, of the Town’s 1041 Regulations to ensure that the Town best protects and advances its stated goals of preserving and protecting the natural character and environmental qualities of the community, including ensuring the health and safety of the Town’s residents through the potential regulation or amended regulation of all or portions of the Town as natural hazard area(s), as such term is defined in AASIA and/or natural resources of statewide importance; and

WHEREAS, temporary land use suspensions and delays of specific development (commonly called moratoria) are judicially approved as a method or means of enabling local governments to plan for, regulate and protect the health, safety, and welfare of the community; and

WHEREAS, activities that involve land disturbance of areas greater than one acre may be detrimental to the health and safety of residents and temporarily suspending such activities is legislatively determined to be prudent, reasonable, and necessary to afford the Town the opportunity to study and consider the impacts of such land disturbance on potential natural hazard areas and areas containing or having a significant impact upon natural resources and watersheds within Town; and

WHEREAS, the Board of Trustees finds that there exist few properties under one (1) acre in size remaining for development within the Town and that development of properties containing less than one (1) acre of land likely will have a *de minimis* or insignificant impact on a potential natural hazard area or an area containing or having a significant impact upon natural resources, such that the moratorium imposed hereby need not be applied to such smaller properties.

BE IT ORDAINED by the Board of Trustees of the Town of Blue River, Colorado, as follows:

Section 1. Incorporation of Recitals. The foregoing recitals are affirmed and incorporated by this reference as legislative findings of the Board of Trustees.

Section 2. Temporary Suspension and Delay Enacted. The Town of Blue River Board of Trustees hereby legislatively imposes a temporary suspension and delay (moratorium) on the following:

- A. Development of an area of land within the Town greater than one (1) acre in size; and
- B. Development on any portion of any property, regardless of size, located within a currently recognized or mapped floodway, floodplain, or wetland area.

For purposes of this Ordinance, the term “development” (or “develop”) shall be defined to mean acceptance or processing of applications for permits to, or the act of, disturbing the land, grading, excavating, filling, constructing, demolishing, reconstructing, renovating, remodeling, or other physical alteration or change to real property such as, but not limited to the creation or removal of buildings of any kind or type, structures, streets, roads, pavement, driveways, walkways, parking areas, drainage structures, retaining walls, fences, stairs, patios, decks, courtyards, signs, the installation, removal, or relocation of utilities; the de-vegetation or revegetation of the land; or change of use, regardless of whether such alteration or change is intended to add value to the real property and regardless of whether such development is currently regulated by the Town.

Property owners may request from the Town Manager a written administrative determination of the applicability of this Ordinance to any proposed development and/or property. A determination by the Town Manager that a specifically described development or specifically identified property is not subject to this Ordinance shall be binding upon the Town for the term of this Ordinance, as it may be amended.

Section 3. Duration of Temporary Suspension and Delay. The temporary suspension and delay shall automatically terminate at 12:00 midnight on **April 17, 2025**, unless terminated earlier by the Board of Trustees or extended in its duration by the enactment of another ordinance. This Ordinance and the temporary suspension and delay imposed hereby shall be self-executing without further action by the Town or the Board of Trustees.

Section 4. Purpose of Temporary Suspension and Delay. The purpose of this Ordinance and the temporary suspension and delay of development is to enable the Town to study, review, evaluate, and consider the updating and amendment of the Town’s 1041 Regulations to ensure that the Town best protects and advances the goals of preserving and protecting the natural character and environmental qualities of the community, including protecting the health and safety of the Town’s residents from natural hazards through the potential regulation of all or portions of the Town as natural hazard areas, as such terms are defined in the AASIA, and/or natural resources of statewide importance. In addition, this Ordinance will permit the Town to coordinate with the secretary of the interior to develop plans to ensure the Blue River watershed, including any impacted federal land within Town, is protected.

Section 5. Staff Direction. During the effective term of this Ordinance, the Town administrative staff shall diligently:

A. Communicate with the Colorado Department of Local Affairs and any other appropriate state agency to seek assistance and funding of the Town's study and evaluation of potential natural hazard areas and natural resources of statewide importance; and

B. Communicate with state agencies, divisions, and departments to assist in determining the location and extent of natural hazard, natural resources, floodway, floodplain, wetland, and wildlife areas; and

C. Recommend to the Board of Trustees the need for professional expertise to assist the Town in the performance of the Town's study and evaluation together with a report or estimate of the cost of such expertise for the Board's consideration; and

D. Prepare a report for the Board of Trustees consideration to assist in the determination of the existence and need for designation of areas and activities of state interest in accordance with the AASIA.

E. Prepare a report for the Board of Trustees that sets forth management plans to ensure the Blue River watershed is protected.

It is expected that the work to be performed by the Town's administrative staff will require approximately 7 months to complete. The administrative staff shall periodically update the Board of Trustees regarding the progress of the work and an expected completion date, when known.

Section 6. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 7. Minor Revision or Correction Authorized. The Town Manager, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 8. Emergency Declaration and Effective Date. The Board of Trustees hereby legislatively declares that the passage of this Ordinance is necessary for the immediate preservation of the public peace, health, or safety. Specifically, the passage of this Ordinance as an Emergency Ordinance is necessary to guarantee or ensure that the development of certain larger properties within the Town and areas currently recognized as areas of natural hazards or environmentally sensitive areas does not occur prior to the Town's study, evaluation, and consideration of potential designations of such areas as areas or activities of state interest. The development of such properties prior to may adversely impact the interests of the Town and the

health, safety and welfare of the people of the Town. Upon passage by a supermajority of the members of the Board of Trustees in office, as required by state law, this Ordinance shall become effective immediately upon adoption.

Section 9. Safety Clause. The Board of Trustees finds, determines, and declares that this Ordinance is promulgated pursuant to the Town's authority and under the general police power of the Town of Blue River, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative objective sought to be obtained.

INTRODUCED, READ, PASSED, ADOPTED, AND ORDERED PUBLISHED at a regular meeting of the Board of Trustees of the Town of Blue River, Colorado, held on the 17th day of September, 2024.

Nick Decicco, Mayor

ATTEST:

Michelle Eddy

Town Clerk

Published in the Summit County Journal _____ 2024.