

CHAPTER 2: ZONING DISTRICTS

10.2.1 GENERAL PROVISIONS

This Chapter establishes the zoning districts and contains basic information pertaining to zoning districts, primarily statements of purpose and district-specific regulations. Chapter 3 and Chapter 4 set forth the land uses permitted within the districts and the dimensional standards applying to development in the districts, respectively.

A. Districts Established; Zoning Map

1. Zoning Districts Established

The following zoning districts are established:

District Type	Abbreviation	District Name
Residential	RR	Rural Residential
	ER	Estate Residential
	SR	Suburban Residential
	LR	Low-Density Residential
	MR	Medium-Density Residential
	HR	High-Density Residential
	OTR	Old Town Residential
Commercial	CC	Community Commercial
	RC	Regional Commercial
	B	Business
	LI	Light Industrial
<u>Industrial</u>	<u>LI</u>	<u>Light Industrial</u>
	<u>I</u>	<u>Industrial</u>
	<u>HI</u>	<u>Heavy Industrial</u>
Mixed-Use	DT	Downtown District
	NMU	Neighborhood Mixed-Use
	CMU	Community Mixed-Use
Inactive Districts	RP-1	Rural Preservation 1
	RP-2	Rural Preservation-2
	RP-3	Rural Preservation-3
Other Districts	AG/OS	Agricultural/Open Space
	AP	Airport
	PLI	Public Land and Institutions
	PD	Planned Development
Overlay Districts	APO	Airport Overlay
	FPO	Floodplain Overlay
	PUD	Planned Unit Development Overlay

2. Zoning Map

The zoning districts are shown on the “Town of Erie, Colorado Zoning Map” (“Zoning Map”). ~~The boundaries of zoning districts set out in this UDC are delineated upon the Zoning Map, which is~~ adopted as part of this UDC as fully as if the same were set forth in this Section

in full detail. Procedures for amending the Zoning Map are set forth in Section 7.5.

- ~~a. Unless otherwise indicated, the zone district boundaries are the centerlines of physical streets, roads, highways, alleys, railroad right-of-ways, and channelized waterways, or such lines extended. In cases where the platted and physical right-of-ways do not coincide, the Community Development DirectorDirector of Planning and Development will determine the location of the zone district boundary.~~
- ~~b. In unsubdivided property, zone district boundaries shall be determined by use of the scale on the map. A legal description acceptable to the Community Development DirectorDirector of Planning and Development shall be made available in the event of a controversy arising concerning zone district boundaries.~~
- ~~c. Where a district boundary is shown by specific dimension as being located at any given distance from any right-of-way line, such specific dimension shall govern.~~

~~3. Vacations~~

~~Whenever any street, alley, or other public way is vacated by official action of the Town, in accordance with Section 7.10 of this UDC, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.~~

~~4.3. Newly Annexed Areas~~

~~Unless otherwise zoned at annexation, all undeveloped or unplatted territory hereafter annexed to the Town shall be zoned AG/OS. The procedure for establishing the zoning on any annexed territory shall be the same as is provided by this UDC in Section 7.4.~~

10.2.2 RESIDENTIAL DISTRICTS

A. General Purposes of Residential Districts

The residential zoning districts contained in this Section are intended to:

1. Provide appropriately located areas for residential development that are substantially consistent with the Town's Comprehensive ~~Master~~ Plan and with standards for public health, safety, morals, and general welfare;
2. Allow for a variety of housing types that meet the diverse economic and social needs of residents;
3. Allow mixed-density residential development in certain districts where district and development standards ensure that mixed use development will maintain and improve the function and appearance of surrounding development and traffic flow;
4. Provide the opportunity to protect sensitive environmental and cultural resources;
5. Protect the scale and character of existing residential neighborhoods and community character;
6. Ensure adequate light, air, privacy, and open space for each residential dwelling unit, and protect residents from the potentially harmful effects of excessive noise, glare and light pollution, traffic congestion, and other significant adverse environmental effects;
7. Protect residential areas from commercial and industrial hazards such as fires, explosions, toxic fumes and substances, natural hazards such as mining subsidence and flooding, and other public safety hazards;
8. Facilitate the provision of services, such as utilities, telecommunications technology, and streets and roads to accommodate planned population densities; and
9. Protect residential development from neighboring uses that are incompatible with a

residential environment.

B. Rural Residential (RR)

1. Purpose

To provide areas for residential uses of a rural character, at a gross density not to exceed 1 dwelling unit per 2 acres.

C. Estate Residential (ER)

1. Purpose

To provide areas for residential uses of an estate character, at a gross density not to exceed 1 dwelling unit per acre.

D. Suburban Residential (SR)

1. Purpose

To provide areas for residential uses of a suburban character, at a gross density not to exceed 3 dwelling units per acre.

E. Low-Density Residential (LR)

1. Purpose

To provide areas for residential uses of an urban character, at a gross density not to exceed 5 dwelling units per acre, and at a minimum gross density of 3 dwelling units per acre.

F. Medium-Density Residential (MR)

1. Purpose

To provide areas for residential uses of an urban character, at a gross density not to exceed 10 dwelling units per acre. A minimum gross density of 5 dwelling units per acre is required.

G. High-Density Residential (HR)

1. Purpose

To provide areas for residential uses of an urban character, at a gross density not to exceed ~~16-25~~ dwelling units per acre. A minimum gross density of 10 dwelling units per acre ~~is~~ required.

H. Old Town Residential (OTR)

1. Purpose

To ensure the preservation of the unique character and quality of life in the historic residential area of the Town by encouraging compatible redevelopment and infill development. Single-family residential density shall not exceed 5 dwelling units per acre, and multi-family residential density shall not exceed 10 dwelling units per acre.

~~2. District-Specific Standards~~

~~a. Single-Family Detached~~

~~Single-family residential development of up to 5 dwelling units per acre.~~

~~b. Multi-Family Development~~

~~Multi-family residential development of up to 16 dwelling units per acre is permitted throughout OTR.~~

10.2.3 COMMERCIAL AND INDUSTRIAL DISTRICTS

A. General Purposes of Commercial and Industrial Districts

The commercial and industrial zoning districts contained in this Section generally are intended to:

1. Provide appropriately located areas substantially consistent with the Town's Comprehensive ~~Master~~ Plan for industrial, retail, service, and office uses;

2. Expand the Town's economic base and provide employment opportunities primarily for Erie residents and the region;
3. Minimize any potentially negative impact of commercial and industrial development on adjacent residential districts;
4. Ensure that the appearance and effects of commercial and industrial buildings and uses are of an appropriate high quality and are substantially consistent with the character of the area in which they are located; and
- ~~5. Provide sites for residential, public, and semi-public uses needed to complement commercial and industrial development.~~

B. Community Commercial (CC)

1. Purpose

To provide areas for a full range of community-oriented retail and service commercial uses.

C. Regional Commercial (RC)

1. Purpose

To provide areas for a variety of regionally oriented large retail and service commercial uses, and highway-oriented commercial uses such as shopping centers, big-box retail, gas stations, restaurants, hotels and similar and associated land uses.

D. Business (B)

1. Purpose

To provide areas for office, research and development, and other similar uses.

~~2. District-Specific Standards~~

~~a. Limitations on Retail Uses~~

~~Any uses categorized by this UDC as "retail (sales)," "retail (personal services)," or "food and beverage services" may be located in the Business district only within a building that also contains office or residential uses. Such retail uses shall be limited to 30 percent of the gross floor area of the building. No outdoor storage or merchandise display is permitted for such retail sales or retail services.~~

~~b. Limitations on Visitor Accommodations~~

~~Any uses categorized by this UDC as "visitor accommodation" shall comply with the multi-family residential design standards in Subsection 6.7.F.~~

E. Light Industrial (LI)

1. Purpose

To provide areas for light industrial uses including warehousing and limited outdoor sales and storage. ~~Heavy industrial uses may only be approved as a Special Review Use.~~

F. Industrial (I)

1. Purpose

To provide areas for industrial uses which, by their nature, have minimal detrimental effect beyond the zone district in which they are located. Accordingly, industrial and manufacturing operations may locate in an I District when their operations do not constitute a detriment to the public health or welfare by reason of smoke, radiation, noise, dust, odor, gas, glare, vibration, particulate matter or water pollution.

G. Heavy Industrial (HI)

1. Purpose

To provide areas for industrial uses that are typically more intensive than those businesses in either the LI Light Industrial or I Industrial District, and which may have impacts that would render

these uses inappropriate for immediate adjacency to residential areas.

10.2.4 MIXED-USE DISTRICTS

A. General Purposes of Mixed-Use Districts

Mixed-use districts define the uses of land and the siting and character of the improvements and structures to promote compatibility between uses. Buildings are typically oriented to maximize visibility and provide high quality open space, landscaping, and architectural features. The districts are also intended to encourage redevelopment of underutilized parcels and infill development of vacant parcels. The mixed-use districts specifically are intended to:

1. Concentrate higher-density residential, commercial and office land uses efficiently in and around major employment centers, town centers, and other designated centers of community activity;
2. Encourage mixed-use and higher-density redevelopment, conversion, and reuse of aging or underutilized areas, and increase the efficient use of available commercial land in the Town;
3. Contain a transportation system network designed to ensure that residential areas will have direct access to adjacent non-residential portions of the proposed development or redevelopment;
4. Create compact and pedestrian-oriented environments that encourage transit use and pedestrian access;
5. Concentrate a variety of commercial and retail services and public facilities that serve the surrounding community;
6. Ensure that the appearance and function of development in mixed-use areas is appropriately compatible and appropriately integrated with surrounding neighborhoods;
7. Ensure that development in mixed-use areas is of high quality and provides pedestrian scale and interest through use of appropriately varied forms, materials, details, and colors, especially at the ground-floor;
8. Provide adequate light, air, privacy, and open space for each residential dwelling, and protect residents from the potentially undesirable effects of excessive noise, glare, light pollution, traffic congestion, and other potentially adverse environmental effects; and
9. Minimize potential negative impacts of development on stream corridors, wetlands, and other important natural resources.

B. Downtown District (DT)

1. Purpose

To provide for and encourage development and redevelopment that preserves and enhances the unique character and vitality of Old Town Erie. Small-scale offices, retail, -and residential uses are permitted. New mixed-use development is encouraged to place residential above the ground floor. Design standards focus on creating a human-scaled, pedestrian- oriented and walkable downtown that invites commercial development and complementary residential opportunities. Continuous retail frontages, largely uninterrupted by driveways and parking, are encouraged.

District-Specific Standards

Drive-Throughs Prohibited

No drive-throughs shall be permitted in the DT District.

C. Neighborhood Mixed-Use District (NMU)**1. Purpose**

To provide for small, compact commercial centers within or surrounded by residential areas, compatible in scale and character with surrounding residential uses, to primarily serve the convenience needs of generally the immediately surrounding neighborhood. NMU centers are typically up to approximately 5 acres in size. Continuous retail frontages, largely uninterrupted by driveways and parking, are encouraged.

~~2. District-Specific Standards~~**~~a. Ground Floor~~**

~~Ground floor retail is encouraged in all buildings in the NMU District.~~

~~i. NMU Districts Outside of Old Town~~

~~Residential uses in new mixed-use developments shall only be permitted on floors above the ground floor. Small lobbies shall be permitted on the ground floor to provide for access to residential uses on upper floors. Office uses shall be permitted on any floor in the NMU District.~~

~~ii. NMU District Within Old Town~~

~~Uses permitted and shown in Table 3-1 shall be permitted on any floor.~~

~~b. Drive-Throughs Prohibited~~

~~No drive-throughs shall be permitted in the NMU District.~~

D. Community Mixed-Use District (CMU)

1. Purpose

To provide for a community-serving mixed-use development at a higher scale than is appropriate for neighborhood locations. The CMU district is intended for use along key transportation corridors and at important nodes in the Town on sites of typically 5 acres or larger. The CMU district is intended to include commercial, institutional, recreational, and service facilities needed to support surrounding neighborhoods and the community at-large. Medium to higher-density housing should be incorporated within or located around the district, and development should facilitate pedestrian connections between residential and nonresidential land uses.

10.2.5 OTHER DISTRICTS

A. Agricultural/Open Space (AG/OS)

1. Purpose

To provide areas to be used for agricultural and open space purposes. The zoning classification is intended to recognize and preserve lands suitable for long-term production of agricultural commodities, lands suitable for grazing, and animal husbandry, view protection, passive and active recreation, and conservation uses.

~~A.~~

B. Airport (AP)

1. Purpose

To provide areas for the development of airport land uses. The area is also regulated by the Airport Overlay (APO) described in Section 2.7.

C. Public Land and Institutions (PLI)

1. Purpose

To provide areas for the development of public or quasi-public facilities or private facilities of a non-commercial character, including churches, schools, libraries, and cultural facilities.

D. Planned Development (PD)

1. Purpose

- a. This Section makes available, pursuant to the Planned Unit Development Act of 1972, Article 67 of Title 24, C.R.S., a procedure to modify specific regulations of the UDC within a Planned Development (PD) zone district at the time of initial zoning for annexation or as a rezoning of a property from another zone district. Within the PD zone district modification may be considered for the following Sections of the UDC:

- i. Chapter 3: Use Regulations;
- ii. Chapter 4: Dimensional Standards;
- iii. Chapter 5: Section 5.4 Layout and Design of Subdivisions; and,
- iv. Chapter 6: Development and Design Standards.

- b. The PD zone district may be used when:

- i. There is a special public benefit that does not coincide with standard zoning district requirements; or,
- ii. A development proposal is unable to meet the standard zoning district requirements due to physical constraints of the property; or,

- iii. A development proposal is unable to meet the standard zoning district requirements due to unique development design; or,
 - iv. A development proposal is unable to meet the standard zoning district requirements due to a unique mix of land uses.
- c.** ~~The PD zone district is not a general waiver of the UDC regulations. PD zone districts~~
~~modifications to the UDC regulations~~ are to be based on ~~creative and innovative design and amenities incorporated in the PD zone district~~ one or more of the following attributes that could not otherwise be achieved through other standard zoning districts; ~~or through another modification process such as Alternative Equivalent Compliance (Subsection 6.1.C) or the PUD Overlay District (Subsection 2.7.D).~~
- i. innovative approaches to development,
 - ii. creative designs of land uses,
 - iii. preservation of significant natural features within the Town,
 - iv. retention of historic structures and sites,
 - v. retention of open space,
 - vi. compatibility with overall community objectives,
 - vii. and consideration of environmental concerns.
- d.** PD zone district modifications shall be generally consistent with the overall land uses and objectives of the Town's Comprehensive ~~Master~~ Plan, Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
- e.** The flexibility permitted in a PD zone district shall be made in exchange for greater public benefits that would not have otherwise been achieved through development under another zone district.

10.2.6 INACTIVE DISTRICTS

A. General Purpose

These districts are carried forward from the previous zoning ~~ordinance~~ regulation. The intent is to allow the districts to remain in conformance under this UDC. These districts will be restricted to the current districts as such, and will not be available for Initial Zonings or Rezoning.

B. Rural Preservation 1 (RP-1)

1. Purpose

To provide for areas to be free from the urban development for agricultural uses, preservation of wildlife habitat, view corridors, natural resources and open space, outdoor recreation, mining and reclamation, and single-family dwellings at a gross density not to exceed 1 dwelling unit per 17.5 acres.

C. Rural Preservation 2 (RP-2)

1. Purpose

To provide for areas to be free from the urban development for agricultural uses, preservation of wildlife habitat, view corridors, natural resources and open space, outdoor recreation, mining and reclamation, and single-family dwellings at a gross density not to exceed 1 dwelling unit per 5 acres.

D. Rural Preservation 3 (RP-3)

1. Purpose

To provide for areas to be free from the urban development for agricultural uses, preservation of wildlife habitat, view corridors, natural resources and open space, outdoor recreation and solid waste disposal and reclamation, and single-family dwellings at a gross density not to exceed 1 dwelling unit per 5 acres if not precluded by federal, state or other local ordinances.

10.2.7 OVERLAY DISTRICTS

A. General Purpose

Overlay zoning is typically used when there is special public interest that does not coincide with a specific zoning district. ~~An Overlay overlay zones contain restrictions in addition to or less than district establishes a supplemental set of standards for covered properties in an those in the~~ underlying zone district.

B. Airport Overlay District (APO)

1. Purpose

The purpose of the Airport Overlay district is to minimize exposure of residential and other sensitive land uses to aircraft and their potential impacts, including noise, to minimize risks to public safety from aircraft accidents, and to discourage traffic congestion and incompatible land uses proximate to, and within, airport influence areas.

2. Warning and Disclaimer of Liability

The degree of protection provided by this Section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study and does not imply that areas outside the airport influence will be totally free from potential safety issues associated with aircraft activity. This Section shall not create a liability on the part of, or cause an action against, the Town or any officer or employee thereof, for any damages that may result directly or indirectly from the reliance on this Section.

3. Nonconforming Structures or Uses

- a. These regulations shall not require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which began prior to the effective date of this Section and is diligently prosecuted; provided, however, that when the nonconforming structure is destroyed or damaged to the extent of more than 50 percent of the appraised value of the nonconforming structure, any reuse, reconstruction or replacement shall be deemed a new use and shall be subject to the applicable provisions of the UDC.
- b. The owner of any nonconforming structure or object of natural growth is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as required by the Federal Aviation Regulations ("FAR") Part 77, to indicate to the operators of aircraft in the vicinity of the airport the presence of such nonconforming structures or objects of natural growth. Such markers and lights shall be installed, operated, and maintained at the expense of the owner of such nonconforming structure or object of natural growth.

4. Development Standards

- a. Noise contours and FAR Part 77 shall be used when reviewing land use proposals.
- b. Noise attenuation in building design should be included in development proposals.
- c. An aviation easement is required for all areas within the designated Airport Influence Area.

5. Height Limitations

- a. Height limitations within the Airport Influence Area, except as otherwise provided in this Section, are subject to the limitation of the district within which the property is located, recommendations of the Erie Airport Manager, and other appropriate referral agencies. No structure or object of natural growth shall be constructed, erected, altered or permitted to grow or to be maintained in excess of height limits and zones herein established.

- b. The specific height zone and limitations for each airport/heliport shall be the designated elevation as shown on the approved airport plan or as calculated using the procedure stipulated on the airport plan.
- c. Notice to the Federal Aviation Administration ("FAA") shall be required for the construction or alteration of any structure 200 feet or higher located within 20,000 feet of any Erie Municipal Airport runway.

6. Land Use Limitations

No use may be made of land within the designated Airport Influence Area in such a manner as to:

- a. Create electrical interference with radio communication between the airport and aircraft;
- b. Make it difficult for pilots to distinguish between airport lights and other lights;
- c. Cause glare in the eyes of pilots using the airport;
- d. Impair visibility in the vicinity of the airport; or
- ~~e. Attract birds; or~~
- f.e. Otherwise endanger the landing, taking off, or maneuvering of aircraft at the airport or in the vicinity of the airport.

7. Airport Influence Area

An application for Initial Zoning, Rezoning, PD or PUD approval for land within the Airport Influence Area shall include, in addition to any other submittal requirements herein, the following:

- a. An aviation easement signed by the landowner that acknowledges flight operations above the land, recorded in the office of the county clerk and recorder. The book and page of the recorded easement shall be noted on subsequent approved plans and plats involving the land.
- b. A study which shows compliance with the FAA, FAR Part 77, and a plat note on the Final Plat stating that the plat is in compliance with FAR Part 77.
- c. Referral to the Erie Airport Manager for review and comment.
- d. A copy of the public disclosure statement to be provided to prospective buyers, disclosing the airport activity.
- e. A land use compatibility map depicting the 55, 60 and 65 Ldn noise contours overlaid on the property.

8. Airport Influence Area Requirements

Within the following specific portions of the Airport Influence Area, the following shall be required:

- a. Approach Surface: Structure height shall be restricted to a maximum of 100 feet or as provided in FAR Part 77, whichever is less.
- b. Runway Protection Zone:
 - i. Non-aeronautical structures are prohibited.
 - ii. Structure height shall be restricted to a maximum of 100 feet or as provided in FAR Part 77, whichever is less.

- c. 65 Ldn Noise Zone: Residential and other noise sensitive development shall be discouraged. To the extent development is permitted, noise attenuation shall be required.

C. Floodplain Overlay District (FPO)

1. Findings of Fact

The flood hazard areas of the Town are subject to periodic inundation which could possibly result 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 overall tax base. All of which could collectively have an adverse **effect** effect on public health, safety and general welfare.

Such potential flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage may also contribute to the flood loss.

2. Purpose

To promote the public health, safety, and general welfare, to minimize flood losses in areas subject to flood hazards, and to promote wise use of the floodplain, this Section has been established with the following purposes intended:

- a. To reduce the potential hazard of floods to life and property through:
 - i. Prohibiting certain uses which may be dangerous to life or property during a flood.
 - ii. Restricting land uses which may be hazardous to the public health during a flood.
 - iii. Restricting land uses which are particularly susceptible to flood damage, so as to alleviate hardship and minimize demands for public expenditures for relief and protection.
 - iv. Requiring permitted floodplain uses, including public facilities which serve such uses, to be protected against flood by providing floodproofing and general flood protection at the time of initial construction.
 - v. Restricting or prohibiting uses which are known to be dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
 - vi. Requiring that uses vulnerable to floods, including facilities which serve such uses be protected against flood damage at the time of initial construction.
- b. To protect floodplain occupants from a flood which is or may be caused by their own or other land use and which is or may be undertaken without full realization of the danger, through:
 - i. The prohibition of residential uses from being platted in the floodplain.
 - ii. Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures.
 - iii. Regulating the method of construction of water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions.

- iv. Delineating and describing areas that could be inundated by floods so as to protect individuals from purchasing floodplain lands for purposes which are not in fact suitable.
 - v. Minimizing the need for rescue and relief efforts associated with flooding which are generally undertaken at the expense of the general public.
 - vi. Minimizing prolonged business interruptions.
 - vii. Ensuring that potential buyers in the area are notified that property is in an area of special flood hazard.
 - viii. Ensuring that those who occupy flood hazard areas assume responsibility for their actions.
- c. To protect the public from the burden of avoidable financial expenditures for flood control and relief by:
 - i. Regulating all uses within the floodplain areas so as to produce a method of construction and a pattern of development which will minimize the probability of damage to property and loss of life or injury to the inhabitants of the flood hazard areas.
 - ii. Minimizing damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
 - iii. Helping maintain a stable tax base by providing for the sound use and development in flood hazard areas and to minimize future flood hazard areas.
- d. To protect the flood water storage capacity of floodplains and to assure retention of sufficient floodway area to convey flood flows which can reasonably be expected to occur by:
 - i. Regulating filling, dumping, dredging, and alteration of channels by deepening, widening, or relocating.
 - ii. Prohibiting unnecessary and damage creating encroachments.
 - iii. Encouraging uses such as agriculture, recreation and parking.
 - iv. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood water elevations or velocities.
- e. To protect the hydraulic characteristics of the small watercourses, including the gulches, sloughs and artificial water channels used for conveying floodwaters, which make up a portion of the urban drainage system, by:
 - i. Regulating filling, dumping, and channelization so as to maintain the natural storage capacity and slow flow characteristics.
 - ii. Regulating encroachment into the small watercourses to maintain their natural storage capacity and slow flow characteristics.
 - iii. Encouraging uses such as greenbelt, open space, recreation, and pedestrian and non-motorized vehicle trails.
 - iv. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters.

- v. Controlling filling, grading, dredging, and other development which may increase damage caused by flooding.
- vi. Preventing or regulating the construction of flood barriers which could divert floodwaters or which may increase flood hazards in other areas.

3. General Provisions

a. *Jurisdiction*

The provisions of this Section shall apply to flood hazard areas within the Town.

b. *Basis for Establishing the Areas of Special Flood Hazard*

The areas of special flood hazard in the Town are identified by the Federal Emergency Management Agency ("FEMA") in a scientific and engineering report entitled, "The Flood Insurance Study For Boulder County Colorado and Incorporated Areas", dated December 18, 2012 and updated on August 15, 2019, with accompanying Flood Insurance Rate Maps (the "FIRM") and any letter of map revisions thereto, which are hereby adopted by reference and declared to be a part of this Section. If a scientific and engineering report based on updated conditions is available, and that report identifies additional areas of special flood hazard, that report will be adopted by reference and made part of this Section. The intent of this Section is to use the most current and updated data available.

c. *Effect of Floodplain Regulations*

The regulations of this Section shall be construed as being supplementary to the regulations imposed on the same lands by any underlying zoning district. This Section supersedes provisions of any zoning relating to floodplain. Any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive than those of this Section.

d. *Interpretation*

The interpretation and application of the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Colorado statutes.

e. *Warning and Disclaimer of Liability*

The degree of flood protection intended to be provided by this Section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods can and will occur upon occasion, or the flood height may be increased by manmade or natural causes, such as ice jams, and bridge openings restricted by debris. This Section does not imply that the areas outside the floodway district and floodway fringe district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damage. This Section shall not create liability on the part of the Town, any officer or employee thereof, or the FEMA, for any flood damage that results from reliance on this Section or any administrative decision lawfully made hereunder.

f. *Compliance with Provisions*

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Section and other applicable regulations.

g. *Abrogation and Greater Restrictions*

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

h. Letter of Map Revision Based On Fill (LOMR-F)

Any new structure constructed in an area removed from the flood hazard area utilizing a LOMR-F shall be constructed on fill so that the lowest floor (including basement) is at least 1 foot above the previous base flood elevation.

i. Critical Facilities

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 Regulation 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.

Critical Facilities constructed within flood hazard area shall be constructed on fill so that the lowest floor (including basement), together with attendant utility and sanitary facilities, is at least 2 feet above the base flood elevation.

4. Floodway Districts and Mapping

a. Districts Established

In order to carry out the provisions of this Section, the areas of the 100-year flood are hereby divided into the following overlay zoning districts:

i. Floodway District (FW)

The FW shall be those areas identified as floodway in the flood insurance study. In areas outside of the boundaries of the flood insurance study, the FW shall be those areas identified as floodway in floodplain studies approved by the Town.

ii. Floodway Fringe District (FF)

The FF shall be those areas identified in the flood insurance study as being within the boundaries of the 100-year flood, but outside of the floodway. In areas outside of the boundaries of the flood insurance study, the FF shall be those areas identified in studies approved by the Town as being within the boundaries of the 100-year flood, but outside of the floodway.

b. Mapping of District Boundaries

The boundaries of the FW and the FF as established in Subsection 2.7.C.4.a above shall be shown upon the flood boundary-floodway map.

c. Interpretation of District Boundaries

The flood boundaries shall be established by flood elevations set forth in the flood insurance study. Where interpretation is needed of the exact boundaries of the FW and FF as shown in the flood insurance study, a survey shall be prepared by a licensed professional engineer or surveyor and submitted to the Town for review. If necessary, an elevation certificate along with other required documentation shall be submitted by the applicant to FEMA for obtaining a Letter of Map Amendment.

d. Amendment of District Boundaries

The boundaries of the FW and the FF district shall be changed on the zoning district map by the amendment procedure contained in the zoning title. Amendment of said district boundaries shall be subject to the following limitations:

i. In areas within the boundaries of the flood insurance study, the flood boundaries shall be amended only to conform to changes previously approved by FEMA.

ii. In areas outside of the boundaries of the flood insurance study, the boundaries of the FW and the FF district shall be changed only upon the

presentation of evidence, prepared by a registered professional engineer competent in open channel hydraulics, which shows clearly and conclusively that the boundaries of the districts, as mapped, are incorrect.

5. Floodway Fringe District (FF)

a. Development Standards

All uses or development in the FF shall comply with the following requirements:

i. Permits

Development within a FF site shall only be permitted which is authorized by a floodplain development permit and one of the following; a building permit, a manufactured home permit or a Special Review Use.

For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

ii. Certificate of Occupancy

No land shall be occupied or used and no building or manufactured home which is hereafter erected, placed, moved or structurally altered, shall be used or changed in use until the Chief Building Official or the Official's agent approves a Certificate of Occupancy stating compliance with the provisions of this Section.

iii. New Construction and Substantial Improvements:

(A) All new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall:

- (1)** Be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads;
- (2)** Be constructed with materials and utility equipment resistant to flood damage; and
- (3)** Be constructed by methods and practices that minimize flood damage.

(B) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) Manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on sites:

- (1)** Outside of a manufactured home park or subdivision;
- (2)** In a new manufactured home park or subdivision;
- (3)** In an expansion to an existing manufactured home park or subdivision; or

- (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, together with attendant utility and sanitary facilities, is elevated to 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (D) Manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions within zones A1-30, AH, and AE that are not subject to the provisions of Subsection (A).(C).(3) of this Section shall be elevated so that either:
 - (1) The lowest floor of the manufactured home, together with attendant utility and sanitary facilities, is at or above 1 foot above the base flood elevation; or
 - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- iv. *Preservation of Channel Capacity*

No use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, any drainage ditch, or any other drainage system or facility. Original channel capacity must be maintained in an altered portion.
- v. *Subdivisions and Other New Development*

All subdivisions and other new development shall meet the following requirements:

 - (A) New residential lots shall not be platted in the FF.
 - (B) All such activities shall be generally consistent with the need to minimize flood damage.
 - (C) All public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
 - (D) Adequate drainage shall be provided to reduce exposure to flood hazards.
 - (E) 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).
 - (F) The boundaries of the FW and FF district shall be shown upon preliminary and final subdivision plats. If a subdivision is located entirely within the FW or the FF district, that information shall be stated on the Preliminary and Final Plats.
- vi. *Water and Sewage Systems*

New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

vii. On-Site Waste Disposal Systems

On-site waste disposal or treatment systems shall be located to avoid impairment to them or contamination from them during flooding.

viii. Manufactured Homes

All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Manufactured homes shall be placed in the FF only upon the issuance of a manufactured home permit. Such a permit shall require that the placement of the manufactured home for which it is issued meets the following conditions:

- (A) The manufactured home shall be placed on a designated manufactured home space in a manufactured home park.
- (B) The manufactured home shall be anchored to the ground in the following manner:
 - (1) Over the top ties shall be provided at each of the 4 corners of the home. Homes at least 50 feet long shall have 2 additional ties per side at intermediate locations, and homes under 50 feet long shall have 1 additional tie per side.
 - (2) Frame ties shall be provided at each corner of the home. Homes at least 50 feet long shall have 5 additional ties per side, and homes under 50 feet long shall have 4 additional ties per side.
 - (3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - (4) Any additions to the manufactured home shall be similarly anchored.

ix. Establishment of Floodplain Development Permit

A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in Subsection 2.7.C.3.b. Application for a floodplain development permit shall be made on forms furnished by the administrative official and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (A) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (B) Elevation in relation to mean sea level to which any structure has been floodproofed;

- (C) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection 2.7.C.5.b.ii below; and
- (D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

x. Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (A) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- (B) The bottom of all openings shall be no higher than 1 foot above grade.
- (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

xi. Recreational Vehicles

Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the Town's FIRM either:

- (A) Be on the site for fewer than 180 consecutive days,
- (B) Be fully licensed and ready for highway use, or
- (C) Meet the permit requirements of Subsection 2.7.C.5.a.ix, and the elevation and anchoring requirements for "manufactured homes" in Subsection 2.7.C.5.a.viii. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

xii. Below Grade Residential Crawlspace Construction

New construction and substantial improvement of any below grade crawlspace shall:

- (A) Have the interior grade elevation that is below base flood elevation no lower than 2 feet below the lowest adjacent grade;
- (B) Have the height of the below grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not to exceed 4 feet at any point;
- (C) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
- (D) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;

- (E) Be constructed with materials and utility equipment resistant to flood damage;
- (F) Be constructed using methods and practices that minimize flood damage;
- (G) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- (H) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (1) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (2) The bottom of all openings shall be no higher than 1 foot above grade; and
 - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

b. Uses Permitted

Any use which is permitted by the underlying zoning district and those which involve fill, excavation, storage of materials or equipment, or construction or substantial improvement of a building or manufactured home park, is permitted upon approval of the necessary building permit, provided the use meets the requirements of Subsection A of this Section and the following requirements:

i. Residential Buildings

All new construction and substantial improvement of residential buildings shall be constructed on fill so that the lowest floor (including basement), together with attendant utility and sanitary facilities, is at least 1 foot above the base flood elevation. The fill shall be at an elevation at least 1 foot above the base flood elevation and shall extend at that elevation at least 15 feet beyond the limits of any structure or building erected thereon.

ii. Nonresidential Buildings

All new construction or substantial improvement of nonresidential buildings shall have the lowest floor (including basement), together with attendant utility and sanitary facilities, elevated 1 foot above the base flood elevation, or together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

iii. Certification

Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provision of this Subsection. Such

certifications shall be provided to the official as set forth in Subsection 2.7.C.8.

c. Storage of Materials And Equipment

- i. The storage or processing of materials that are buoyant, flammable, or which in times of flooding could be injurious to human, animal or plant life, shall be at or above a point 2 feet above the base flood elevation or in a building which has been floodproofed to a point 2 feet above the base flood elevation.
- ii. The storage of materials or equipment which is not subject to major damage by floods and which are firmly anchored to prevent flotation or are readily removable from the flood hazard area within the time available after flood warning, may be permitted below the base flood elevation.

6. Floodway District (FW)

a. Special Provisions

The following regulations, in addition to the requirements of Subsection 2.7.C.5.a shall apply to all uses within the floodway district. Additionally, a regulatory floodway is hereby adopted to which the following provisions shall apply:

- i. No new construction, placement or substantial improvement of existing buildings or manufactured homes shall be permitted.
- ii. No filling or excavating shall be permitted.
- iii. Storage of materials which are buoyant, flammable, or explosive, or which in times of flooding could be injurious to human, animal, or plant life, is prohibited.
- iv. No use shall be permitted which would result in any increase in the base flood elevation.

b. Uses Permitted by Right

The following uses have low flood damage potential and, provided they do not obstruct flood flows, shall be permitted subject to the provisions of the underlying zoning and Subsection 2.7.C.5.a and Subsection 2.7.C.6.a above, provided they do not require structures, fill, excavation, or storage of materials or equipment:

- i. Agricultural uses such as general farming, truck farming, sod farming, plant nurseries, and horticulture.
- ii. Industrial and commercial uses such as loading areas, parking areas and airport landing strips.
- iii. Open space.
- iv. Private and public recreational uses such as parks, picnic grounds, golf courses, driving ranges, swimming areas, wildlife and nature preserves, fishing areas, and trails for hiking, bicycling and horseback riding.
- v. Residential uses such as lawns, gardens, parking areas and play areas.

c. Special Review Uses Permitted

The following uses which involve structures other than buildings, fill, or storage of materials or equipment may be permitted only upon the approval and issuance a Special Review Use permit:

- i. Circuses, carnivals, and similar transient amusement enterprises.

- ii. Storage yards for equipment, machinery or materials, as long as such storage does not conflict with the provisions of Subsection 2.7.C.5.a.

d. Provisions within Floodways

Located within areas of special flood hazard established in Subsection 2.7.C.3.b are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potentials, the following provisions apply:

- i. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a Colorado licensed, registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- ii. If Subsection 2.7.C.6.d.i above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

7. Special Review Use Permits

a. Purpose

Certain uses may have an adverse impact when located in the floodplain because of their effect upon floods or because of the effect of flood upon them. The intent of the Special Review Use permit is to provide the means for review of such uses to assure that the purposes of this Section are met and the potential for adverse effects is minimized.

b. Authority to Grant a Special Review Use

At a public hearing, the Board of Trustees, after review and recommendation by the Planning Commission, shall hear and decide all requests for Special Review Use permits and construction application within the 100-year floodplain in the manner prescribed by this Section.

c. Conditions for Authorizing Construction Under a Special Review Use Permit

i. Exceptions

Authorizations for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places may be issued without regard to the procedures set forth in the remainder of this Section.

ii. Restrictions and Limitations on Issuance

- (A) Special Review Use permits shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (B) Authorization shall be issued only upon a determination that the same is the minimum necessary, considering the flood hazard, to afford relief.
- (C) Authorization shall only be issued upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the authorization would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of an authorization 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.

- (D) Lot Size: Generally, Special Review Use permits may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided Subsection 2.7.C.9.c have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justifications required for issuing the Special Review Use permits increase.

8. Administration of Provisions

a. Duties of Administrative Official

Duties and responsibilities of the Public Works Director (i.e. Administrative Official) in carrying out the provisions of this Section shall include, but not be limited to, the following:

- i. The review of permits for proposed development to determine whether proposed building sites will be reasonably safe from flooding by a 100-year flood.
- ii. The review of permits for proposed development to assure that the permit requirements of this Section have been satisfied and that all necessary permits have been obtained from those federal, state or local agencies from which prior approval is required.
- iii. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the FEMA; require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- iv. The approval of certificates of occupancy for all lands in the FW and the FF upon verification that the premises and structures thereon conform with all of the requirements of this Section.

(A) When there has been fill, excavation, erection or substantial improvement of a structure, or construction, enlargement or substantial improvement of a manufactured home park, the administrative official shall require the applicant to provide certification by a registered professional engineer or surveyor that the finished fill, excavation, building floor elevations, floodproofing measures, or other flood protection measures were accomplished in compliance with the provisions of this Section. Certification of the adequacy of the floodproofing of a non-residential use building may be provided by a registered architect in lieu of a professional engineer or surveyor.

(B) The certification provided by the professional engineer or architect shall include the elevation (in relation to mean sea level) of the lowest floor (including basement) of all buildings that have not been floodproofed.

(C) Records of all certificates provided by professional engineers or architects in compliance with this Section shall be maintained by the Town.

- v. The maintenance of records of all Special Review Use permits granted from the requirements of this Section, including justification for the granting of the Special Review Use permits.
- vi. An annual inspection of all properties in the FW and the FF district to assure conformance to the provisions of this Section and to all permits issued there under.
- vii. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection 2.7.C.9.
- viii. Review all floodplain development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Subsection 2.7.C.6 are met.

b. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Subsection 2.7.C.3.b, the administrative official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for new construction, substantial improvements or other development in zone A in order to administer Subsection 2.7.C.5.a.

c. Information to be Obtained and Maintained

- i. The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement, shall be obtained and recorded.
- ii. For all new or substantially improved floodproofed structures, the following shall be done:
 - (A) Verify and record the actual elevation (in relation to mean sea level to which the structure has been floodproofed); and
 - (B) Maintain the floodproofing certifications required in Subsection 2.7.C.5.a.ix(C).
- iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
- iv. Maintain for public inspection all records pertaining to the provisions of this Section.

d. Approval or Denial of a Floodplain Development Permit

Approval or denial of a floodplain development permit by the Public Works Director shall be based on all of the provisions of this Section and the following relevant factors:

- i. The danger to life and property due to flooding or erosion damage;
- ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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- i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The compatibility of the proposed use with existing and anticipated development;
 - iii. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - iv. The costs of providing governmental, public or quasi-public services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - v. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - vi. The necessity to the facility of a waterfront location, where applicable;
 - vii. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
 - viii. The relationship of the proposed use to the Town's Comprehensive **Master** Plan for that area.

9. Appeals

a. **Authority**

The Board of Adjustment shall hear and decide all appeals when it is alleged that there is an error in any requirement, decision or determination made by the administrative official in the enforcement or administration of this Section.

b. **Filing Appeal**

Any person alleging such an error shall file his appeal to the Board of Adjustment, in writing, within 30 days from the determination of the administrative official, in which he shall set forth in detail a basis for such alleged error.

c. **Considerations in Granting Appeal**

In passing upon any appeal, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other Subsections of this Section, and:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger of life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iv. The importance of the services provided by the proposed facility to the Town;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;

- viii. The relationship of the proposed use to the Town's Comprehensive ~~Master~~ Plan and floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

d. Conditions of Appeal

The Board of Adjustment may attach any conditions to authorizing construction within the 100-year floodplain that it deems necessary to further the purposes of this Section.

e. Records Kept

The Board of Adjustment shall maintain through its administrative officer the records of all appeal and application actions and report any decisions to the FEMA upon request.

f. Further Appeals to District Court

Those aggrieved by the decision of the Board of Adjustment may appeal such decisions to the appropriate County District Court, as provided in C.R.S. §31-23-307.

10. Penalties

a. Fine

Any person found guilty of violating any provision of this Section shall be punishable as provided in the Municipal Code. Each day that such violation continues to exist shall be considered a separate offense.

b. Additional Actions

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used in violation of this Section, the Town, in addition to other remedies provided by law, may institute an appropriate action to prevent, enjoin, abate, or remove the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act or use in or on such premises.

11. Variance Procedures

- a. The Board of Adjustment as established by the Town shall hear and render judgment on requests for variances from the requirements of this Section.
- b. The Board of Adjustment shall hear and render judgment on a variance request only when it is alleged there is an error in any requirement, decision, or determination made by the administrative official in the enforcement or administration of this Section.
- c. Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision as set forth in Subsection 2.7.C.9.
- d. The administrative official shall maintain a record of all actions involving a variance request and shall report variance requests to the FEMA upon request.

- e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
- f. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Subsection 2.7.C.8.d have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance request increases.
- g. Upon consideration of the factors noted above and the intent of this Section, the Board of Adjustment may attach such conditions to the granting of a variance request as it deems necessary to further the purpose and objectives of this Section.
- h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the appeal is the minimum necessary to preserve the historic character and design of the structure.
- j. Prerequisites for granting a variance request:
 - i. Variances shall only be issued upon a determination that the variance request is the minimum necessary, considering the flood hazard, to afford relief.
 - ii. Variances shall only be issued upon:
 - (A) Showing a good and sufficient cause;
 - (B) A determination that failure to grant the appeal would result in exceptional hardship to the applicant; and
 - (C) A determination that the granting of a variance request 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.
 - iii. 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.
- k. Variances may be issued by the Board of Adjustment for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. The criteria outlined in Subsections 2.7.C.11.a through j, are met, and
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

D. Planned Unit Development Overlay District (PUD)

1. Purpose

The PUD Overlay District is generally used when there is special public interest that doesn't coincide with the traditional zoning in a geographic area. The PUD Overlay District may only be used when an application is not able to meet the requirements of a standard zone classification. The PUD is a mapped area with restrictions in addition to, or less than, those in the underlying traditional zone. Rather than attempt to create a new zoning category, an overlay zone is superimposed over the traditional zone and establishes additional regulations, or reduces or extends the existing uses. The underlying zoning identifies permitted land uses, the overlay zone may provide design restrictions, additional setbacks, or other exceptions to the base district regulations.

General purposes of a PUD are as follows:

- a. Establish a procedure for the development of larger parcels of land in order to reduce or eliminate the rigidity, delays, and inequities that otherwise would result from application of zoning standards and procedures designed primarily for small parcels.
- b. Ensure orderly and thorough planning and review procedures that will result in high-quality urban design.
- c. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity.
- d. Provide a mechanism for considering mixes of uses that can be made compatible by application of careful and imaginative treatment of interrelationships of activity.
- e. Encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those who will directly benefit from it.
- f. To convert land so poorly developed as to be a public liability.
- g. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended.
- h. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.
- i. To simplify processing of development proposals for developers and the Planning Commission by providing for concurrent review of land use, subdivision, public improvements and siting considerations.

2. District-Specific Standards

In any PUD development, although it is permissible to depart from literal conformance with the individual-lot dimension and area regulations, there shall be no variation of:

- a. The underlying zone districts maximum density requirements;
- b. Height requirements, except in the RC district;
- c. Parking requirements;
- d. Loading and unloading area requirements;
- e. Public street and alley standards;
- f. Exterior lighting standards;

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- g.** Operational standards;
- h.** Parks, Open Space and trails dedication requirements;
- i.** Natural and Scenic Resource Protection requirements;
- j.** Abandoned mine requirements;
- k.** Oil and gas wells and production facility requirements;
- l.** Floodplain protection; and
- m.** Stormwater requirements.

The Planning Commission shall attach reasonable standards to ~~insure~~ensure that there shall not be a departure from the intent of this UDC. The PUD development shall conform to such standards. Because a PUD development is inherently more complex than individual-lot development and because each such project must be tailored to the topography and neighboring uses, the standards for such projects cannot be inflexible.

- a.** Development along the perimeter of the PUD shall adhere to all required setbacks of the underlying zoning.
- b.** Access points to all arterial streets shall be located no more frequently than once every 1/8 to a quarter of a mile. The Planning Commission may approve the location of temporary access points.
- c.** Wherever there is an abrupt change in uses – i.e., residential to commercial – a buffer area of open space, protective planting, or other approved screening, or combination thereof shall be placed between them which will protect each use from the undesirable effects of the other.

The review procedures contained in Section 7.6, shall apply to all development in a PUD Overlay District.