

**Town of Erie
Ordinance No. 19-2022**

**An Ordinance of the Board of Trustees of the Town of Erie
Amending Sections 10-2-7 and 10-7-2 of the Erie Municipal Code,
Repealing Section 10-7-6 of the Erie Municipal Code, and
Repealing and Reenacting Section 10-7-8 of the Erie Municipal
Code, all to Modify and Clarify the Procedure for Amendments to
Land Use Approvals and Deviations from Land Use Standards**

Whereas, the Board of Trustees desires to modify and clarify the amendment procedure for land use approvals and deviations from land use standards.

Now Therefore be it Ordained by the Board of Trustees of the Town of Erie, Colorado, as follows:

Section 1. Section 10-2-7.E. of the Erie Municipal Code is hereby repealed in its entirety.

Section 2. Table 7-1.1 in Section 10-7-1 of the Erie Municipal Code is hereby amended as follows:

a. To remove the row entitled "PUD Plan Amendment, Administrative Review" in its entirety; and

b. To change the row entitled "PUD Plan Amendment, PC/BOT Review" to "PUD".

Section 3. Section 10-7-2.J. of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

10-7-2. Standard development review procedures.

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J. Step 10: Amendments:

1. Minor Amendments: The Director may administratively approve, with or without conditions, a minor amendment to any approval issued under this Chapter. No public hearing shall be necessary. To approve a minor amendment, the Director must determine that the following criteria are satisfied:

a. The approval, as modified, complies with this Chapter at least to the extent of its original compliance;

b. The amendment does not result in a change in the character of the development;

c. The amendment does not increase or decrease the number of approved dwelling units by more than one (1) percent;

d. The amendment does not propose a change in building height, permitted uses, mix of uses or a deviation from use-specific standards;

e. The amendment does not change any conditions imposed on the original approval; and

f. If applicable, the amendment proposes a change in the housing mix or use mix ratio that complies with the requirements of the underlying zone district or the applicable PD or PUD plan.

2. Major amendments. Any amendment that is not determined by the Director to be a minor amendment under the criteria set forth above shall be deemed a major amendment. A major amendment shall be reviewed and processed in the same manner as the original approval, and shall be recorded in accordance with the procedures established for the original approval.

Section 4. Section 10-7-6 of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

10-7-6. Planned Unit Development (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. As an inactive district, no new PUD may be established. 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.

3. Review procedures: See Table 7.1-1, Section 10-7-2, and the User Guide for applicable review procedure and submittal requirements.

4. Approval criteria:

a. The PUD will promote the public health, safety, and general welfare;

b. The PUD is generally consistent with the Town's comprehensive plan and the purposes of this UDC;

c. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

d. The PUD is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

e. The PUD is not likely to result in significant adverse impacts to significant scenic and historic features as identified in plans adopted by the Town;

f. The PUD is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;

g. Proposed uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property;

h. The proposed phasing of the development is appropriate and the development can be substantially completed within the time period specified in the schedule of development or development agreement submitted by the applicant; and

i. The PUD provides public benefits.

5. Amendment: An existing PUD may be expanded by no more than five (5) percent of the total area of the existing PUD, if all of the expansion area is contiguous with the PUD. The boundaries of an existing PUD may be amended to reduce the size of the PUD. PUD amendments shall be subject to Section 10-7-2.J.

Section 5. Section 10-7-8 of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

10-7-8. Minor deviations.

A. Purpose: This Section allows for minor deviations from otherwise applicable land use standards. Minor deviations are intended to be allowed when the unlikelihood of any adverse effects on nearby properties or the neighborhood makes it unnecessary to complete a formal variance process.

B. Applicability:

1. As part of the review of any land use application under this Title, the Board of Trustees, the Planning Commission, or the Director may approve minor deviations of up to a maximum of ten percent (10%) from the following general development and zone district standards, provided that the applicable approval criteria are met:

- a. Minimum lot area requirements;
- b. Setback requirements;
- c. Subdivision design and improvement standards; and
- d. Quantitative development standards set forth in Chapter 6.

2. Exceptions: Notwithstanding the foregoing, no minor deviation shall result in:

- a. An increase in overall project density;
- b. A change in permitted uses or mix of uses;
- c. An increase in building height;
- d. A deviation from the use-specific standards; or
- e. A change in conditions imposed on the original approval of any plat, site plan, or special review use.

C. Procedure: The final decision-making body on a land use application may approve a minor deviation at the time the land use application is finally approved.

D. Approval criteria: A minor deviation may only be approved if all of the following criteria are satisfied:

1. The minor deviation is generally consistent with the Town's Comprehensive Plan and the stated purpose of this UDC;
2. The minor deviation meets all applicable building and safety codes;
3. The minor deviation does not encroach into a recorded easement;
4. The minor deviation will not have significant adverse impacts on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated; and
5. The minor deviation is necessary to compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general, or to accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing standard.

Section 5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 6. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 7. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

Introduced, Read, Passed and Ordered Published this 13th day of September, 2022.

Justin Brooks, Mayor

Attest:

Debbie Stamp, Town Clerk