



ORDINANCE NO. 205

AN ORDINANCE CONCERNED WITH ENCROACHMENT INTO THE  
FLUME EASEMENT, PROVIDING PENALTIES FOR THE SAME.

BE IT ORDAINED by the Board of Trustees of the  
City of Creede, Colorado, A Town, at its regular meeting  
held on the 3rd day of August, 1976:

SECTION ONE. This Ordinance is passed and  
adopted in accordance with Colorado Statutes permitting  
and requiring the City of Creede, Colorado, A Town, to en-  
gage in Zoning Regulations and Land Use Development Regu-  
lations governing the construction and location of buildings  
and structures throughout the community. This Ordinance is  
specifically directed only to those properties which abut  
the Willow Creek Flume as the same passes in a north to  
south direction through the City of Creede, Colorado. This  
Ordinance is necessary in order to comply with previous  
agreements of the City of Creede and the Board of Trustees  
thereof, which agreements, made with the Army Corps of  
Engineers, required limitations on the rights of persons in  
possession of tracts along said Flume, to construct buildings  
or structures of any kind which would restrict the movement  
of emergency repair crews and vehicles along the Flume.

SECTION TWO. There is adopted by reference,  
herein, maps previously submitted to the City of Creede by  
the Army Corps of Engineers, showing the easement which was  
agreed to as the same follows the course of the Willow Creek  
Flume. There is also herein, adopted by reference, all pre-  
vious agreements of the Board of Trustees of the City of  
Creede, Colorado, regarding the City's obligation to main-  
tain the easement along the Flume.



SECTION THREE. The purpose of this Ordinance is to recognize, by law, the existence of the easement along either side of the Willow Creek Flume, as the same was agreed to by the City at the time of the installation and improvement of the Flume. This Ordinance is necessary in order to insure that emergency repairs to the Flume may be made without delay, in the event of a collapse of the Flume or in the event of Flood conditions, and to that purpose, it is necessary that an open space exist along both sides of the Flume so that emergency vehicles and workers may pass freely along the Flume to repair such damages as may arise.

SECTION FOUR. Definitions:

Flume - The entire Willow Creek Flume from the point at which it enters the town of Creede on the North boundary of the town of Creede and to the point which it exits the town of Creede on the South boundary of the town of Creede.

Easement - That strip of land, on both sides of the Flume, which by agreement, was set aside for the purpose of free access to and movement along the Flume for purposes of repairs and additionally for safety purposes. The exact location and extent of the Easement on any given lot shall be determined by reference to the Maps which are incorporated herein and which Maps delineate the Easement along the entire Flume.

Structure - Structure is defined as any building, fence, object, vehicle, of any kind or character, which obstructs the movement of vehicles along the Easement.

SECTION FIVE. Violations - It shall be unlawful for any person, firm or corporation to construct any structure within the Easement, as set forth in the Maps incorporated herein, along said Flume, or cause the same to be obstructed in any fashion whatsoever.

SECTION SIX. Penalties - Any person violating this Ordinance shall be guilty of a misdemeanor and shall be punished



by fine not to exceed Three Hundred Dollars (\$300.00) or imprisonment in the Mineral County Jail for a period not to exceed Ninety (90) days or by both such fine and imprisonment. Each day that any violation continues, as set forth herein, shall be considered a separate violation (a day constituting a twenty-four (24) hour period) and any person so violating this ordinance may be subject to the penalties, as set forth above, for each such twenty-four hour period that such violation continues.

SECTION SEVEN. Other Remedies. The foregoing penalties shall not be the exclusive remedy of the City in the event of violation of this Ordinance and, in addition to such action, the City may seek and obtain cease and desist orders, temporary restraining orders, temporary injunctions and permanent injunctions against any person violating this Ordinance, permanently restraining such person from obstructing the Easement as set forth herein.

SECTION EIGHT. Effective Date of Ordinance. In the opinion of the Board of Trustees of the City of Creede, Colorado, an emergency exists relative to the Easement referred to herein, which easement arises from the fact that certain parties are obstructing or attempting to obstruct such easement and that such obstruction constitutes a clear and immediate danger and further constitutes an emergency to a sufficient extent that this Ordinance shall take effect five (5) days after passage and publication by posting.

INTRODUCED, READ IN FULL, PASSED and APPROVED at a Regular Meeting of the Board of Trustees of the City of Creede, Colorado, A Town, this 3rd day of August, 1976.

APPROVED:  
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Mayor

ATTEST:  
Emmie L. [Signature]  
City Clerk

RESOLUTION SETTING OUT THE ENFORCEMENT OF ORDINANCE 205

WHEREAS - Ordinance 205 provides for enforcement of the right of way adjacent to the flume for Willow Creek to provide space for operation and maintenance of the flume, and

WHEREAS - The landowner of property described herein wishes to be assured of an adequate amount of time to remove any obstacles maintained adjacent to the flume prior to the enforcement of the provisions of Ordinance 205, and

WHEREAS, The Town which has the current ownership of the right of way is willing to provide 60-days notice of intent to make use of the right of way which is located more than 15 feet, or east of the existing fence, and

NOW THEREFORE BE IT RESOLVED, By the Town Board of the City of Creede,

That prior to enforcement of any right of way for the flume which is east of the existing fence or more than 15 feet east from the top of the flume, the Town will give to the landowner at the address maintained by the County Treasurer for tax purposes, and to anyone in actual occupation of any property located within the 75 foot right of way from the centerline of the flume, 60 days notice by mail or by personal service if the owner or occupier can be located within the Town.

That - within such 60 day period after notice is given, the land owner or occupier shall remove any obstruction as directed by the Town. Upon failure of said land owner or occupier to remove such obstruction within 60 days of notice, the Town will serve a citation upon the same at which time the penalties for obstruction shall commence.

That - the land owner may construct such improvements within the right of way as it may determine, subject to the requirement of removal within 60 days.

That - the property affected by this Resolution is the east side of the flume as it passes through Blocks 25, 28, 30 and 32, South Creede, together with all property deeded by the Town to the current owner or its predecessors in interest by Quit Claim Deed dated September 12, 1994 and recorded at Book 113E, Page 340.

Dated this 13 day of May, 1998

Jaqueline J. Stone  
Trustee

[Signature]  
Trustee

S. Gerald Schlough  
Trustee

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Trustee

Bennett Wardell - Mayor pro-Tem  
Trustee

Mary M. Johnson  
Trustee

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Trustee

Sandra Swright  
attest by Clerk

