

## CHAPTER 2: ZONE DISTRICTS

### 10.2.1 GENERAL PROVISIONS

This Chapter establishes the zone districts and contains basic information pertaining to zone 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. Zone Districts Established

The following zone 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
Industrial	LI	Light Industrial
	I	Industrial
	HI	Heavy Industrial
Mixed-Use	DT	Downtown District
	NMU	Neighborhood Mixed-Use
	CMU	Community Mixed-Use
Other Districts	AG/OS	Agricultural/Open Space
	AGH	Agricultural Holding
	AP	Airport
	PLI	Public Land and Institutions
	PD	Planned Development
Overlay Districts	APO	Airport Overlay
	FPO	Floodplain Overlay
Inactive Districts	RP-1	Rural Preservation 1
	RP-2	Rural Preservation-2
	RP-3	Rural Preservation-3
	PUD	Planned Unit Development Overlay

##### 2. Zoning Map

The zone districts are shown on the “Town of Erie, Colorado Zoning Map” (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. Procedures for amending the Zoning Map are set forth in Section 7.5.

### 3. Newly Annexed Areas

Unless otherwise zoned upon annexation, all property hereafter annexed to the Town shall be zoned AGH.

## 10.2.2 RESIDENTIAL DISTRICTS

### A. General Purposes of Residential Districts

The residential zone 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 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)

The purpose of the RR zone district is to provide areas for residential uses of a rural character, at a gross density no greater than 1 dwelling unit per 2 acres.

### C. Estate Residential (ER)

The purpose of the ER zone district is to provide areas for residential uses of an estate character, at a gross density no greater than 1 dwelling unit per acre, and no less than 0.5 dwelling units per acre.

### D. Suburban Residential (SR)

The purpose of the SR zone district, is to provide areas for residential uses of a suburban character, at a gross density no greater than 3 dwelling units per acre, and no less than 1 dwelling unit per acre.

### E. Low-Density Residential (LR)

The purpose of the LR zone district is to provide areas for residential uses of an urban character, at a gross density no greater than 5 dwelling units per acre, and no less than 3 dwelling units per acre.

### F. Medium-Density Residential (MR)

The purpose of the MR zone district is to provide areas for residential uses of an urban character, at a gross density no greater than 10 dwelling units per acre and no less than 5 dwelling units per acre.

### G. High-Density Residential (HR)

The purpose of the HR zone district is to provide areas for residential uses of an urban character, at a gross density no greater than 25 dwelling units per acre and no less than 10 dwelling units per acre.

**H. Old Town Residential (OTR)**

The purpose of the OTR zone district is 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.

**COMMERCIAL AND INDUSTRIAL DISTRICTS**

**A. General Purposes of Commercial and Industrial Districts**

The commercial and industrial zone are intended to:

1. Provide appropriately located areas substantially consistent with the Comprehensive Plan for industrial, retail, service, and office uses;
2. Expand the Town's economic base and provide employment opportunities primarily for Town residents and the region;
3. Minimize any potentially negative impact of commercial and industrial development on adjacent residential districts; and
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.

**B. Community Commercial (CC)**

The purpose of the CC zone district is to provide areas for a full range of community-oriented retail and service commercial uses.

**C. Regional Commercial (RC)**

The purpose of the RC zone district is 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)**

The purpose of the B zone district is to provide areas for office, research and development, and other similar uses.

**E. Light Industrial (LI)**

The purpose of the LI zone district is to provide areas for light industrial uses including warehousing and limited outdoor sales and storage.

**F. Industrial (I)**

The purpose of the I zone district is to provide areas for industrial uses which, by their nature, are more intensive than light industrial uses, but less intensive than heavy industrial uses.

**G. Heavy Industrial (HI)**

The purpose of the HI zone district is to provide areas for industrial uses that are typically more intensive than those businesses in either the LI zone district or I zone district.

## **10.2.4 MIXED-USE ZONE DISTRICTS**

### **A. General Purposes**

Mixed-use zone 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. Mixed-use zone 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)**

The purpose of the DT zone district is 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.

### **C. Neighborhood Mixed-Use District (NMU)**

The purpose of the NMU zone district is 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 5 acres in size. Continuous retail frontages, largely uninterrupted by driveways and parking, are encouraged.

### **D. Community Mixed-Use District (CMU)**

The purpose of the CMU zone district is 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 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 CMU zone district, and development should facilitate pedestrian connections between residential and nonresidential land uses.

## **10.2.5 OTHER DISTRICTS**

### **A. Agricultural/Open Space (AG/OS)**

The purpose of the AG/OS zone district is to provide areas to be used for agricultural and open space purposes and 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.

### **B. Agricultural Holding (AGH)**

The purpose of the AGH zone district is to provide for the continuance of existing agricultural-related uses on land annexed to the Town until such time the annexed are redeveloped.

### **C. Airport (AP)**

The purpose of the AP zone district is to provide areas for the development of airport land uses. The area is also regulated by the Airport Overlay (APO) zone district.

### **D. Public Land and Institutions (PLI)**

The purpose of the PLI zone district is to provide areas for the development of public or quasi-public facilities or private facilities of a non-commercial character, including places of worship, schools, libraries, and cultural facilities.

### **E. Planned Development (PD)**

1. The purpose of the PD zone district is to make 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.
2. The PD zone district may be used when:
  - a. There is a special public benefit that does not coincide with standard zone district requirements; or,
  - b. A development proposal is unable to meet the standard zone district requirements due to physical constraints of the property; or, A development proposal is unable to meet the standard zone district requirements due to unique development design; or,
  - c. A development proposal is unable to meet the standard zone district requirements due to a unique mix of land uses.
3. The PD zone district is not a general waiver of the UDC regulations. PD zone districts are to be based on one or more of the following attributes that could not otherwise be achieved through other standard zone districts:
  - a. innovative approaches to development,
  - b. creative designs of land uses,
  - c. preservation of significant natural features within the Town,
  - d. retention of historic structures and sites,
  - e. retention of open space,
  - f. compatibility with overall community objectives,
  - g. and consideration of environmental concerns.

4. PD zone district modifications shall be generally consistent with the overall land uses and objectives of the Town's Comprehensive Plan, Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
5. 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 OVERLAY DISTRICTS**

### **A. General Purpose**

Overlay zoning is typically used when there is special public interest that does not coincide with a specific zone district. An overlay zone district establishes a supplemental set of standards for covered properties in an underlying zone district.

### **B. Airport Overlay District (APO)**

#### **1. Purpose**

The purpose of the APO zone 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 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. 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 approval, or PUD development plan amendment, 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 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. Purposes**

The purposes of the FPO zone district are:

- a. To reduce the potential hazard of floods to life and property by:
  - 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. Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures.
  - ii. Regulating the method of construction of water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions.
  - iii. 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.
  - iv. Minimizing the need for rescue and relief efforts associated with flooding which are generally undertaken at the expense of the general public.
  - v. Minimizing prolonged business interruptions.

- vi. Ensuring that potential buyers in the area are notified that property is in an area of special flood hazard.
    - vii. 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 uses within the floodplain areas so as to produce a method of construction and a pattern of development to 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 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. Applicability**

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 by any underlying zone 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 Town and shall not be deemed a limitation or repeal of any other powers granted by Colorado law.

**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. *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.

**g. *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.

**h. *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*

The areas of the 100-year flood are hereby divided into the following overlay zone districts:

##### i. *Floodway District (FW)*

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

##### ii. *Floodway Fringe District (FF)*

The FF includes 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 includes 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 shall be shown upon the flood boundary-floodway map.

##### c. *Interpretation of District Boundaries*

The boundaries of the FW and FF 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*

Changes to the boundaries of the FW and the FF district shall be subject to the following limitations:

i. In areas within the boundaries of the flood insurance study, the boundaries of the FW and FF 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 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, 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 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 FW has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE of the Town'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 Town.

**ii. Certificate of Occupancy**

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 designee issues a Certificate of Occupancy.

**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)** All such activities shall be generally consistent with the need to minimize flood damage.
- (B)** All public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
- (C)** Adequate drainage shall be provided to reduce exposure to flood hazards.
- (D)** Base flood elevation data shall be provided.
- (E)** 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. 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, crawlspace or enclosure floor) of all structures;
- (B) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (C) Base Flood Elevation data;
- (D) FIRM Panel with effective/revised date;
- (E) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the applicable floodproofing criteria; and
- (F) 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***

Recreational vehicles placed on sites within zones A1-30, AH, and AE on the Town's FIRM shall 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 2.6.C.5.a.ix, and the elevation and anchoring requirements for "manufactured homes" in Subsection 2.6.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 zone 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*

All new construction or substantial improvement of residential or nonresidential buildings shall include a certification 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 administrative official.

**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**

Except as otherwise provided in this Section, the following regulations, in addition to the requirements of the FF district, shall apply to all uses within the FW district:

- 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:

- i. Agricultural uses such as 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 are 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.

**d. Floodways**

Because a floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potentials, encroachments such as fill, new construction, substantial improvements, and other development are prohibited, 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.

**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**

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**

*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.

## 8. Administration of Provisions

### a. *Duties of Administrative Official*

Duties and responsibilities of the Administrative Official designated by the Town to carry out the provisions of this Section shall include without limitation 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. Notification of adjacent communities, FEMA and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse.
- iv. The approval of certificates of occupancy 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.
  - (D) Applicant shall submit an Elevation Certificate conforming to the current FEMA requirements.

- v. 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 thereunder.
- vi. 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).
- vii. Review all floodplain development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the floodway requirements of this Section are met.

**b. Use of Other Base Flood Data**

When base flood elevation data has not been provided, 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.

**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 2.6.C.5.a.ix(C).
- iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

**d. Approval or Denial of a Floodplain Development Permit**

Approval or denial of a floodplain development permit 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;
- iii. The danger that materials may be swept onto other lands to the injury of others.
- iv. The compatibility of the proposed use with existing and anticipated development;
- v. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- vi. 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;
- vii. 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;

- viii. The necessity to the facility of a waterfront location, where applicable;
- ix. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- x. The relationship of the proposed use to the Town's Comprehensive 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, including the basis of the appeal.

### c. *Considerations in Granting Appeal*

In reviewing an appeal, the Board of Adjustment shall consider:

- 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 Comprehensive 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 reasonable conditions to authorizing construction within the 100-year floodplain that it deems necessary to further the purposes of this Section.

## 10. Variance Procedures

- a. The Board of Adjustment shall hear and render judgment on requests for variances from the requirements of this Section.
- b. 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.
- c. The Board of Adjustment may attach reasonable conditions to the granting of any variance as it deems necessary to further the purpose and objectives of this Section.
- d. 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 variance would result in exceptional hardship to the applicant; and
    - (C) A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

### 10.2.7 INACTIVE DISTRICTS

#### A. General Purpose

These districts are carried forward from the previous zoning ordinance. 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; no Initial Zonings or Rezonings to these districts shall be permitted.

#### B. Rural Preservation 1 (RP-1)

The purpose of the RP-1 zone district is 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 no greater than 1 dwelling unit per 17.5 acres.

#### C. Rural Preservation 2 (RP-2)

The purpose of the RP-2 zone district is 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 no greater than 1 dwelling unit per 5 acres.

#### D. Rural Preservation 3 (RP-3)

The purpose of the RP-3 zone district is 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 no greater than 1 dwelling unit per 5 acres if not precluded by federal, state or other local ordinances.

## **E. Planned Unit Development Overlay (PUD)**

### **1. Purpose**

The purpose of the PUD overlay district is to provide for areas where there is special public interest that doesn't coincide with the traditional zoning in a geographic area. The PUD overlay district 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. Ensure orderly and thorough planning and review procedures that will result in high-quality urban design.
- b. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity.
- c. Provide a mechanism for considering mixes of uses that can be made compatible by application of careful and imaginative treatment of interrelationships of activity.
- d. 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.
- e. 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.

### **2. District-Specific Standards**

In any PUD, 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;
- 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 review procedures contained in Section 7.6, shall apply to all development plans in a PUD overlay district.

**3. Amendment**

As an inactive district, no new PUD overlay may be established, and no existing PUD overlay may be expanded. The boundaries of an existing PUD overlay may only be reduced by rezoning to another zone district. A previously approved PUD development plan within an existing PUD overlay may only be amended in accordance with Section 10.7.6.