TOWN OF ERIE, COLORADO

UNIFIED DEVELOPMENT CODE

OCTOBER 2017

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CHAPTER 1: GENERAL PROVISIONS

10.1.1 TITLE AND EFFECTIVE DATE

The Unified Development Code of the Town of Erie, Colorado, may be referred to throughout this document as "this UDC."

10.1.2 AUTHORITY

This UDC is enacted pursuant to the powers granted and limitations imposed on municipalities by the laws of the State of Colorado, including without limitation C.R.S. §29-20-101 *et seq*. (Local Government and Land Use Enabling Act). This UDC has been adopted by reference into the Erie Municipal Code (Ordinance 20-2012).

10.1.3 PURPOSE OF THIS TITLE

A. General Purpose

This UDC has as its general purpose the promotion of the health, safety, and general welfare of the Town of Erie ("Town").

B. Specific Purposes

The provisions of this UDC are specifically intended to:

1. Foster quality, compatible, and efficient relationships among land uses;

2. Promote a healthy and convenient distribution of population by regulating and limiting the density of development;

3. Ensure greater public safety and accessibility through quality physical design and location of land use activities;

4. Encourage the efficient use of the available land supply;

5. Promote a balanced supply of residential, commercial, industrial, institutional, and transportation land uses that are substantially compatible with adjacent land uses and that have good access to transportation networks;

6. Preserve the character and quality of the Town's residential neighborhoods;

7. Promote a balanced, diverse supply of affordable, quality housing located in safe and livable neighborhoods;

8. Enhance the appearance, visual scale, orientation, quality, and mix of land uses of new developments;

9. Ensure that developments are substantially compatible with the Town's Comprehensive Master Plan;

10. Promote the vitality and development of the Town's major employment centers, town centers, and its other commercial and mixed-use districts;

11. Manage traffic congestion in the streets;

12. Ensure the provision of adequate open space for light, air, and fire safety;

13. Preserve the value of buildings and land;

14. Manage the preservation of existing trees and vegetation, wetlands, floodplains, wildlife and habitat, stream corridors, scenic views, and other areas of scenic and environmental significance from adverse impacts of land development;

15. Encourage development of a sustainable and accessible system of recreational facilities, parks, trails, and open space that meets year-round neighborhood and community-wide needs;

16. Facilitate and cooperate with other governments to provide adequate and safe provision of transportation, water, wastewater, storm drainage, schools, parks, and other public facilities;

17. Provide a clear, timely, business friendly development processing atmosphere, particularly for retail and commercial developments;

18. Provide appropriate development incentives to achieve an economically balanced and diverse community; and

19. Ensure that service demands of new development will not exceed the capabilities of existing streets, utilities, or other public facilities and services.

10.1.4 APPLICABILITY AND JURISDICTION

A. General Applicability

The provisions of this UDC shall apply to all land, buildings, structures, and land uses thereof located within the Town, unless an exception is provided by the terms of this UDC.

B. Jurisdictional Area

The territorial jurisdiction of this UDC shall include all land located within the legal boundaries of the Town or to a limited extent those lands that desire to annex to the Town through a formal petition process.

C. Application to Governmental Agencies

To the extent permitted by law, the provisions of this UDC shall apply to all land, buildings, structures, and uses owned by government agencies in the Town. Where the provisions of this UDC do not legally apply to such land, buildings, structures, and uses owned by government agencies, such agencies are encouraged to meet the provisions of this UDC.

D. Compliance Required

No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with all of the applicable regulations established by this UDC. No lot of record that did not exist on the effective date of this UDC shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this UDC.

10.1.5 EASEMENTS

Development or encroachment within any easement area shall require authorization from the easement holder. Development within any easement owned by or benefiting the Town shall require specific written permission from the Town.

10.1.6 INTERPRETATION

The provisions of this UDC shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare.

10.1.7 LIABILITY FOR DAMAGES

This UDC shall not be construed to hold the Town or its authorized representatives responsible for any damage to persons or property by reason of inspection or reinspection authorized in this UDC or failure to inspect or reinspect, or by reason of issuing a building permit as provided in this UDC.

10.1.8 CONFLICTING PROVISIONS

A. Conflict with Other Public Laws, Ordinances, Regulations, or Permits

This UDC is intended to complement other Town, State, and Federal regulations that affect land use. This UDC is not intended to revoke or repeal any other Town, State or Federal law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this UDC are either more restrictive or less restrictive than comparable standards imposed by any other Town, State or Federal law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern.

B. Conflict with Private Agreements

This UDC is not intended to revoke or repeal any easement, covenant, or other private agreement. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

10.1.9 TRANSITIONAL REGULATIONS

A. Purpose

The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, as those terms are used below, and properties with outstanding violations, at the time of the adoption of this UDC.

B. Violations Continue

Any violation of the previous Zoning Regulation or Subdivision Regulation of the Municipal Ordinance shall continue to be a violation under this UDC and shall be subject to the penalties and enforcement set forth in Chapter 10, unless the use, development, construction, or other activity complies with the provisions of this UDC. Payment shall be required for any civil penalty assessed under the previous codes, even if the original violation is no longer considered a violation under this UDC.

C. Uses, Structures, and Lots Rendered Conforming

A use, structure, or lot not in conformance with the Municipal Code prior to the adoption of this UDC or modifications thereto, is deemed lawful and conforming as of the effective date of this UDC, provided it conforms to all of the requirements of this UDC.

D. Uses, Structures, and Lots Rendered Nonconforming

1. When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this UDC or modifications thereto, and this UDC no longer classifies such use as a permitted use in the zoning district in which it is located, such use shall be considered legally nonconforming and shall be controlled by Chapter 9.
2. Where any building, structure, or lot that legally existed on the effective date of this UDC or modifications thereto, does not meet all standards set forth in this UDC, such building, structure, or lot shall be considered legally nonconforming and shall be controlled by Chapter 9.

E. Processing of Applications Commenced or Approved Under Previous Ordinances

1. **Pending Applications**
   a. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this UDC, shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete. If the applicant fails to

comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this UDC. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

b. An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this UDC, may request review under this UDC by a written letter to the Community Development Director.

2. Preliminary Approvals

An application for which preliminary approval of a plat or planned unit development (PUD) was granted prior to the effective date of this UDC may be processed for a final decision in accordance with the preliminary approval, and applicable terms of the UDC in place at the time of preliminary approval, even if the application does not comply with 1 or more requirements set forth in this UDC. Preliminary approvals granted under the previous Zoning Code may be extended no more than once, and for no longer than 6 months.

3. Approved Projects

a. Special Review Use permits, Preliminary and Final Plats, Site Plan approvals, grading permits, building permits, sign permits, and Variances that are valid upon the adoption of any updates to this UDC, shall remain valid until their expiration date. Projects with valid approvals or permits may be completed with the development standards in effect at the time of approval.

b. Any building or development for which a building permit was granted prior to the effective date of any updates to this UDC may be permitted to proceed to construction.

c. If the development for which the building permit is issued prior to the effective date of any updates to this UDC fails to comply with the time frames for development established for the building permit, the building permit shall expire and future development shall comply with the requirements of this UDC.

10.1.10 SEVERABILITY

A. If any court of competent jurisdiction invalidates any provision of this UDC, then such judgment shall not affect the validity and continued enforcement of any other provision of this UDC.

B. If any court of competent jurisdiction invalidates the application of any provision of this UDC, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.

C. If any court of competent jurisdiction judges invalid any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

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
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, adopted as part of this UDC as fully as if the same were set forth in this Section in 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 Director 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 Director 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. 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.

2. District-Specific Standards

a. *Incentive to Encourage Mix of Dwelling Types*

This provision is intended to complement the minimum housing type diversification standards for residential development contained in Subsection 6.7.D.

b. *Density Bonus*

To encourage even greater diversity of residential housing types, a density bonus of up to 25 percent of the underlying base zoning district density (but not to exceed a total of 6 dwelling units per acre) may be granted by the Board of Trustees. Any residential subdivision plat or Site Plan in the LR district may request a density bonus if the development exceeds the requirements in Table 6.7-1 by providing 1 additional housing type above the stated requirement.

For developments seeking to obtain a density bonus under this Subsection, the Community Development Director shall refer the Site Plan to the Board of Trustees for a decision on the award of the density bonus only.

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.

2. District-Specific Standards

a. *Incentive to Encourage Mix of Dwelling Types*

This provision is intended to complement the minimum diversification standards for residential development contained in Subsection 6.7.D.

b. *Density Bonus*

To encourage even greater diversity, a density bonus of up to 25 percent of the underlying base zoning district density (but not to exceed a total of 12 dwelling units per acre) may be granted by the Board of Trustees. Any residential subdivision plat or Site Plan in the MR district may request a density bonus if the development exceeds the requirements in Table 6.7-1 by providing 1 additional housing type above the stated requirement.

For developments seeking to obtain a density bonus under this Subsection, the Community Development Director shall refer the site plan to the Board of Trustees for a decision on the award of the density bonus only.

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 dwelling units per acre. A minimum gross density of 10 dwelling units per acre is required.

2. District-Specific Standards

a. *Incentive to Encourage Mix of Dwelling Types*

This provision is intended to complement the minimum diversification standards for residential development contained in Subsection 6.7.D.

b. *Density Bonus*

To encourage even greater diversity, a density bonus of up to 25 percent of the underlying base zoning district density (but not to exceed 20 dwelling units per acre and 24 dwelling units per building) may be granted by the Board of Trustees. Any residential subdivision plat or Site Plan in the HR district may request a density bonus if the development exceeds the requirements in Table 6.7-1 by providing 1 additional housing type above the stated requirement.

For developments seeking to obtain a density bonus under this Subsection, the Community Development Director shall refer the Site Plan to the Board of Trustees for a decision on the award of the density bonus only.

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.

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.

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 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)

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 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.

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 district modifications to the UDC regulations are to be based on creative and innovative design and amenities incorporated in the PD zone district 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).

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 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 Rezonings.

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. Overlay zones contain restrictions in addition to or less than 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 avigation 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;

e. Attract birds; or

f. 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 avigation 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 affect 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 as 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 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 with accompanying Flood Insurance Rate Maps (“FIRM”) and any letter of map revisions thereto, are hereby adopted by reference and declared to be a part of this Section.

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;

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 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;

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 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.

CHAPTER 3: USE REGULATIONS

10.3.1 TABLE OF PERMITTED USES

Table 3-1 below lists the principal uses permitted within all standard zoning districts. For the PD district, unless expressly modified in the PD Development Plan, shall be as specified in Table 3-1 for the appropriate land use category. Each of the listed uses is defined in Chapter 11.

A. Explanation of Table Abbreviations

1. Permitted Uses
"P" in a cell indicates that the use is permitted by right, without special conditions other than those imposed upon other uses by right in the district. Permitted uses are subject to all other applicable regulations of this UDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

2. Special Review Uses
"S" in a cell indicates that, in the respective zoning district, the use is permitted only if reviewed and approved as a Special Review Use in accordance with the procedures of Section 7.13. Special Review Uses are subject to all other applicable regulations of this UDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

3. Prohibited Uses
A blank cell indicates that the use is prohibited in the respective zoning district.

4. Use-Specific Standards
Regardless of whether a use is permitted by right or permitted as a Special Review Use, there may be additional standards that are applicable to the use. Use-specific standards are noted through a cross-reference in the last column of the table. Cross-references refer to Section 3.2. These standards apply in all districts unless otherwise specified.

B. Table Organization

In Table 3-1, land uses and activities are classified under a "primary use classification" (such as Residential or Commercial) and then into specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. This classification does not list every use or activity that may appropriately exist within the categories and specific uses may be listed in 1 category when they may reasonably have been listed in 1 or more other categories. The use categories are intended merely as an indexing tool and are not regulatory.

C. Use for Other Purposes Prohibited

Approval of a use listed in Table 3-1, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically permitted in Table 3-1, and approved under the appropriate process is prohibited, unless otherwise permitted as noted below.

D. Classification of New and Unlisted Uses

Notwithstanding the prohibition stated in Subsection 3.1.C above, new types of land use will develop and forms of land use not anticipated may seek to locate in the Town. In order to provide for such situations, a determination as to the appropriate classification of any new or unlisted form of land use shall be made. When application is made for a use category or use type that is not specifically listed in Table 3-1, the procedure set forth below shall be followed.

1. The Community Development Director shall provide an interpretation as to the zoning classification into which such use should be placed. In making such interpretation, the Community Development Director shall consider its potential impacts, including but not limited to: the nature of the use and whether it involves dwelling unit activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
2. Standards for new and unlisted uses may be interpreted as those of a similar use by the Community Development Director.
3. Appeal of the Community Development Director's decision shall be made to the Board of Adjustment following procedures under Subsection 7.22.A.

E. Table of Permitted Uses

TABLE 3-1: TABLE OF PERMITTED USES

P = Permitted Use by Right S = Special Review Use Blank Cell = Prohibited

USE CATEGORY	USE TYPE	RESIDENTIAL							COMMERCIAL				MIXED USE			OTHER			Use Standards
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
RESIDENTIAL USES																			
Household Living	Dwelling, Duplex			P	P	P	S	S					P	P					3.2.A.1
	Dwelling, Live/Work											S	P	P	P		S	S	
	Dwelling, Multi-Family			P	P	P	P	S					P	P	P				3.2.A.2
	Dwelling, Single-Family Attached			P	P	P	P	S					P	P					3.2.A.3
	Dwelling, Single-Family Detached	P	P	P	P	P	P	P					P	P					3.2.A.4
	Mobile Home Park					S	S	S											3.2.A.6
	Model Home	P	P	P	P	P	P	P					P	P	P				3.2.A.7
Group Living	Dormitory								S	S	S	S	S	S	S		S	P	
	Group Home, Residential	P	P	P	P	P	P	P					P	P	P			P	3.2.A.5
	Group Home, Large				S	S	S							S	S				.
	Group Home, Small	S	S	S	S	S	S	S					S	S	S				
	Retirement Home, Nursing Home, or Assisted Living Facility			S	S	P	P	S						P	P			P	3.2.A.8
PUBLIC / INSTITUTIONAL USES																			
Aviation	Airport and related uses											S					P		

TABLE 3-1: TABLE OF PERMITTED USES

P = Permitted Use by Right S = Special Review Use Blank Cell = Prohibited

USE CATEGORY	USE TYPE	RESIDENTIAL							COMMERCIAL				MIXED USE			OTHER			Use Standards
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
	Heliport																P		
	Helistop									S	S	S					P	P	
Cemetery	Cemetery	S	S	S												S		P	
Child Care	Child Care Center, Large	S	S	S	P	P	P	P	P	P	P	S	S	S	S			S	3.2.B.1
	Child Care Center Small	P	P	P	P	P	P	P	P	P	P	S	P	P	P			P	3.2.B.1
Community Facilities	Community Center (Public)	S	S	S	S	S	S	S	P	P	P	P	P	P	P	S	S	P	
	Correctional Facility																	S	
	Governmental Office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Neighborhood Recreation Center (Indoor/Outdoor)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	S	P	
	Public Works Facility								S	S	S	S				S	S	S	
	Public Utility Services	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
	Public Safety Station	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
	Transit Center	S	S	S	S	S	S	S	P	P	P	P	S	S	S	S	S	P	
Cultural Facilities	Botanical garden	S	S	S	S	S	S	S	P	P	P	P	S	P	P	S	S	P	
	Library				S	S	P	P	P	P	S	P	P	P	P	S	S	P	
	Museum	S	S	S	S	S	S	S	P	P	P	S	P	S	S	S	S	S	

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USE CATEGORY	USE TYPE	RESIDENTIAL							COMMERCIAL				MIXED USE			OTHER			Use Standards
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
	Zoo								S	S						S		S	
Educational Use	College or University								P	P	P	S	S	S	P		S	P	
	Commercial School								P	P	P	P	P	P	P		S		
	School - Public	P	P	P	P	P	P	P	P		P				P			P	
	School - Private	S	S	S	S	S	S	S	S		S				S			P	
Human Health Services	Dental or Medical Office, Clinic, Lab								P	P	P	P	P	P	P				
	Hospital								P	P	P	P						S	
	Laboratory								P	P	P	P		S	P			S	
	Substance Abuse Treatment Facility, Outpatient								S	S	S	S			S			S	
	Urgent Care Center								P	P	P	P	S	S	P			S	
Park and Open Space	Athletic Fields and Courts	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S		P	
	Community Garden	P	P	P	P	P	P	P								S		P	
	Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Outdoor Amphitheater, Public							S	S	S	S	S	S	S	S			P	
	Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Religious	Religious	S	S	S	S	S	S	P	P	P	P	S	P	P	P	S	S	P	

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		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
Assembly	Assembly																		
Tele-communication Facilities	Antenna Collocation on Existing Tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	3.2.B.2
	Concealed Antennae and Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	3.2.B.2
	Non-Concealed Building-Mounted Antennae and Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	3.2.B.2
	Non-Concealed Freestanding Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	3.2.B.2
Utility Facilities	Utility Facility, Major	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
	Utility Facility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Utility, Town-Owned	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
COMMERCIAL USES																			
Agricultural	Agricultural Cultivation															P		P	
	Agricultural Grazing															P		S	3.2.C.2
Animal Sales and Care	Animal Hospital, Large Animals	S							S	P	P	P				P			3.2.C.3

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		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
	Animal Hospital, Large Animals (outdoor facilities)	S							S	S	S	S				P			3.2.C.3
	Animal Hospital, Small Animals	S							P	P	P	P	P	P	P	P			3.2.C.3
	Animal Hospital, Small Animals (outdoor facilities)	S							S	S	S	S				P			3.2.C.3
	Horse Stables	S														P			
	Kennel or Animal Day Care	S							P	P	P	P		S	S	P			3.2.C.5
	Kennel or Animal Day Care (outdoor facilities)	S							S	S	S	S				P			3.2.C.5
Assembly	General Assembly Uses							S	S	S	S		S	S	S	S	S	S	
	Residential Assembly (HOA)	S	S	S	S	S	S	S					S	S	S				
Financial Institution	Automated teller machine (freestanding)								P	P	P	P	P	P	P		P	S	
	Bank								P	P	P	P	P	P	P				
	Bank, with drive-through service								P	P	P	P			S				3.2.C.4
	Check-cashing Facility								P	P	P	P							
Food and Beverage Service	Bar/Tavern								P	P	P	P	P	P	P		P	S	
	Bar/Tavern (outdoor facilities)								P	P	P	P	P	P	P		P		3.2.C.9

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		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
	Nightclub								P	P	P	S	P	S	P		S	S	3.2.C.6
	Restaurant								P	P	P	P	P	P	P		P	S	
	Restaurant, with drive-through or drive-up service								P	P	P	P			S		S		3.2.C.4
	Restaurant, with outdoor seating area								P	P	P	P	P	P	P				3.2.C.9
Office	Office, Business or Professional								P	P	P	P	P	P	P		P	P	
	Recording or Broadcasting Studio								P	P	P	P	S	S	P				
Parking	Parking Lot								P	P	P	P	S	S	S		P	P	
	Parking Structure								S	S	S	S	S	S	S				3.2.C.7
	Bus Lot/Maintenance Facility											S							
Recreation/ Entertainment, Indoor	Commercial Amusement, Indoor								P	P	P	S	S	S	P				
	Sexually-oriented business																S		3.2.C.1
	Shooting Range, Indoor											S							
	Sports Arena								S	P	S	S							
Recreation/	Amusement Park								S	P		S							

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		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
Entertainment, Outdoor	Campground															S		S	
	General Outdoor Recreation, Commercial	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
	Golf Course	P	P	P	P	P	P		P	P	P	P						S	
	Golf Driving Range								S	S	S	S			S				
	Golf Putting Course	S	S	S	S	S	S		S	S	S	S			S			S	
	Recreational vehicle park																		
	Shooting Range, Outdoor																		
Retail Sales and Service	Convenience Store						S		P	P	P	P			P		P		3.2.C.8
	Farm Market							S	S	S	S		S	S	S				
	Funeral Parlor, Mortuary or Crematory								P	P	P	P			P				
	General Retail					S	S		P	P	P	P	P	P	P		P		
	Personal Service Establishment					S	S		P	P	P	P	P	P	P				
	Pharmacy					S	S		P	P	P	P	P	P	P		P		
	Pharmacy with drive-through service								P	P	P	P			S		S		3.2.C.4
	Repair Shop								P	P	P	P	S	S	P				
	Shopping Center								P	P	S	S		S	S				

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		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
Vehicles and Equipment	Car Wash								S	S	S	S			S				3.2.C.8.b
	Outdoor Recreational Vehicle Storage											S							
	Service Station								S	S	S	S			S		S		3.2.C.8
	Towing and Storage Facility											S							
	Vehicle Sales and Rental								S	P	S	P							3.2.C.10
	Vehicle Service and Repair, Heavy											P							3.2.C.8.b
	Vehicle Service and Repair, Light								P	P	S	P			S				3.2.C.8.b
Visitor Accommodation	Bed and Breakfast	S	S	S	S	S	S	S					S	S	S				
	Boarding or Rooming House					S	S												
	Extended Stay Lodgings					S	S		P	P	P	P			S				
	Hotel or Motel								P	P	P	P	S	S	S				
MANUFACTURING AND LIGHT INDUSTRIAL USES																			
Industrial Service	Building Materials and Lumber Sales								P	P	S	P			S				
	Contractor's Shop or Storage Yard											S							3.2.D.2
	Heavy Equipment Sales, Service and Rental											P							

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		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
	Industrial, Heavy											S							
	Industrial, Light										S	P					S		
	Light Equipment Sales, Service and Rental										P	P							
	Research and Development Facility								S	S	S	S					S		
Manufacturing and Production	Heavy Manufacturing, General											S							
	Light Manufacturing, General										S	P					S		
	Mining and Mineral Extraction	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Warehouse and Freight Movement	Freight or Truck Yard											S							
	Mini-warehouse/Self Storage											S							
	Wholesale Distribution Center											S							
Waste-Related Uses	Auto Wrecking and Salvage Yard/Junkyard																		3.2.D.1
	Hazardous Materials Handling and Transfer Facility																		

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USE CATEGORY	USE TYPE	RESIDENTIAL							COMMERCIAL				MIXED USE			OTHER			Use Standards
		RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/ OS	AP	PLI	
	Recycling Collection Point								S	S	S	S			S			S	3.2.D.3
	Recycling Center											S						S	
	Sanitary Landfill																	S	3.2.D.5

TABLE 3-1: TABLE OF PERMITTED USES

P = Permitted Use By Right S = Special Review Use
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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
Household Living	Dwelling, Duplex				3.2.A.1
	Dwelling, Live/Work				
	Dwelling, Multi-Family				3.2.A.2
	Dwelling, Single-Family Attached				3.2.A.3
	Dwelling, Single-Family Detached	P	P	P	3.2.A.4
	Mobile Home Park				3.2.A.6
	Model Home				3.2.A.7
Group Living	Dormitory				
	Group Home, Residential	S	S	S	3.2.A.5
	Group Home, Large				
	Group Home, Small	S	S	S	
	Retirement Home, Nursing Home, or Assisted Living Facility				3.2.A.8
Aviation	Airport and related uses				
	Heliport				
	Helistop				
Cemetery	Cemetery	S	S	S	
Child Care	Child Care Center, Large		S	S	3.2.B.1
	Child Care Center Small		S	S	3.2.B.1

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
Community Facilities	Community Center (Public)				
	Correctional Facility				
	Governmental Office				
	Neighborhood Recreation Center (Indoor/Outdoor)				
	Public Works Facility				
	Public Utility Services	S	S	S	
	Public Safety Station				
	Transit Center	S	S	S	
Cultural Facilities	Botanical garden		S	S	
	Library				
	Museum		S	S	
	Zoo		S	S	
Educational Use	College or University				
	Commercial School				
	School (public or private)	S	S	S	
Human Health Services	Dental or Medical Office, Clinic, Lab				
	Hospital				
	Laboratory				

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
	Substance Abuse Treatment Facility, Outpatient				
	Urgent Care Center				
Park and Open Space	Athletic Fields and Courts			S	
	Community Garden		S	S	
	Open Space	S	S	S	
	Outdoor Amphitheater, Public				
	Park	S	S	S	
Religious Assembly	Religious Assembly		S		
Tele-communication Facilities	Antenna Collocation on Existing Tower	S	S	S	3.2.B.2
	Concealed Antennae and Towers	S	S	S	3.2.B.2
	Non-Concealed Building-Mounted Antennae and Towers	S	S	S	3.2.B.2
	Non-Concealed Freestanding Towers	S	S	S	3.2.B.2
Utility Facilities	Utility Facility, Major	S	S	S	
	Utility Facility, Minor	S	S	S	
	Utility, Town-Owned	P	P	P	
Agricultural	Agricultural Cultivation	P	P	P	
	Agricultural Grazing	P	P	P	3.2.C.2

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
Animal Sales and Care	Animal Hospital, Large Animals	P	P	P	3.2.C.3
	Animal Hospital, Large Animals (outdoor facilities)	P	P	P	3.2.C.3
	Animal Hospital, Small Animals	P	P	P	3.2.C.3
	Animal Hospital, Small Animals (outdoor facilities)	P	P	P	3.2.C.3
	Horse Stables	P	P	P	
	Kennel or Animal Day Care	P	P	P	3.2.C.5
	Kennel or Animal Day Care (outdoor facilities)	P	P	P	3.2.C.5
Assembly	General Assembly Uses	S	S	S	
	Residential Assembly (HOA)				
Financial Institution	Automated teller machine (freestanding)				
	Bank				
	Bank, with drive-through service				3.2.C.4
	Check-cashing Facility				
Food and Beverage Service	Bar/Tavern				
	Bar/Tavern (outdoor facilities)				3.2.C.9
	Nightclub				3.2.C.6
	Restaurant				

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
	Restaurant, with drive-through service				3.2.C.4
	Restaurant, with outdoor seating area				3.2.C.9
Office	Office, Business or Professional				
	Recording or Broadcasting Studio				
Parking	Parking Lot				
	Parking Structure				3.2.C.7
	Bus Lot /Maintenance Facility				
Recreation/ Entertainment, Indoor	Commercial Amusement, Indoor				
	Sexually-oriented Business				3.2.C.1
	Fitness and recreational sports center				
	Shooting Range, Indoor		S	S	
	Sports Arena				
Recreation/ Entertainment, Outdoor	Amusement Park				
	Campground		S	S	
	General Outdoor Recreation, Commercial	S	S	S	
	Golf Course	S	S	S	
	Golf Driving Range				
	Golf Putting Course		S	S	

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
	Recreational vehicle park				
	Shooting Range, Outdoor		S	S	
Retail Sales and Services	Convenience Store				
	Farm Market				
	Funeral Parlor, Mortuary or Crematory				
	General Retail				
	Personal Service Establishment				
	Pharmacy				
	Pharmacy with drive-through service				
	Repair Shop				
	Shopping Center				
Vehicles and Equipment	Car Wash				3.2.C.8.b
	Outdoor Recreational Vehicle Storage				
	Service Station				3.2.C.8
	Towing and Storage Facility				
	Vehicle Sales and Rental				3.2.C.10
	Vehicle Service and Repair, Heavy				3.2.C.8.b
	Vehicle Service and Repair, Light				3.2.C.8.b

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
Visitor Accommodation	Bed and Breakfast		S	S	
	Boarding or Rooming House				
	Extended Stay Lodgings				
	Hotel or Motel				
Industrial Service	Building Materials and Lumber Sales				
	Contractor's Shop or Storage Yard				3.2.D.2
	Heavy Equipment Sales, Service and Rental				
	Industrial, Heavy				
	Industrial, Light				
	Light Equipment Sales, Service and Rental				
	Research and Development Facility				
Manufacturing and Production	Heavy Manufacturing, General				
	Light Manufacturing, General				
	Mining and Mineral Extraction	S	S	S	
Warehouse and Freight Movement	Freight or Truck Yard				
	Mini-warehouse/Self Storage				
	Wholesale Distribution Center				
Waste-Related Uses	Auto Wrecking and Salvage Yard/Junkyard				3.2.D.1

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USE CATEGORY	USE TYPE	RURAL PRESERVATION DISTRICTS			Use Standards
		RP-1	RP-2	RP-3	
	Hazardous Materials Handling and Transfer Facility				
	Recycling Collection Point				3.2.D.3
	Recycling Center				
	Sanitary Landfill			S	3.2.D.5

10.3.2 USE-SPECIFIC STANDARDS

A. Residential Uses

1. Dwelling, Duplex
The *Residential Building Standards* contained in Section 6.7 shall apply to duplex dwelling units.

2. Dwelling, Multi-Family
The *Residential Building Standards* contained in Section 6.7 shall apply to multi-family dwelling units.

3. Dwelling, Single-Family Attached
The *Residential Building Standards* contained in Section 6.7 shall apply to multi-family dwelling units.

4. Dwelling, Single-Family Detached
The *Residential Building Standards* contained in Section 6.7 shall apply to single-family detached dwelling units.

5. Group Home, Residential

a. *Compliance with State Statutes*
Residential Group Homes shall comply with the occupancy, dispersal, and other requirements found in the Colorado statutes and regulations for group homes.

b. *Reasonable Accommodation*
In consideration of the requirement of the Federal Fair Housing Act ("FHA") (42 U.S.C. § 3601 et seq.) that local governments make reasonable accommodations in order to permit housing for persons with disabilities, the Community Development Director (in consultation with the Town attorney) is hereby authorized to approve minor modifications of building setbacks, building height, lot coverage or occupancy limits in order to provide reasonable accommodation for Residential Group Homes without the need for an additional hearing. The Community Development Director may approve a reasonable accommodation other than that requested by the applicant if it is concluded that an alternative accommodation would have fewer impacts on adjacent neighborhoods. The decision of the Community Development Director regarding a FHA application for a reasonable accommodation shall contain written findings of fact as to the need for the accommodation and the authority to approve the requested accommodation, as stated herein.

6. Mobile Home Park

a. *General Provisions*

i. All mobile homes shall be located only in a Mobile Home Park.

ii. Existing mobile homes whether they be located within or outside of a mobile home park shall be deemed conforming as of the effective date of this UDC. Existing mobile homes shall only be upgraded or replaced with newer and higher quality contemporary mobile homes.

iii. *Permitted Principal Uses*
The following uses shall be permitted within a mobile home park:

(A) Any single-family dwelling unit regardless of its method of assembly including Type 1 and Type 2 manufactured homes, module homes assembled after 1976, factory built homes or on-site built homes, provided said dwelling units have been

constructed no more than 10 years prior to the effective date of this UDC.

(B) Community center.

(C) Group care facilities.

iv. *Permitted Accessory Uses:*

(A) Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot or on an adjacent lot.

(B) Recreational facilities.

(C) Service facilities.

(D) Storage facilities.

b. ***Dimensional Requirements***

i. Minimum mobile home park area: 3 contiguous acres.

ii. Minimum mobile home park width: 200 feet.

iii. Maximum gross density: 8 manufactured homes per gross acre.

iv. Minimum individual lot or space area:

(A) Singlewide mobile home: 3,000 square feet.

(B) Doublewide or expandable mobile home: 4,000 square feet.

(C) Individual lot or space width: 40 feet.

(D) Minimum distance between mobile homes: 15 feet.

v. Maximum primary residential structure height: 30 feet.

c. ***Development Standards***

i. All mobile homes are required to meet the provision of C.R.S. Article 32, Title 24 that requires comprehensive regulation of the installation of mobile homes to ensure the safety, affordability and performance of such dwelling units.

ii. All interior streets shall be hard-surfaced with asphalt or concrete and shall provide convenient access to each individual lot or space. Streets shall meet all adopted Town street standards.

iii. Walkways shall not be less than 4 feet in width and having an all-weather surface shall be provided from homes to buildings constructed in the mobile home park that are intended to provide common services to the residents of the mobile home park and in which such residents will need access to such service building.

iv. Interior streets, parking areas and walkways shall be adequately lighted to provide safe movement of vehicles and pedestrians at night.

v. An enclosed individual or common storage area for the use of the mobile home park residents shall be provided in an amount equal to 80 square feet per dwelling unit.

vi. Landscaping that complies with the provisions set forth in Section 6.4 shall be submitted as part of the required Site Plan for the park. All setback areas, with the exception of driveways and sidewalks, and other open

space shall be landscaped to soften the exterior appearance of the mobile home park.

vii. Not less than 10 percent of the total land area of the mobile home park shall be devoted to space for private recreation and play areas.

viii. All mobile homes shall be skirted between the floor and the ground surface with durable, all-weather construction as manufactured specifically for covering the undercarriage area of the mobile home.

d. No replacement mobile home or manufactured home shall be moved onto any lot unless such mobile home or manufactured home is certified pursuant to the "National Mobile home Construction and Safety Standards Act of 1974", 42 U.S.C. §5401 et seq., as amended or is certified by the Colorado Division of Housing pursuant to C.R.S. §24-32-701, et seq. A mobile home presently located within a mobile home park that is relocated within the same mobile home park is exempted from the requirements of this Chapter.

7. Model Homes

The following standards shall apply to all model homes:

a. ***Approval***

i. Model homes shall require the approval of the Community Development Director through the administrative Site Plan review process. Building permits for model homes shall be issued after paved streets are completed and accepted by the Public Works Director and the applicant has demonstrated the model homes will be connected to the Town's potable water and sanitary sewer systems; and

ii. Off-street parking, sidewalks and landscape improvements shall be installed prior to the issuance of a Certificate of Occupancy is issued for any model home.

b. ***Construction Plans***

Construction plans shall be filed that demonstrate:

i. Paved street access with sidewalk and landscaping that conform to district and development standards;

ii. The location of temporary on-site sales offices within the model home; temporary parking lots with all-weather surfacing; and temporary trap fencing; and

iii. Connection to the Town's potable water and sanitary sewer system.

c. ***Development Standards***

Model homes and associated parking shall conform to the development and design standards applicable to residential uses in the zone district, and with the following additional standards:

i. *Standards for Temporary Off-Street Parking*

Model homes shall provide temporary off-street parking onsite or on an adjacent lot that conforms to the development and design standards for parking lots for similar commercial uses, as may be modified by the Community Development Director to reflect the temporary nature of the use. The temporary off-street parking shall have all-weather surfacing. Temporary parking lots shall be removed prior to the issuance of the last Certificate of Occupancy for a dwelling unit in the development is issued.

Within 30 days of a parking lot being removed, the owner shall re-vegetate the lot.

ii. *Standards for Temporary Sales Office*
Temporary sales offices shall be operational within 30 days of receiving the first Certificate of Occupancy for a model home. Once the applicable subdivision plans, as approved by the Community Development Director, are 90 percent constructed as determined by the Community Development Director, the model homes shall no longer be used for sales purposes and all temporary sales offices shall be removed.

iii. *Standards for Temporary Fencing*
Temporary fencing across paved streets, with a gated fence, is permitted for model homes when in conformance with any requirements of the Fire District, and as may be approved by the Community Development Director. No such temporary fencing shall be constructed without first obtaining a fence permit. Temporary fencing shall be removed prior to sale of the model homes for residential use.

8. Retirement Home, Nursing Home, or Assisted Living Facility

a. The number of residents occupying a facility at any 1 time (including staff and family of staff) shall not exceed 1 person per 200 square feet of living area.

b. Structures 5,000 square feet or more in size shall comply with the multi-family residential design standards in Chapter 6.

c. A minimum of 15 percent of the site shall remain as an open planted area, landscaped area, natural vegetation area or usable yard, to exclude buildings, driveways, parking areas, sidewalk, etc. unless otherwise permitted by the Community Development Director who determines that a lower percentage is sufficient to buffer adjacent uses.

d. Subject to requirements in Section 6.3.

B. Institutional and Public Uses

1. Child Care Center

All Child Care Centers, both Large and Small, shall meet all of the applicable licensing requirements of C.R.S. §26-6-102 et seq. and the Regulations of the Colorado Department of Human Services (12 CCR 2509-9).

2. Telecommunication Facilities

a. ***Concealed Antennae within Freestanding Towers***
Concealed antennae within freestanding towers shall comply with height and setback requirements set forth in Subsections 3.2.B.2.b and 3.2.B.2.c below and shall be compatible with the character of the surrounding area as determined by the Community Development Director based on surrounding land uses or zoning, vegetation and other considerations deemed appropriate by the Community Development Director.

b. ***Concealed Building Mounted Antennae or Tower***
If a concealed antennae or tower is placed on a building it shall be in scale with the building upon which it is placed. The antennae or tower shall be fully concealed within an element of the building that is designed to be of the same or similar materials and colors as the structure it is located on. The element that conceals the antennae or tower shall be in scale with the building and shall not look like an add-on that is not integrated with the building.

c. ***Non-Concealed Building-Mounted Antennae and Towers***
Non-concealed, building-mounted antennae and towers may not exceed 40 percent of the height of the building on which they are located. Height for a building-mounted antennae and towers shall be measured from the grade of the building to the highest point on the tower structure, including any installed antennae and lighting and supporting structures. Building-mounted antennae and tower structures shall not exceed the height limits set forth in Section 2.7.

d. ***Non-Concealed Freestanding Towers***
Regardless of location, all non-concealed, freestanding towers shall comply with the standards of this Section.

i. *Height*

(A) The base height for all freestanding towers without the bonus height permitted for collocation (see Subsection 3.2.B.2.c.ii below) is 75 feet. The maximum permitted height for freestanding towers using the bonus height permitted for collocation (see Subsection 3.2.B.2.c.ii below) is 150 feet.

(B) Height for a freestanding tower shall be measured from grade to the highest point on the tower structure, including any installed antennae and lighting and supporting structures.

(C) Tower structures shall not exceed the height limits set forth in Section 2.7(B).

(D) Additional height beyond the maximum permitted in this Section may be approved by Special Review Use permit.

ii. *Collocation Required*

(A) Each new tower shall be designed to accommodate 1 additional user's equipment for every 25 feet of tower height above 75 feet.

(B) Applicants seeking to erect a tower greater than 75 feet in height, and proposed to be located within 3,000 feet of any communication tower greater than 75 feet in height, shall provide evidence that reasonable efforts have been made to lease space on an existing planned or constructed tower(s) or that no existing tower(s) will technically satisfy the applicant's needs.

iii. *Setbacks*
All freestanding towers shall be set back from the property boundary a distance equal to the height of the proposed tower. In addition, all freestanding towers shall be set back from all existing dwelling units and property zoned residential or mixed use by a minimum of 200 feet, or at least 2 times the height of the proposed tower, whichever is greater. All supporting mechanical base equipment shall be set back from property lines by at least the minimum distance required for principal uses in the applicable zone district and shall be screened from public view. The Community Development Director may reduce setbacks using the Minor Modification process if the applicant can demonstrate that the structure will not collapse and not topple.

iv. *General Development Standards*

(A) *Design and Neighborhood Compatibility*

(1) The exterior appearance of all support structures and buildings shall be similar to the other buildings in the

surrounding area in terms of predominant building materials, building scale and massing, and building setbacks.

(2) The Town may require the applicant to apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than a red and white marking pattern, when the Town determines that such a marking pattern would cause aesthetic blight or negative visual impacts due to the highly visible nature of the tower.

(3) Support buildings located in any residential district may not be used as an employment center for any worker(s). This provision does not prohibit the periodic maintenance or periodic monitoring of the equipment and instruments.

(4) No advertising sign or logo shall be permitted on any telecommunications facility.

(5) The Town may require any other conditions or requirements to mitigate the impact of the tower on adjacent properties and uses.

(B) *Buffering and Screening*

(1) All fences and walls shall be screened with landscaping unless otherwise approved by the Community Development Director because such screening would be impractical and because such screening would not produce any significant benefit to the intent of screening such fences and walls.

(2) The base of the tower and each guy anchor shall be surrounded by a fence or wall at least 8 feet in height.

(3) The Town may require all antenna(ae) be screened to safeguard surrounding property, provided that such screening shall not interfere with the transmission or reception capabilities of any antennae located on the tower.

(C) *Technological Requirements*

(1) Output power levels from the tower and/or all associated antennae shall comply at all times with the current Federal Communications Commission standards for cumulative field measurements of radio frequency power densities and electromagnetic fields and the current Federal Communications Commission regulations prohibiting localized interference with reception of television and radio broadcasts.

(2) Radio, television, or other electromagnetic transmission(s) or reception on other properties shall not be disturbed or diminished.

(D) *Existing Towers*

New antennae are encouraged to be collocated upon towers that already exist or have a current application submitted to the Town. However, such existing towers may not be increased in height without obtaining a Special Review Use permit.

e. *Outside Experts and Disputes*

i. Siting of telecommunications facilities may involve complex technical issues that require review and input by unbiased outside experts. The Town may require the applicant to pay the reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal shall be at the sole discretion of the decision-making body.

ii. If an applicant for a telecommunications facility claims that 1 or more standards of this UDC are generally inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the decision-making body may require that the application be reviewed by a qualified engineer for a determination of the accuracy of such claims. Any costs for this review shall be charged to the applicant.

f. ***Abandoned Antennas or Tower Structures***
Any antenna or tower structure that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower structure shall remove the same within 180 days of receipt of notice from the administrative official notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower structure within said 180 days shall be grounds for the Town to remove the tower structure or antenna at the owner's expense. If there are 2 or more users of a single tower structure, then this provision shall not become effective until all users cease using the tower structure.

g. ***Exception from Standards for Amateur Radio Stations***
Amateur radio stations are exempt from the location, tower type, and height limitations contained in this Subsection, provided:

i. The antenna and tower structure are part of a federally licensed amateur radio station, and

ii. In residential zoning districts, there is no use of the tower structure by any party other than a licensed amateur radio operator.

C. Commercial Uses

1. Sexually Oriented Business

None of the following permitted uses may be established, operated, or maintained within 750 feet of a residential district, park, library, state licensed day-care facility, religious assembly, or a school that meets all requirements of the compulsory education laws of the state; nor shall more than 2 of the following uses be established, operated, or maintained within 750 feet of each other.

a. Adult bookstore.

b. Adult photo studio.

c. Adult theater or mini-motion picture theater.

d. Adult novelty store or adult retail store.

e. Adult cabaret or restaurant.

f. Adult hotel or motel.

2. Agricultural Grazing

The raising of hogs, pigs or other livestock fed from silage, garbage or offal is prohibited as part of this use.

3. Animal Hospitals, Large and Small Animals

Unless outdoor facilities are authorized under Table 3-1, all facilities, including all treatment rooms, cages, pens, kennels, training rooms and exercise runs, shall be maintained within a completely enclosed, soundproof building and shall be sufficiently insulated so that, to the maximum extent feasible, noise or odor cannot be detected off-premises.

4. Drive-Through Service or Drive-Up Service

Drive-through or drive-up services are permitted as accessory uses to the following primary uses, unless prohibited within any zone district: restaurant, pharmacy, and financial institution. The following standards apply to all drive-through or drive-up services:

a. ***Stacking Spaces***

Stacking spaces shall be provided pursuant to Table 6-6.1, Schedule A.

b. ***Impact on Adjacent Uses***

i. A drive-through or drive-up shall be located, sized, and designed to minimize traffic, noise, air emissions, and glare impacts on surrounding properties.

ii. The drive-through or drive-up shall be screened from adjacent right-of-ways and properties through architectural elements, screening, landscaping, or site design.

iii. A landscaping buffer with a minimum width of 10 feet is required when drive-through or drive-up uses abut residential lots in a residential or mixed-use district.

iv. The noise generated on the site by talk boxes shall be inaudible at the property line.

5. Kennel or Animal Day Care

a. Unless outdoor facilities are authorized under Table 3-1, all facilities, including cages, pens, kennels, training rooms and exercise runs, shall be maintained within a completely enclosed, soundproof building, and shall be sufficiently insulated so that, to the maximum extent reasonably feasible, noise or odor cannot be detected off-premises.

b. Kennels or animal day care facilities with outdoor facilities shall be located a minimum of 2,640 feet from any residential zone district except that any existing facility as of the date of adoption of this UDC shall not be rendered legally nonconforming.

6. Nightclub

a. All facilities shall be maintained within a completely enclosed, soundproof building, and shall be sufficiently insulated so that, to the maximum extent reasonably feasible, noise cannot be detected off-premises.

b. Notwithstanding the general dimensional standards in Chapter 4, except for the DT zone district, the minimum setback requirement shall be 25 feet if adjacent to a public right-of-way or to an industrial zoning district, and 50 feet if adjacent to a non-industrial zoning district.

7. Parking Structure

a. ***Ground-Floor Pedestrian-Oriented Uses Required***

A ground-floor parking garage in any commercial district or any parking structure in any of the mixed-use districts shall provide a first-floor space that:

i. Has a minimum depth of 25 feet;

ii. Faces on each street, except alleys, for the full length of the building, except for places necessary for pedestrian and vehicle entrances and exits; and

iii. Is designed for retail, restaurant, and other pedestrian-oriented uses otherwise permitted or approved in the zoning district.

b. ***Upper-Floor Facade***

The street-facing facade of second and higher floors of a parking garage or any parking structure shall have a repeating pattern that includes no less than 3 instances of either:

i. Color change;

ii. Texture changes;

iii. Material module changes; or

iv. Expression of an architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.

At least 1 of these elements shall repeat at an interval of not more than 30 feet. This standard may be modified or waived at the sole discretion of the Community Development Director if the applicant can demonstrate an alternative building design that significantly articulates the wall plane.

8. Service Station/Convenience Store

a. ***Fuel Pump Canopy Design and Illumination***

i. A fuel pump canopy shall utilize the same architectural design and materials as the principal building(s) on the lot.

ii. Light fixtures mounted under canopies shall be full cut-off and shielded so that there is no glare or light spillage at the property line.

iii. Lights shall not be mounted on the top or sides (fascias) of the fuel pump canopy and the sides (fascias) of the canopy shall not be externally illuminated, except as part of an internally illuminated sign that meets the standards of Section 6.12.

b. ***Car Wash Bays and Vehicle Repair Bays***

i. To the maximum extent reasonably practicable, the entrance/exit to a car wash bay or vehicle repair bay shall not be oriented to a street frontage.

ii. Notwithstanding the general setback requirements in Chapter 4, a 20 foot setback for vehicle service areas, bays, or canopies is required from any adjacent street. The setback shall be landscaped with a mixture of turf/sod, shrubs, trees, and other plants in accordance with the minimum live plant material requirements of the Town's Landscape Materials List, in order to screen the automotive wash, repair or maintenance facility from view from adjacent streets.

iii. Vehicle wash or service bays facing a rear or side setback shall be screened from adjacent residential properties by a screening wall or fence of at least 6 feet in height.

iv. Outdoor vacuuming facilities may be outside, but not in the front building setback nor closer than 25 feet from any residential district.

c. ***Outside Displays***

Outside display of merchandise shall be limited to petroleum products and auto-related equipment.

9. Restaurant with Outdoor Seating Area

a. Eating and drinking establishments, permitted under this UDC, may provide outdoor seating areas on their property. The outdoor seating shall meet the following criteria:

i. Food service shall be provided by the employees of the establishment.

ii. The pedestrian circulation and building entries shall not be impaired. If a private sidewalk is adjacent to the outdoor seating area then a minimum of 4 feet of open sidewalk shall be maintained free of obstructions.

iii. Outdoor trash receptacle(s) shall be available for patron use.

iv. The operators of the outdoor seating area shall be responsible for maintaining a clean, litter-free and well-kept appearance for the outdoor seating area.

v. The outdoor seating area shall comply with applicable State and County Health Department regulations.

vi. The Community Development Director may impose conditions relating to the design, location, configuration and operation aspects of the outdoor seating to ensure that such area is compatible with surrounding uses.

b. Outdoor Café Permit

Eating and drinking establishments, permitted under this UDC, may provide outdoor seating areas on a sidewalk or in a designated parking area within a public right-of-way, provided that pedestrian circulation, vehicular circulation and building entries are not impaired. An application is required for an Outdoor Café Permit that is subject to issuance by the Community Development Director. The Community Development Director shall make a determination whether to issue a permit for outdoor seating based on compliance with the following criteria:

i. To allow for pedestrian circulation, a minimum of 4 feet of open sidewalk shall be maintained free of obstructions adjacent to the outdoor seating area.

ii. Pedestrian circulation to the building and building entries shall not be impaired.

iii. Vehicular circulation within the right-of-way shall not be impaired.

iv. Within the outdoor seating area, chairs, tables, umbrellas, planters and trash receptacles may be permitted.

v. A fence or barrier delineating the outdoor seating area shall be permitted within the public right-of-way and may be required as a condition of the issuance of the Outdoor Café Permit.

vi. All furniture and encumbrances placed within the outdoor seating area must be compatible with the character of the street furniture and be moveable (not permanently attached) to allow maintenance of public infrastructure in the right-of-way as needed, upon request by the Town.

vii. The operators of the outdoor seating area shall be responsible for maintaining a clean, litter-free and well-kept appearance for the outdoor seating area.

viii. Alcoholic beverages shall only be served or consumed within the outdoor seating area in conformance with State law and Town Municipal Code.

ix. The outdoor seating area shall comply with applicable State and County Health Department regulations.

x. The Outdoor Café Permit applicant shall be required to enter into a License Agreement with the Town for the use of the right-of-way as a condition of the issuance of the Outdoor Café Permit.

xi. The Community Development Director may impose additional conditions on the issuance of the Outdoor Café Permit relating to the design, location, configuration and operation aspects; including but not limited to lighting, utility extensions and deck height, of the outdoor seating area to ensure that such area is compatible with surrounding uses.

10. Vehicle Sales and Rental

a. Vehicle repair services shall be clearly incidental to vehicle sales and rentals.

b. All repairs shall be conducted inside a building.

c. All outside storage of vehicles shall be fully screened from public view.

d. The outside storage of shop supplies, tires, other equipment or stock shall be prohibited.

D. Manufacturing and Light Industrial Uses

1. Auto Wrecking, Recycling and Salvage Yard / Junkyard

a. ***Location of Site***
Such uses shall be located a minimum of 300 feet from any residential district, school, hospital, park, government office or place of public assembly.

b. ***Drainage - Protection of Water Supply***
Provision shall be made to prevent any contamination of the domestic water supply or excessive surface runoff from the property into adjoining lands or streams. The drainage plan that carries water off the site shall be subject to the approval of the Public Works Director. Failure to prevent such contamination shall be cause to revoke a Special Review Use permit and remove the use at the cost of the owner of the land upon which it is operated.

2. Contractor's Shop or Storage Yard

a. ***Location of Site***
The use shall not be located within 300 feet of any residential district, school, hospital, park, governmental office, or any other place of public assembly.

b. ***Drainage - Protection of Water Supply***
Provision shall be made to prevent any contamination of the domestic water supply or excessive surface runoff from the property into adjoining lands or streams. The drainage plan that carries water off the site shall be subject to the approval of the Public Works Director. Failure to prevent such contamination shall be cause to revoke a Special Review Use permit and remove the use at the cost of the owner of the land upon which it is operated.

c. ***Surface Requirement***
Parking lots/vehicle stacking spaces designated to meet the minimum parking requirements shall be paved in concrete or asphalt. Recycled concrete, recycled asphalt or equivalent may be approved by the Community Development Director for non-public storage areas.

3. Recycling Collection Point
The following regulations apply:

a. Recycling collection points located on a parking lot may not occupy required off-street parking spaces and shall be located so as not to impede free traffic flow.

b. No processing of the goods or products, including flattening of aluminum cans, may be performed on the site.

c. A vehicle in which a recycling collection point is operated must be kept in proper repair and the exterior must have a neat and clean appearance.

d. Any container used as a recycling collection point must be fully enclosed, kept in proper repair and the exterior must have a neat and clean appearance.

e. Litter in the immediate vicinity of a recycling collection point must be collected and disposed of properly. Goods or products shall not be stored outside the vehicle or container.

10.3.3 ACCESSORY USES AND STRUCTURES

A. Purpose

This Section authorizes the establishment of accessory uses. An accessory use is "incidental and customarily subordinate" to a principal use if it complies with the standards set forth in this Section.

B. Approval of Accessory Uses and Structures

1. All principal uses permitted in a zoning district shall be deemed to include the accessory uses, structures, and activities set forth in this Section, unless specifically prohibited. In addition, Chapter 11, identifies typical accessory uses associated with many principal uses as part of the principal use definition.

2. All accessory uses shall be subject to the general standards set forth in this Subsection, as well as any use-specific standards set forth in Section 3.2 above.

C. Explanation of Table Abbreviations

1. Permitted Uses
"P" in a cell indicates that the use is permitted by right, without special conditions other than those imposed upon other uses by right in the district. A use by right requires no further approval from the Board of Trustees; however, it shall be subject to Site Plan review if the associated principal use requires Site Plan review. Permitted uses are subject to all other applicable regulations of this UDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

2. Special Review Uses
"S" in a cell indicates that, in the respective zoning district, the use is permitted only if reviewed and approved as a Special Review Use in accordance with the procedures of Section 7.13. Special Review Uses are subject to all other applicable regulations of this UDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

3. Prohibited Uses
A blank cell indicates that the use is prohibited in the respective zoning district.

4. Use-Specific Standards
Regardless of whether a use is permitted by right or permitted as a Special Review Use, there may be additional standards that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table.

Cross-references refer to Section 3.2. These standards apply in all districts unless otherwise specified.

D. Classification of New and Unlisted Uses

When application is made for an accessory use category or use type that is not specifically listed in Table 3-2, the procedure described in Subsection 3.1.D, shall be followed.

E. Table of Permitted Accessory Uses

Table 3-2 below lists the accessory uses permitted within all zoning districts.

TABLE 3-2: TABLE OF ACCESSORY USES

P=Permitted Use By Right S=Special Review Use Blank=Not Permitted

ACCESSORY USE	RESIDENTIAL							COMMERCIAL				MIXED-USE			OTHER			Use-Specific Standards
	RR	ER	SR	LR	MR	HR	OTR	CC	RC	B	LI	DT	NMU	CMU	AG/OS	AP	PLI	
Accessory dwelling unit	S	S	S	S	S	S	S					S	S					3.3.G.1
Airport Hanger *Erie Airpark Subdivision Only	P*										S					P		
Backyard Chicken Hens	P	P	P	P	P	P	P						P					3.3.G.5
Family child care home	P	P	P	P	P	P	P					P	P	P	P			3.3.G.2
Garage, Private	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	P	3.3.G.11
Greenhouse	P	P	P	P	P	S	P				S	S	S	S	P		P	3.3.G.3
Home occupations	P	P	P	P	P	P	P					P	P	P	P			3.3.G.4
Keeping of Household Pets	P	P	P	P	P	P	P				P	P	P	P	P			3.3.G.6
Keeping of Large Animals	S	S	S												P		S	3.3.G.7
Outdoor display and sales								S	S	S	S	S	S	S	S			3.3.G.8
Outdoor storage								S	S	S	S			S	S		P	3.3.G.9
Parking lot serving permitted uses	S	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Quarters for caretaker/guard as part of a permanent structure	S	S	S								S				S		S	
Shed/Gazebo/Playhouse	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Definitions
Swimming Pool/Hot Tub	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	3.3.G.10

F. General Standards

All accessory uses and structures shall comply with the general standards in this Section. No accessory use shall be located on any lot as the principal use.

1. Compliance

a. All accessory uses and structures shall be subject to the standards set forth in this Section, and also the use-specific standards of Section 3.2 above and the

dimensional standards of Chapter 4. In the case of any conflict between the accessory use/structure standards of this Section and any other requirement of this UDC, the more restrictive standards shall control.

b. Accessory uses shall comply with all standards of this UDC applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use.

2. Same Lot Required
The accessory use or structure shall be conducted and/or located on the same lot as the principal use.

3. Same Ownership Required
The property where the principal use and the accessory use are occurring shall be under the same ownership.

4. Same Utility Meter Required
The principal use and the accessory use shall utilize the same utility meter with the exception of an approved accessory dwelling unit that may have the same or separate utility meter.

5. Temporary Accessory Uses and Structures
Temporary accessory uses and structures shall be governed by the temporary use permit procedures and standards set forth in Sections 7.16 and 3.4.

6. Size of Structure
Unless specified below, an accessory use structure shall be subordinate in gross floor area, extent and purpose to the principal use. When multiple accessory use structures are associated with a principal use, the total of all accessory use structures shall be subordinate in gross floor area, extent and purpose to the principal use.

Notwithstanding Subsection 3.3.G.1.d, the following are not required to be subordinate in gross floor area:

a. Airplane hangars located in the Erie Airpark Subdivision, Rural Residential and Airport districts, shall be exempt.

b. Within the Rural Residential and Estate Residential districts, accessory structures shall not exceed 2 times the gross floor area of the principal building.

G. Additional Standards for Specific Accessory Uses and Structures

1. Accessory Dwelling Units

a. ***Purpose***
Accessory dwelling units are intended to:

i. Provide a mix of housing that responds to changing family needs;

ii. Provide a means for residents, seniors, single parents and families with grown children to remain in their homes and neighborhoods, obtain extra income, security, companionship and services;

iii. Provide a broader range of accessible and more affordable housing;

iv. Create new housing dwelling units while respecting the look and scale of single-family detached neighborhoods; and

v. To establish a procedure to minimize potential impacts from these conversions on abutting single-family uses.

b. ***Exception from Impact Fee Requirements***

New accessory dwelling units shall not be subject to impact fee charges.

c. ***Construction of New Accessory Dwelling Units***
An accessory dwelling unit may be created by:

i. Converting an existing living area, attic, basement or garage;

ii. Addition of floor area to a single-family house;

iii. Construction of a detached accessory dwelling unit on the single-family lot; or

iv. Construction of a new single-family detached house with an internal or detached accessory dwelling unit.

d. ***General Standards***
All accessory dwelling units shall meet the following standards:

i. *Districts Permitted*
Accessory dwelling units shall be permitted as accessory uses to single-family detached residential uses as depicted in Table 3-2. A minimum lot size of 6,000 square feet is required.

ii. *Where Permitted on Lot*
A permitted accessory dwelling unit shall comply with all applicable site and building design, access, and other standards for principal dwelling units in the zoning district in which the accessory dwelling unit will be located. Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.

iii. *Size of Accessory Dwelling Unit*
No accessory dwelling unit shall exceed 33 percent of the size of the habitable floor area of the principal dwelling unit, or 800 square feet, whichever is less. In addition, accessory dwelling units in the Old Town Residential District shall be no less than 500 square feet. An accessory dwelling unit shall contain private sanitary facilities with hot and cold running water and cooking and food storage facilities.

iv. *Limit on Number*
There shall be no more than 1 accessory dwelling unit on a lot in addition to the principal single-family detached dwelling. An accessory dwelling unit shall not serve as the principal dwelling on the site.

v. *Parking Requirements*

(A) On-site parking is not required if an accessory dwelling unit is built on a site with an existing single-family detached house that has on-street parking on the abutting street frontage.

(B) One additional parking space is required when:

(1) The street abutting the site does not have on-street parking; or

(2) The accessory dwelling unit is built at the same time as the single-family detached house.

vi. *Design Standards*

(A) All accessory dwelling units shall be designed to maintain the appearance, architectural style and character of the principle dwelling unit. Exterior siding, roofing, and trim shall match the

appearance of the materials on the principal dwelling unit. Roof style shall match the predominant style of the principal dwelling unit. Exterior window trim, window proportions (width to height), patterns, and orientation (horizontal to vertical) shall match those of the principal dwelling unit.

(B) The building scale and placement of structures shall provide for sharing of common space on the lot such as driveways and yards.

e. ***Additional Design Standards by Accessory Dwelling Unit Type***
New accessory dwelling units that are created by either an addition to an existing single-family detached house or through new construction shall meet the following additional design standards to insure compatibility with the existing house.

i. *New Units Created Through the Addition of Floor Area*
New accessory dwelling units created through the addition of floor area to a single-family detached house shall meet the following standards:

(A) Exterior finish materials will be same or visually match in type, size and placement, the exterior finish materials and color of the existing house;

(B) The roof pitch shall generally be the same as the predominant roof pitch of the existing house;

(C) Windows shall generally match the existing house in style, proportion and orientation; and

(D) Eves will project from the building walls the same distance as the eves on the existing house.

ii. *New Detached Units*
New detached accessory dwelling units shall meet the following standards:

(A) The maximum height permitted for a detached accessory dwelling unit is 18 feet unless the dwelling unit is built above a detached garage, in which case the maximum height permitted is 35 feet or the maximum height for an accessory structure in the underlying zone district, whichever is less;

(B) Exterior finish materials will be the same or visually match the exterior finish materials of the existing house in type, size and placement;

(C) The roof pitch shall generally be the same as the predominant roof pitch of the existing house;

(D) Windows shall generally match the existing house in style, proportion and orientation; and

(E) Eves shall generally project from the building walls the same distance as the eves on the existing house.

2. Family Child Care Home
Family child care homes shall comply with the Colorado licensing statutes codified at C.R.S. §26-6-102 *et seq*. and the Department of Human Service Regulations codified at 12 CCR 2509-8 *et seq*.

State regulations should regulate what type of dwelling the use is permitted in; state requires 75 sq. ft. outside area per child.

3. Greenhouse

A greenhouse shall be permitted as an accessory use to a residential dwelling unit only if there are no sales from the premises.

4. Home Occupations

Home occupations shall be a permitted accessory use governed by the following regulations:

a. A home occupation shall not be conducted until a home occupation has been reviewed and approved and a license has been issued by the Community Development Director. Said license shall cite the conditions of the approval, if any.

b. Home occupations must be clearly secondary to the use of the building as a residence and shall not occupy more than 25 percent of the total floor area of the main building; or if located in an accessory building(s), shall not occupy more than 500 square feet except by Special Review Use.

c. The home occupation shall use the same water, electric and gas meters as the residence.

d. Home occupations shall be operated entirely from an enclosed structure with no exterior storage of business related vehicles, materials or equipment. The home occupation owner's individual business/personal passenger vehicle is exempt from this requirement.

e. There shall be no visible evidence of the operation, and it shall not change the residential character thereof.

f. There shall be no signage identifying the home occupation.

g. The residential building includes complete residential facilities, i.e., kitchen, living room, bathroom and bedroom(s).

h. Only persons residing in the residence can operate the home occupation at the residence. A maximum of 2 off-site employees, independent contractors or others associated with the business may be at the residence at the same time for work assignments, supplies, etc.

i. The operation shall not generate objectionable traffic in the area, and off-street parking must be provided to accommodate all needs created by the home occupation; however, in no case shall the number of additional parking spaces provided for the home occupation exceed the number of bedrooms in the residence.

j. The operation shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar impacts.

k. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than 4 students are being instructed at 1 time); dental offices; medical offices; the painting of vehicles, trailers or boats; private schools with organized classes; motor vehicle towing operation; barber shops having more than 1 chair, beauty shops having more than 1 chair; welding shops; nursing homes; bed and breakfast and other such transient lodging; and retail sales where products are stocked and sold to purchasers at the home occupation residence like a retail store.

5. Keeping of Backyard Chicken Hens

The keeping of backyard chicken hens shall be a permitted accessory use to single-family detached dwelling units on lots greater than 5,000 square feet in lot area that meet the following regulations:

a. No more than 6 backyard chicken hens are permitted per dwelling unit.

b. Roosters are prohibited.

c. Backyard chicken hens are required to be located within a designated chicken coop and chicken run that meet the following standards:

i. The chicken coop and chicken run shall be located in the rear yard of a property.

ii. The chicken coop and chicken run, nor any part thereof, shall be located between the rear of the principle structure and the front yard lot line.

iii. The chicken coop and chicken run shall have a minimum 5 foot setback from any side or rear property line.

iv. The chicken coop shall not be located within any utility easement.

v. The chicken coop shall be predator resistant with a solid covered roof.

vi. Water shall be provided onsite and be accessible at all times.

vii. During daylight hours, chicken hens shall have access to a chicken run that is adequately fenced and protected from predators and shall also have access to the chicken coop.

viii. From dusk to dawn, chicken hens shall be protected from predators by being enclosed within a chicken coop.

ix. The maximum chicken coop is 100 square feet in area

x. A minimum of 4 square feet of area per chicken hen shall be provided in both the coop and run.

xi. The maximum height of the chicken coop shall be no more than 7 feet at the highest point of the roof.

d. The chicken coop and run shall be maintained and shall regularly be cleaned to control dust, odor and waste and not constitute a nuisance, safety hazard or health problem to surrounding properties.

e. No onsite slaughtering is permitted.

f. Chicken feed shall be stored in metal re-sealable, airtight, predator proof containers.

g. Chicken waste shall be stored in metal re-sealable, airtight, predator proof containers.

h. The keeping of backyard chicken hens shall not be conducted until a backyard chicken license has been reviewed and approved and a license has been issued by the Community Development Director. Said license shall cite the conditions of the approval, if any. The following are the application requirements need for review of a backyard chicken license:

i. Completed Backyard Chicken License Application.

ii. Non-refundable application fee.

iii. Scaled Site Plan of the property showing location of chicken coop and run.

6. Keeping of Household Pets

Household pets including, but not limited to dogs, cats, potbelly pigs or similar domesticated animals shall be permitted in all zoning districts allowing for residential use provided that no more than 5 animals over 4 months of age are kept by the occupant of any residential dwelling unit. This provision limiting the number of pets does not apply to tropical fish, small rodent animals such as gerbils, hamsters, and small birds kept as pets, unless the animals are raised for commercial purposes. Kennels, boarding facilities, and commercial activities are not a permitted accessory use. Animals typically found on farms including but not exclusive of, turkeys, goats, sheep, cows, and pigs are not considered household pets. For regulations regarding keeping of large animals such as donkeys, horses, and llamas, etc., see Subsection 3.3 G.7 below.

7. Keeping of Large Animals

Horses, donkeys, mules, and llamas for non-commercial use may only be kept as a permitted accessory use in the Agricultural, Open Space, Rural Preservation and Rural Residential Districts, provided at least two acres of pasture area is available for the first animal and 1 additional acre of pasture is available for each additional animal.

8. Outdoor Display and Sales

Outdoor display and/or sales may be permitted as an accessory use for all commercial uses, and requires Site Plan approval. It is the intent of this UDC to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The display of goods shall meet all of the following requirements:

a. ***Procedural Requirements***

Outdoor display and/or sales shall require approval of the Community Development Director. All new development plans must show the location of such areas in accordance with this Section. Existing non-residential uses must submit a plan showing the location of the outdoor display or sales areas and how the requirements of this Section are to be met. Approval may be subject to appropriate conditions established by the Community Development Director.

b. ***Where Permitted***

i. All outdoor display of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or parking lots.

ii. The area used for outdoor display or sales shall not occur on the sides and rear of buildings and shall be limited to no more than 1/2 of the length of the store front, unless increased by the Community Development Director after taking into account aesthetics, and safety concerns or other relevant factors. In the case of a shopping center, the “storefront” shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50 percent of the aggregate store front of the overall shopping center.

iii. The area of outdoor display or sales shall not encompass the width of the entrance doors to the facility as projected straight out from the facility. For example, if the width of the entrance doors is 10 feet, then there shall be at least a 10 foot clearance from the doors as projected straight out and away from the facility.

iv. No goods or outdoor displays shall be attached to a building's exterior wall surface.

v. The height of the outdoor display shall not exceed 6 feet, unless an exception to this provision has been granted by the Community Development Director.

vi. The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.

c. ***No Pedestrian Obstruction***
At least 5 feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

d. ***Temporary Sales Distinguished***
The provisions of Subsection 3.3.G.7.c above shall not apply in cases of temporary sales events, such as weekend sidewalk sales, seasonal vegetable sales and other similar temporary uses. See Section 3.4 for regulations applying to temporary uses.

9. Outdoor Storage
In no case shall the storage or parking of trailers, semi-trailers, cargo containers or shipping containers outdoors, or the warehousing of goods in such containers, be permitted as a principal use. Outdoor storage may be permitted as an accessory use through the Site Plan review process described in Section 7.12. The storage area shall meet all of the following requirements as well as design criteria found in Chapter 6:

a. Each outdoor storage area shall be incorporated into the overall site design and screening shall be complimentary in design to the primary structure on the site and shall be located at the rear or side of the primary structure. The outdoor storage shall not be located in front of the primary structure. Surfacing of the outdoor storage area shall be asphalt or concrete. Recycled asphalt, recycled concrete or equivalent may be considered for industrial uses, and the final approval of the alternative shall be the final decision maker for the application.

b. Goods stored in an approved outdoor storage area shall be limited to storage of materials associated with the business on the lot; business of vehicle storage; or storage of businesses' vehicles and equipment.

c. If the outdoor storage area is covered, then the covering shall be designed to be complimentary to the principal structure by integrating the same roofing materials and color, and roof slope as the primary structure.

d. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

e. No materials may be stored in areas intended for vehicular or pedestrian circulation.

f. If installed, exterior lighting shall meet the functional needs of the facility and the requirements of this UDC without adversely affecting adjacent properties or the neighborhood.

10. Swimming Pool/Hot Tub
A swimming pool and/or hot tub may be permitted in any district as an accessory use subject to the following additional requirements:

a. No public or private swimming pool or hot tub may be located in any required front yard or side yard abutting a street. No swimming pool shall be located closer than 10 feet to any side or rear lot line.

b. Swimming pools or hot tubs and related facilities of either shall conform to all applicable Town and State regulations.

11. Private Garage or Shed

A garage or shed that is accessory to a residential structure and is over 120 square feet in gross floor area shall meet the following standards:

a. Facades shall not be constructed of metal materials.

b. The accessory garage or shed shall be designed to maintain the architectural style and character of the principal residential structure. Exterior siding, roofing and trim should match the principal residential structure.

c. An accessory garage or shed shall not exceed 18 feet in height for a 1 story structure and 25 feet for a 2 story structure. Private airplane hangars for residential development in the Erie Airpark Subdivision shall not be subject to the height restrictions.

10.3.4 TEMPORARY USES AND STRUCTURES

A. Purpose

This Section allows for the establishment of certain temporary uses of limited duration, provided that (1) a Temporary Use Permit is properly obtained pursuant to Section 7.16 of this UDC; (2) such uses do not negatively affect adjacent properties or Town facilities; (3) such uses are discontinued upon the expiration of a set time period as defined by the Temporary Use Permit; and (4) temporary uses do not involve the construction or alteration or any permanent building or structure.

B. Temporary Uses Permitted

The following temporary uses may be permitted in accordance with the requirements of this Section.

1. Retail sales of products including but not limited to Christmas trees, agricultural produce, sidewalk sales, and fireworks, is permitted in any nonresidential district for a period not to exceed the number of days specified in the Temporary Use Permit. Display of products need not comply with the yard and setback requirements of this UDC provided that no display shall be located within an area restricted by the Corner Sight Distance requirements of Section 4.2.

2. Temporary office space and equipment storage is permitted when accessory to an approved construction project in accordance with Subsection 3.4.E. Such uses shall be located on the site no more than 30 days prior to the start of construction and removed no more than 30 days after completion of such project.

3. Sales offices are permitted on residential development sites in any zoning district until all lots or houses are sold or leased in accordance with Subsection 3.4.E. Use of the sales office for sites outside of the project is prohibited.

4. Expansion or replacement facilities, consisting of transportable buildings that are pre-constructed and arrive at the site ready for occupancy and are readily removed and installed at other sites. Such facilities may include, but are not limited to, the following:

a. Expansion of existing religious assembly facilities, health care facilities, and government offices following the approval of filed plans and applications for the permanent alteration/expansion of these facilities.

b. Temporary classroom space for existing schools.

c. Temporary space for recreational uses provided in connection with an approved residential development under construction.

d. Temporary space for a non-residential use following the destruction of a building by fire or other catastrophic event. The building permit for the reconstruction of the permanent building must be obtained within 60 days of the approval of the Temporary Use Permit. For good cause, the Community Development Director may approve a written request for a 60 day extension of the Temporary Use Permit provided that the request is filed prior to the lapse of the original permit term.

e. Temporary office space (1 per site) for hiring, membership solicitation, apartment office/leasing, and general office use following the issuance of a building permit for the construction of a permanent office building.

5. The Community Development Director may approve other temporary uses or structures using the process established in Subsection 3.1.D.

C. Temporary Use Permits

1. Permit Required

All temporary uses and structures shall obtain a Temporary Use Permit pursuant to the procedures set forth in Section 7.16. A Temporary Use Permit shall be reviewed, approved, or revoked only in accordance with the regulations of Section 7.16 and this Section.

2. Permit Exceptions

Notwithstanding Subsection 3.4.C.1 above, the following temporary uses are deemed approved in any district and are exempted from the Temporary Use Permit requirements provided that the proposed temporary use complies with the general requirements below:

a. Town sponsored events utilizing Town property, public streets, or public right-of-ways, provided that the applicant shall coordinate the event with the Public Works Department, Police Department and Fire District, and comply with any conditions required by those departments;

b. Up to 7, 1-day garage or yard sales per year per residential dwelling unit;

c. Temporary car washes lasting no more than 7 days per year;

d. Gatherings of less than 100 people, such as block parties, nonprofit bazaars, and fundraisers; and

e. Temporary uses that occur wholly within an enclosed permanent building.

D. General Requirements for all Temporary Uses and Structures

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this UDC:

1. The temporary use shall comply with all applicable general and specific regulations, including zoning regulations, of this Section unless otherwise expressly stated.

2. Permanent alterations to the site are prohibited. If any alterations to the site occur the site shall be restored to its previous condition.

3. Unless otherwise stated in this UDC or in the terms of the Temporary Use Permit, the temporary use shall expire 30 days after approval of the Temporary Use Permit. Renewal of the permit may be permitted pursuant to the procedures outlined in Section 7.16.

4. All temporary signs associated with the temporary use or structure shall be required to follow the Town sign regulations and obtain a permit. All signs shall be removed when the activity ends.
5. The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
6. The temporary use regulations of this Section do not exempt the applicant or operator from any other required permits, such as health department permits.
7. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, 100-year floodplains, stream protection setbacks, wetlands, areas of slope greater than 20 percent, and required landscaping.
8. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
9. Tents and other temporary structures shall be located not to interfere with the normal operations of any permanent use located on the property.
10. Off-street parking shall be adequate to accommodate the proposed temporary use.
11. Applications for temporary structures to be located in or near the 100-year floodplain shall be required to obtain a Floodplain Permit and submit a plan to the Planning Commission for the removal of such structure(s) in the event of a flood notification. The plan shall include the following information:
    - **a.** The name, address, and phone number of the individual responsible for the removal of the temporary structures;
    - **b.** The time frame prior to the event at which a structure will be removed;
    - **c.** A copy of the contract or other suitable proof of contract with a trucking company to insure availability of removal equipment when needed; and
    - **d.** Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

E. Additional Use-Specific Regulations for Certain Temporary Uses

In addition to complying with the general regulations in Subsection 3.4.D above, the temporary uses listed below shall comply with the additional use-specific regulations below.

1. **Construction Trailer and Outdoor Storage for Construction**
   Construction trailers and outdoor storage locations for construction shall be reviewed and if appropriate approved by the Community Development Director. Plans shall be submitted illustrating that the application meets all of the following requirements:
   - **a.** The use shall be located on a lot.
   - **b.** The use shall meet zoning category setback and height requirements.
   - **c.** The use shall provide an all-weather access road to the trailer with a turn-around that is approved by the Fire District. The access and turn-around is required to be constructed before the trailer is installed.

d. The construction trailer is not required to tap into the Town's water and sanitary sewer system. A port-a-let shall be provided.

e. Outdoor storage shall be fenced; if adjacent to existing or future residential development, such fencing shall be opaque.

f. The trailer and associated site elements shall be removed by the time the last Certificate of Occupancy is released within the filing within the development in which the trailer is located. Within 30 days of the trailer being removed from the site, the owner shall either have a building permit(s) issued for the site or the site shall be restored with appropriate ground cover in accordance with Town erosion control standards.

2. Temporary Sales Trailer or Temporary Sales Office

A temporary sales trailer or temporary sales office shall be reviewed and if appropriate approved by the Community Development Director. Plans shall be submitted illustrating that the application meets all of the following requirements:

a. The use shall be located on a lot.

b. The owner shall provide a paved road to Town standards as accepted on the construction plans, and shall provide secondary access if required by Fire District; to their standards.

c. The use shall meet zoning category setback and height requirements.

d. A water and sewer tap is required on the lot where the trailer/office is located to provide adequate public facilities within the sales trailer.

e. ADA access is required.

f. Temporary off-street parking shall be provided on-site or on an adjacent vacant lot.

g. Off-street parking shall have all-weather surfacing.

h. Off-street parking shall meet zoning category setback requirements.

i. Access to a sales trailer and associated parking shall come from a local or collector streets and not from an arterial street unless the applicant can prove that it is impracticable to do so.

j. A building permit for a temporary sales trailer or temporary sales office may only be issued after installation of a paved road access and installation of off-street parking.

k. The trailer and associated site elements shall be removed by the time the last Certificate of Occupancy is released within the filing within the development in which the trailer is located. Within 30 days of the trailer being removed from the site, the owner shall either have a building permit(s) issued for the site or the site shall be restored with appropriate ground cover in accordance with Town erosion control standards.

CHAPTER 4: DIMENSIONAL STANDARDS

10.4.1 TABLE OF DIMENSIONAL STANDARDS

This Section contains tables that list the requirements for lot dimensions and building bulk, density, location, and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in the following tables. These general standards may be further limited or modified by other applicable Sections of this UDC. General rules for measurement and exceptions are in Section 4.2.

A. Residential and Commercial Standards

TABLE 4-1: DIMENSIONAL AND DENSITY STANDARDS – RESIDENTIAL AND COMMERCIAL DISTRICTS
(Additional standards may apply. See Use-Specific Standards in Section 3.2
Density bonuses are available as an incentive to encourage a mix of dwelling unit types)

		Minimum Lot Standards		Minimum Setbacks (ft.) ②				Max Height (ft)
District	**Max/Min Density (DU/Acre)**	**Width (ft)**	**Net Area ③ (sq ft)**	**Front**	**Street (all uses)**	**Interior Lot Line**	**Rear**	
RR	0.5/na	150	80,000	Principal: 40 Accessory: 50	40	15	Principal: 40 Accessory: 15	40
ER	1/na	100	40,000	Principal: 30 Accessory: 40	30	10	Principal: 30 Accessory: 10	35
SR	3/na	75	SF: 10,000 MF: 5,000 per DU	Principal: 25 Accessory: 35	20	Prin: 10① Acc: 5①	Principal: 25 Accessory: 5	Prin: 35 Acc: 30
LR	5/na	SF: 50 60 corner MF: none	SF: 5,000 MF: 2,500 per DU	Principal: 20 Accessory:30	20	5①	Principal: 20 Accessory: 5	Prin: 35 Acc: 25
MR	10/5	SF: 50 60 corner MF: none	SF: 5,000 MF: 2,500 per DU		20	Prin: 5① / Acc: 5①		Prin: 35 Acc: 25
HR	16/10	SF: 50 60 corner MF: none	SF: 5,000 MF: 2,500 per DU		20	Prin: 10① / Acc: 5①		

① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.

② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

③ Net area is the size of the lot; not to include tracts and streets and their right-of-ways.

		Minimum Lot Standards		Minimum Setbacks (ft.) ②					Max Height (ft)
District	**Max/Min Density (DU/Acre)**	**Width (ft)**	**Net Area ③ (sq ft)**	**Front**	**Street (all uses)**	**Interior Lot Line**		**Rear**	
OTR	SF: 5/na MF:16/na	SF: 50 MF: none	SF: 6,000 MF: 3,000 per DU	Principal: 20 Accessory:30	20	Prin: 5①	Acc:5①	Principal: 20 Accessory: 5	Prin: 35 Acc: 25
RP-1 RP-2 RP-3		165	RP-1: 17.5 acres RP-2: 5 acres RP-3: 5 acres	Principal: 50 Accessory: 60	50	Prin:20	Acc:20	Principal: 20 Accessory: 20	Prin:40 Acc: 40
CC		N/A	N/A	Principal: 20 Accessory: 30	20	Prin: 10①	Acc: 5	Principal: 20 Accessory: 5	Prin: 45' 3 stories max
RC		N/A	N/A		20	Prin: 10①	Acc: 5		Prin: 45'
B		N/A	N/A		20	Prin: 10①	Acc: 5		Prin: 45' 3 stories max
LI		N/A	N/A		20	Prin: 10①	Acc: 5		40 3 stories max
AP		N/A	N/A	Principal: 20 Accessory: 30	20	Prin: 10①	Acc: 5①	Principal: 20 Accessory: 5	Prin: 35④ 3 stories max Acc: 25

① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.

② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

③ Net area is the size of the lot; not to include tracts and streets and their right-of-ways.

B. Mixed-Use Standards

TABLE 4.2: TABLE OF DIMENSIONAL STANDARDS – MIXED-USE DISTRICTS
(Additional Standards May Apply. See Use Specific Standards in 3.2 and 6.8.D)

Zone District	Minimum Lot Size		Minimum Setbacks (ft.)					Maximum Height (ft.)
	Width (ft.)	Net Area ③ (sq. ft.)	Front	Street	Interior Lot Line	Rear		
DT Mixed use building and non-residential uses	25	3,750	0	0	0	Prin: 20	Acc: 5	45 3 stories
DT residential uses only	SF: 50 MF: none	SF: 7,500 MF: 3,750 per DU	20	20	5 ①	Prin: 20	Acc: 5	45 3 stories
NMU within Old Town Mixed use building and non-residential uses	25	3000	0	0	0	Prin: 20	Acc: 5	45 3 stories
NMU within Old Town residential uses only	SF: 50 MF: none	SF: 6,000 MF: 3,000 per DU	20	20	5 ①	Prin: 20	Acc: 5	45 3 stories
NMU outside Old Town	25		0	0	0	Prin: 20	Acc: 5	45 3 stories
CMU	25		0	0	0	Prin: 20	Acc: 5	45 3 stories

① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.

② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

③ Net area is the size of the lot; not to include tracts and streets and their right-of-ways.

C. Other Districts Standards

TABLE 4-3: TABLE OF DIMENSIONAL STANDARDS - OTHER DISTRICTS
(Additional Standards May Apply. See Use-Specific Standards in 3.2.)

District	Min. Lot Size		Max. Lot Coverage (percent)	Minimum Setbacks (ft.)			Maximum Height	
	Net Area ③ (sq. ft.)	Width (ft.)		Front	Side	Rear	Prin.	Acc.
AG/OS	N/A	N/A		50	50	50	40	40
PLI	N/A	N/A	N/A	Front, side and rear yard setbacks shall be 25 feet when the abutting district is AG/OS~~,~~ or any residential property. Otherwise, the setbacks shall be equal to the analogous minimum setback in the abutting district.			45 3 stories	25

① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.

② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

③ Net area is the size of the lot; not to include tracts and streets and their right-of-ways.

10.4.2 MEASUREMENTS AND EXCEPTIONS

A. Setbacks

1. General Setback Requirements

a. ***Required Setbacks***

Setbacks shall be unoccupied and unobstructed by any structure or portion of a structure from 30 inches above grade upward; provided, however, that fences, walls, trellises, poles, posts, ornaments, furniture and other customary yard accessories may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility.

i. A building, structure, or lot shall not be developed, used, or occupied unless it meets the minimum setback requirements set forth in Table 4-1 for the zoning district in which it is located, except as otherwise established in this UDC or unless a variance has been granted.

ii. A setback or other open space required by this UDC shall not be included as part of a setback or other open space required by this UDC for another building or structure or lot.

b. ***Projections into Required Setbacks, General***

The following structures may project into required front, side or rear setbacks as specified in this Subsection:

i. *Paved Patios or Terraces*

Paved patios or terraces may project into any required setback, provided that no structures placed on them shall violate other requirements of this UDC.

ii. *Unroofed Landings, Decks and Stairs*

Unroofed landings, decks and stairs may project into required setbacks, provided that the floor shall not extend higher than 30 inches above the finished grade level and the projection is at least 5 feet from the lot line.

iii. *Unroofed Exterior Balconies*

Unroofed exterior balconies may project into a required side or rear setback provided these projections are at least 5 feet from the side lot line and 10 feet from the rear lot line.

iv. *Incidental Architectural Features*

Cornices, eaves, canopies, window wells, chimneys, bay windows, ornamental features, and other similar architectural features may project not more than 2 feet into any required setback provided these projections are at least 5 feet from the lot line.

v. *Roofs Over Porches and Other Exterior Approaches*

Roofs over porches, stairways, landings, terraces, or other exterior approaches to pedestrian doorways may project up to 6 feet into a front setback, provided that the roof projections shall comprise no more than 50 percent of the total length of the building's facade. The covered porch or entrance area projecting into the front setback shall remain exterior to the building and enclosed by no more than a railing. The projection shall be at least 5 feet from the property line.

vi. *Handicap Ramps*

The Community Development Director may allow the installation of handicap access ramps in required front, side, and rear setbacks. The design and placement of the ramps shall be reviewed to ensure that:

(A) The ramp has minimal visual impact on abutting properties;

(B) The width of the ramp does not exceed 48 inches.

vii. *Private Garages and Carports*
A private garage or carport may project into a required setback abutting an alley, provided the projection is at least 5 feet from the property line. A second story living space shall be permitted above the private garage. The private garage or carport shall be subject to the other requirements of this UDC.

viii. *Fences and Walls*
Fences and walls may project into any required setback and shall be in accordance with other requirements of this UDC.

c. ***Projections Into Easement and Right-of-ways Prohibited***
Projections shall not extend or encroach into any easement(s) or right(s)-of-way.

d. ***Contextual Front Setbacks***
In addition to permitted projections described in Subsection 4.2.A.1.b above, the following exceptions to the front setback requirement for dwellings abutting local streets (not collector or arterial streets) are authorized for a lot in any district.

i. If there are dwelling units on both abutting lots with front setbacks of less than the required depth for the district, the front setback for the lot need not exceed the average front yard of the abutting dwelling units.

ii. If there is a dwelling unit on 1 abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth 1/2 way between the depth of the abutting lot and the required setback depth.

e. ***Corner Lots***
In the case of corner lots, unless the prevailing front setback pattern on adjoining lots indicates otherwise, front setbacks shall be provided on all frontages. Where 1 of the front setbacks that would normally be required on a through lot is not in keeping with the prevailing setback pattern, the Community Development Director may waive the requirement for the normal front setback and substitute therefore a special front setback requirement, which shall not exceed the average of the setbacks provided on adjacent lots.

f. ***Corner Sight Distance (a.k.a. Sight or Vision Clearance Triangle)***
Where a driveway or private street intersects a public right-of-way or where property abuts the intersection of 2 public right-of-ways, unobstructed sight distance as described in the Town of Erie Standards and Specifications for Design and Construction of Public Improvements, shall be maintained at all times within the sight triangle area on the property adjacent to the intersection in order to ensure that safe and adequate sight distance is provided for the public use of the right-of-way.

B. Height

1. Height in the Airport District

The height of a building in the Airport District is the total height of the structure including all appurtenances and lighting above ground.

2. Height Exceptions for Appurtenances

Except as specifically provided elsewhere in this UDC, the height limitations contained in this UDC do not apply to spires, belfries, cupolas, chimneys, heating and ventilation equipment, elevator housings, stairwell towers or similar appurtenances; provided, however, the following:

a. The appurtenance does not interfere with FAA Regulations;

b. The appurtenance does not extend more than 25 feet above the maximum permitted building height, except for church belfries that must be of greater height in order to function;

c. The appurtenance is not constructed for the purpose of providing additional floor area in the building; and

d. The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in Subsection 6.4.G.

CHAPTER 5: SUBDIVISION STANDARDS, DESIGN, AND IMPROVEMENTS

10.5.1 PURPOSE

The purpose of this Chapter is to:

A. To assist orderly, efficient, and integrated development, and to promote the health, safety, convenience, order, prosperity, and general welfare of the present and future residents of the Town;

B. To encourage the proper arrangement of subdivisions in relation to existing or planned subdivisions in order to facilitate safe, efficient and pleasant walking, biking and driving;

C. To provide for a variety of lot sizes and housing types;

D. To ensure an adequate and efficient street system by regulating the location, design, class, and type of street, sidewalk and other transportation corridors; and

E. To secure adequate provisions of water, electric service, drainage, sewers and other facilities and services for the health and safety of Town citizens.

10.5.2 APPLICABILITY

The provisions of this Chapter shall be applicable to all subdivision and re-subdivision of land within the Town. The following shall be excepted from the provisions of this Chapter: (1) division of land through an estate proceeding; (2) division of land through a foreclosure of a deed of trust; (3) adjustment of the boundary line or the transfer of land between 2 adjacent property owners that does not result in the creation of any additional parcels. It shall be unlawful to use, file, or record a plat of a subdivision of land with the Weld County Clerk and Recorder or Boulder County Clerk and Recorder, until the plat is approved by the Town, and signed by duly authorized representatives of the Town.

10.5.3 GENERAL PROVISIONS

A. Grading and Stormwater Permits

All construction activities that disturbs 1 or more acres of land, as well as activities that disturb less than 1 acre of land, but are part of a larger common plan of development, must comply with both local and state regulations regarding stormwater drainage on construction sites.

1. Colorado Stormwater Discharge Permit

Owners or contractors must obtain a Colorado Stormwater Discharge Permit for construction activities from the Colorado Department of Public Health and Environment (CDPHE).

2. Grading and Stormwater Quality Permit

Owners and contractors must also obtain a Grading and Stormwater Quality Permit from the Town.

B. Minimum Standards

The standards in this Chapter are minimum standards. The Town may impose more restrictive standards when it finds that they are necessary to conform the design of a proposed subdivision to sound engineering or design standards or other standards in this UDC.

C. Phasing Schedule

The Community Development Director may require that a subdivision conform to a phasing schedule based upon the scheduled availability of infrastructure to serve the subdivision. A

phasing plan shall be submitted for approval at the time of application for Preliminary Plat and made a condition of that approval or subdivision agreement.

D. Compliance with Other Provisions of this UDC

All subdivisions shall comply with all other applicable zoning, design, and development regulations set forth in this UDC, including but not limited to:

1. The requirements of the zoning district in which the property is located (see Chapter 2, 3 and 4);
2. The requirements relevant to Special Review Uses (see Chapter 3); and
3. Generally applicable development and design standards (see Chapter 6).

E. Compliance with other Town of Erie Adopted Plans and Policies

The design of subdivisions shall be generally consistent with all other adopted plans and policies adopted by the Town, including but not limited to:

1. The Town of Erie Comprehensive Master Plan, as amended;
2. The Town of Erie Parks, Recreation, Trails and Open Space Master Plan, as amended;
3. Town of Erie Transportation Plan, as amended;
4. Town of Erie Utility Master Plans, as amended;
5. The Town of Erie Standards and Specifications for Design and Construction of Public Improvements, as amended; and
6. Urban Drainage and Flood Control District policy and standards, as amended.

10.5.4 LAYOUT AND DESIGN GENERALLY

No subdivision shall be approved unless it complies with all of the following standards:

A. Name of Subdivision

The title under which the subdivision will be recorded shall not duplicate the name of any existing subdivision in the Town.

B. Natural and Scenic Resource Protection

The standards and requirements in Section 6.2, shall apply to all subdivisions.

C. Natural Hazard Areas

Land subject to hazardous conditions such as landslides, rock falls, expansive soils, mine subsidence, mine shafts, shallow water table, open quarries, floodplains, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been mitigated or will be mitigated by the subdivision and construction plans.

D. Adjoining Subdivisions

A proposed subdivision shall be designed in such a manner as to be coordinated with adjoining subdivisions (existing and proposed) with respect to the alignment of street right-of-ways, utility and drainage easements, open space, view corridors, pedestrian/bicycle paths, and other relevant design considerations.

E. Lots

1. Lot size, width, depth, shape, and orientation and minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall facilitate the placement of buildings with sufficient access, outdoor

space, privacy, and view. All lots shall conform to the applicable zoning regulations affecting the property.

2. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking, landscaping or planting area, and loading areas required by the type of use and development contemplated.
3. No single lot shall be divided by a municipal or county boundary line.
4. No single lot shall be divided by a zone district boundary line.
5. A lot shall not be divided by a street, alley, or other lot.
6. Each residential lot shall be provided with lot frontage on a street. Non-residential lots shall be provided with lot frontage on a street or private drive.
7. Corner lots for residential use shall have extra width to accommodate the required building setback line on both street frontages.
8. Wedge-shaped lots shall not be less than 30 feet in width at the front property line.
9. Side lot lines shall be at substantially right angles and radial to curved streets. Where lot lines are not at right angles to the street lines, it shall be indicated on Preliminary and Final Plats.
10. Triple frontage lots and flag lots are prohibited in residential zone districts.
11. Lot widths and minimum square footage shall conform to the requirements of Chapter 4 of this UDC.
12. Double frontage residential through lots are only permitted where no other configuration is practicable, such lots shall provide extra lot depth, which is at a minimum 10 feet in addition to the required right-of-way and the minimum lot size, and will be required to provide a landscape buffer outside of the double frontage lot in a separate tract or easement, at the Town's discretion, of not less than 30 feet on the side designated by the Town. Tracts or easements less than 30 feet between the rear of a lot and street right-of-way shall not be considered by the Town.

F. Blocks

The requirements and standards set forth in Section 6.5, shall apply to all subdivisions.

G. Streets

All streets shall comply with the requirements and standards set forth in Section 6.5, in addition to the following:

1. **Compliance with Town Standards Required**
   All new streets within a subdivision shall be constructed in accordance with the Town of Erie Transportation Plan and the Town of Erie Standards and Specifications for Design and Construction of Public Improvements.
2. **General Street Design Considerations**
   All new streets should be designed in relation to existing or planned streets, to topographic conditions, to public convenience and safety, and in relation to the proposed use of land to be served. Streets shall be extended to connect with existing streets, except where such extension is prevented by topography or other physical conditions or where the connection of streets with existing or probable future streets is deemed unnecessary by the Town for the advantageous development of adjacent properties.

3. Private Streets

Private streets may be permitted provided they meet all standards and specifications required for public streets and right-of-ways.

4. Street Intersections

a. Freeways and arterial streets shall not be intersected by local streets. Collector streets shall not intersect major arterial streets at intervals of less than 1,000 feet unless otherwise approved by the Public Works Director.

b. No more than 2 streets shall intersect at 1 point.

c. Streets shall intersect at 90 degrees, except where this may be impractical. Angles of less than 90 degrees may be designed, subject to the approval of the Public Works Director.

d. Two streets meeting a third street from opposite sides shall meet at the same point, or their centerlines shall be offset at least 150 feet. This requirement shall not apply to the alignment of opposing cul-de-sac streets, provided the cul-de-sacs are 100 feet long or less.

5. Street Right-of-Way Widths

Street right-of-way widths within the proposed subdivision, or boundary streets impacted by the proposed subdivision, shall follow the Town's Transportation Plan.

6. Cul-de-sacs

All cul-de-sacs shall be designed in accordance with the standards and specifications of the Town and the Fire District. A cul-de-sac on a minor residential street shall not be longer than 750 feet and at the closed end shall provide a turnaround with a right-of-way radius of at least 50 feet and a right-of-way diameter of at least 100 feet. The cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac turnaround.

7. Street Arrangement and Connections

a. Local streets shall be arranged so that their use by through traffic will be discouraged. Traffic calming techniques such as use of grid patterning, diverters and curvilinear alignments are encouraged to reduce speeds and cut-through traffic. All traffic calming measures shall be approved by the Public Works Director.

b. Linear service streets paralleling a railroad right-of-way, freeway, or arterial street are prohibited.

c. Where a subdivision borders a railroad right-of-way, freeway, or arterial street, a landscaped buffer area of not less than 30 feet shall be provided for adequate reduction of noise pollution. This buffer is in addition to any required right-of-way, and exclusive of any lot size requirements. No driveway access shall be permitted from the lot directly to any highway, freeway, arterial, or railroad right-of-way.

d. Dead-end streets (not cul-de-sac or stub streets) shall not be permitted unless approved by the Board.

H. Alleys

Alleys are permitted subject to meeting all the standards in this Section and other pertinent sections of this UDC. All new alleys shall be constructed in accordance with Town of Erie Standards and Specifications for Design and Construction of Public Improvements.

1. Alleys in developments approved after the effective date of this UDC shall be privately owned and maintained. An easement in such alleys shall be granted to the Town and/or

other service providers for installation and maintenance of utilities, refuse collection, and similar facilities and services.

2. In residential districts, alleys should be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of 16 feet of right-of-way when no utilities are located within them, and 30 feet when utilities are located within them. A minimum of 12 feet of pavement is required in either case.

3. Dead-end alleys shall not exceed 150 feet in length.

4. If an alley is provided, garage driveway connections shall be from an alley. In areas where no alley is provided, garage driveway connection shall be from the street.

5. Alleys may not exceed a maximum length of 600 feet without having a secondary outlet to a residential street.

I. Sidewalks, Curbs and Gutters

In all subdivisions, streets shall be constructed according to Town of Erie Standards and Specifications for Design and Construction of Public Improvements. Handicap accessible ramps from the sidewalk to street grade shall be provided, in conformance with the Americans with Disabilities Act criteria.

J. Utility Easements

In addition to the following, the requirements and standards set forth in Subsection 6.4.G,shall apply to all subdivisions provisions for utility easements.

1. Utility easements shall follow rear and side lot lines whenever practical, and the centerline of any easement should coincide with a joint property line.

2. Easements shall be determined so as to provide efficient installation of utilities and should integrate well with the Town's street design criteria.

3. Public utility installations shall be so located as to permit multiple utility installations within the easements, to avoid cross connections, to minimize trenching and adequately separate incompatible systems. No utilities shall be placed within 1 foot of the property line of any property. Where a portion of an existing easement is contiguous to a proposed easement or right-of-way of the new subdivision, proof of the dedication of the existing easement or right-of-way must be submitted to and be acceptable to the Town.

4. The location and width of all utility easements shall be subject to the approval of the Town and the utility providers.

5. Transmission lines shall be placed underground whenever practicable. The applicant shall make the necessary arrangements including any construction or installation charges with each of the serving utilities for the installation of such facilities.

6. Other utility equipment (including but not limited to transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, street lighting utilities, and other facilities necessarily appurtenant to such underground utilities) shall be placed underground whenever practicable. If placed above-ground, such equipment shall not be located in street medians or on utility poles unless no practicable alternative exists. Such equipment shall also be screened as required by the screening requirements of Subsection 6.4.G.

7. The applicant shall establish rough-cut final utility grades prior to the utility installations.

K. Storm Water Drainage

1. General Provisions

a. Drainage improvements shall be designed according to Town specifications and in accordance with Urban Drainage and Flood Control District standards.

b. Drainage areas shall be left in a natural state or designed to appear natural in form unless otherwise approved by the Town.

c. Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the State of Colorado and qualified to perform such work, and shall be shown graphically. All existing drainage features that are to be incorporated in the design shall be so identified. If the Final Plat is to be presented in phases, a general drainage plan for the entire area shall be presented with the first phase and appropriate development stages for the drainage system for each phase shall be indicated.

2. Design of Drainage Systems

a. The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and upstream from the subdivision itself, as well as its effects on lands downstream.

b. Native re-vegetation techniques shall be used.

c. Storm water drainage systems shall be designed according to Town specifications and in accordance with Urban Drainage and Flood Control District standards.

d. The drainage report to be included with the Preliminary Plat submittal materials shall be subject to review by the Town and outside referral agencies.

e. A final drainage report shall be submitted and accepted by the Town prior to Final Plat approval.

L. Water and Wastewater Lines

1. Oversizing Water and Wastewater Lines

Oversizing of water or wastewater lines may be required by the Town. In such cases the applicant shall pay for the cost of the line. The opportunity to recoup oversizing costs from future users is limited to 20 years, unless otherwise provided for by the Town by agreement.

2. Wastewater Line Standards

Design standards for wastewater lines shall be in accordance with the Standards and Specifications for Design and Construction of Public Improvements.

M. Water Courses and Ditches

The requirements and standards in Subsection 6.2.B, shall apply to all subdivision plats.

N. Water Supply

The requirements and standards in Title 8 of the Municipal Code apply to all subdivision applications.

10.5.5 IMPROVEMENTS

A. Improvements Required

Applicants shall be required to pay for and construct all on-site and off-site public improvements and common facilities that are required to adequately serve the proposed development or are deemed necessary to address the impact caused by the proposed development. Payment for and construction of such on-site and off-site public improvements and common facilities shall be a requirement of the approval of a proposed development under this UDC.

The public improvements and common facilities required to be paid for and constructed as part of the proposed development shall be governed by a separate Development Agreement. The Development Agreement shall meet the requirements of this UDC and all other applicable adopted Town manuals and ordinances regarding the provision of the required public improvements and common facilities, including the Town's Standards and Specifications for Design and Construction of Public Improvements.

B. Improvement Guarantees

The requirements and standards for Improvement Guarantees set forth in Sections 7.19 and 7.20 shall apply to all site plan and/or subdivision improvements.

C. Town Utilities and Facilities and Reimbursement for Qualifying Public Improvements

1. A proposed subdivision shall not, by reason of its location or design, cause an undue burden on existing Town utility systems or community facilities. What constitutes a burden shall be determined by the Town, and shall be fully examined during the annexation process for this possibility, prior to the final platting of the property. Where extension, enlargement, or construction of Town utility systems or community facilities are necessitated by a specific subdivision, the applicant will bear the costs of the necessary expansion, enlargement or construction.
2. In the event that the Town requires over-sizing of a utility or facility to serve future development or areas beyond the proposed subdivision, the Town and applicant may enter into an agreement for the applicant to recover an equitable portion of the excess born by the applicant.
3. In the event that the Town has constructed a utility or facility to serve future development and the proposed subdivision connects to said utility or facility, the Town and applicant may enter into an agreement for the Town to recover an equitable portion of the excess born by the Town.

D. As-Built Plans

Finished as-built plans of all public improvements as installed shall be required before the Town will accept the improvements.

E. Construction of Buildings

No proposed buildings designated on the approved Site Plan or Final Plat shall be erected nor shall building permits be issued for any subdivision until such time as the required public improvements or common facilities affecting all the lots designated on the approved Site Plan or Final Plat have been constructed or suitable provisions have been made for phasing of such construction in conformance with this UDC.

10.5.6 DEDICATION AND FEES IN-LIEU

A. Parks and Open Space

The requirements and standards set forth in Section 6.3 shall apply to all subdivisions.

B. Contribution for Public School Sites

1. Contribution Required

For all subdivisions of land within or affecting the St. Vrain Valley School District RE-1J or the Boulder Valley School District RE-2 ("school district") attendance areas, the subdivider shall dedicate land for a public school site to that school district the subdivision is located within.

In the event the dedication of land is not deemed practicable or in the best interest of the school district, as determined by the superintendent or designee of the school district, the subdivider shall make a payment in lieu of land dedication. The amount of such contribution of either land or payment in lieu of land (the "fair contribution for public school sites") shall be determined pursuant to Town's Municipal Code.

2. Exceptions from Contribution

The following uses shall be excepted from the fair contribution for public school sites requirements:

a. Construction of any nonresidential building or structure;

b. Alteration, replacement, or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;

c. Construction of any building or structure for a limited term stay or for long term assisted living, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family care homes, group care homes, halfway houses, hotels, motels, nursing homes, or hospices; and

d. Construction of any residential building or structure classified as housing for seniors, pursuant to the federal fair housing act, as amended.

3. Land Dedication and Site Related Requirements

In the event the fair contribution for public school sites includes the dedication of land and site related requirements (such as water dedication, utility extensions, etc.), the subdivider shall include on the Final Plat, dedication of the site to the school district. The developer's requirements for dedication of the site and site related requirements shall be in conformance with the current Inter-Governmental Agreement (IGA) between the Town and the School District.

4. Proof of Payment

If the fair contribution for public school sites includes payment in lieu of dedication of land, then prior to the issuance of any building permit for any residential dwelling unit in the subdivision not otherwise exempt under this Section, the Town shall be provided with proof that, for the lot for which the permit is sought, the required payment in lieu of dedication of land has been made to the school district.

CHAPTER 6: DEVELOPMENT AND DESIGN STANDARDS

10.6.1 GENERAL PROVISIONS

A. Purpose

The standards in this Chapter apply to the physical layout and design of development in the Town. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment. The general intent is to implement the Town's Comprehensive Master Plan vision of an attractive, efficient, and livable community that features stable neighborhoods and promotes a mix of uses in well-designed community focal points. The specific purposes of this Chapter include:

1. To encourage the proper use of the land by promoting an appropriate balance between the built environment and the preservation and protection of open space and natural resources;
2. To protect public and private investment through preservation of open spaces, protection of natural resources including existing trees, providing buffers between incompatible uses and along roadways, and encouraging the planting of new trees and vegetation as deemed appropriate;
3. To promote sound management of water quality and quantity through preservation of natural areas and by encouraging the use of native plant materials;
4. To provide appropriate standards to ensure a high quality appearance for the Town and promote good design while also allowing flexibility, individuality, creativity, and artistic expression;
5. To strengthen and protect the image, identity, and unique character of the Town and thereby to enhance its business economy;
6. To encourage high quality retail commercial businesses that provide positive sustainable revenue sources to the Town;
7. To protect and enhance residential neighborhoods, commercial districts, and other areas by encouraging physical development that is of high quality and is compatible with the character, scale, and function of its surrounding area; and
8. To encourage developments that relate to adjoining public streets, open spaces, parks, trails, and neighborhoods with building orientation and physical connections that contribute to the surrounding network of streets and walkways.

B. Applicability

This Chapter shall apply to new development and expansion of existing development in the Town with the exception of individual single family residential lots existing before the adoption of this UDC. Individual single family residential lots existing before the adoption of this UDC shall be subject to the following Sections of this Chapter: Sections 6.4; 6.6; 6.11; and 6.12. Single-family lots that change use from single family to another use or lots that further subdivide to create additional lots are subject to the standards of the entire Chapter.

C. Alternative Equivalent Compliance

1. **Purpose**
   Alternative equivalent compliance is a procedure that allows development to occur where the intent of the design-related provisions of this Chapter is met through an alternative design. It is not a general waiver of regulations. Rather, the procedure permits a site-specific plan that is equal to or better than the strict application of a design standard.

2. Applicability

The alternative equivalent compliance procedure shall be available only for the following Sections of this Chapter:

a. Section 6.4, *Landscaping, Screening, and Fencing*;

b. Section 6.7, *Residential Use Category Design Standards*;

c. Section 6.8, *Commercial and Public/Institutional Use Categories and, Mixed Use Districts Design Standards*; and

d. Section 6.9, *Aviation, Manufacturing, and Light Industrial Use Categories Design Standards*.

3. Pre-Application Conference Required

An applicant proposing to use alternative equivalent compliance under this Section shall request and attend a pre-application conference prior to submitting a subdivision or Site Plan application for the development, to determine the preliminary response from the Community Development Director. The pre-application conference shall be conducted as set forth in Subsection 7.2.A of this UDC. Based on the Community Development Director's response, the subdivision or Site Plan application shall include sufficient explanation and justification, in both written and graphic form, for the alternative equivalent compliance requested. The Community Development Director may require the application for alternative equivalent compliance to go to a Planning Commission conference.

4. Decision-Making Responsibility

Final approval of any alternative equivalent compliance proposed under this Section shall be the responsibility of the decision-making body responsible for deciding upon the application. Use by-right projects proposing alternative equivalent compliance shall require only written approval of the alternative equivalent compliance from the Community Development Director.

5. Criteria

To grant approval for alternative equivalent compliance, the decision-making body shall find that the following criteria are met:

a. The proposed alternative achieves the intent of the subject design standard to the same or better degree than the subject standard.

b. The proposed alternative substantially achieves the goals and policies of the Town's Comprehensive Master Plan to the same or better degree than the subject standard.

c. The proposed alternative result's in benefits to the community that are equivalent to or better than compliance with the subject design standard.

6. Effect of Approval

Alternative equivalent compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for assured approval of other requests.

10.6.2 NATURAL AND SCENIC RESOURCE PROTECTION

A. General Site Design Requirements to Protect Natural and Scenic Features

1. Purpose

The purpose of this Section is to:

a. Protect and enhance the natural and man-made features that contribute significantly to the Town's scenic quality and small-town character, including the: varying topography and hillsides, reservoirs, stream corridors, floodplains, irrigation

ditches, wetlands, native and specimen trees and vegetation, wildlife habitat and corridors, dramatic view corridors to the mountains, historic or cultural sites, and other significant features; and

b. Preserve the topographic features of individual development sites.

2. Applicability
This Subsection shall apply to all new development in the Town.

3. Design Standards

a. To the maximum extent reasonably practicable, where significant natural features or areas of historic or cultural value exist on a property or an adjacent property and have been identified on the required Existing Conditions Map, an applicant shall give priority to their preservation through required public open space dedication or as common private open space.

b. Priority for protection shall be given to the following features which are not listed in their order of significance:

i. Wetlands;

ii. Floodplains and natural drainage ways;

iii. Reservoirs, stream corridors, and other bodies of water;

iv. Prominent valleys;

v. Native and specimen trees and vegetation;

vi. Slopes of greater than 20 percent;

vii. Historically significant irrigation ditches or those ditches integrated with existing or planned trail systems;

viii. Historic, cultural, or archeological sites, buildings, or areas recognized by the town or other government agency as significant;

ix. Significant wildlife corridors and habitat;

x. Sites with federally or state-recognized endangered species; and

xi. Other significant and/or unique features.

c. To the maximum extent reasonably practicable, developments shall be designed in a manner that preserves the natural topography of the site and minimizes the use of cut and fill.

d. Earth grading or other land disturbance prior to the issuance of a grading permit is prohibited.

B. Water Courses and Ditches

1. Preservation of Existing Main Ditches
Existing irrigation ditches shall be incorporated in subdivision plats and preserved as open space areas to the maximum extent reasonably practicable. This requirement shall apply only to residential subdivision plats where a main ditch or any of its branches that receives water directly from a river or an original source of supply, not to lateral ditches leading from a main ditch.

2. Above-ground Main Ditches
All development shall be setback a minimum of 75 feet from the centerline of a main ditch on both sides (150 feet total width) unless the applicant submits a study demonstrating to

the Town's satisfaction that by the nature of the use of the ditch, safety considerations, and other factors, the ditch should be covered, piped, or otherwise treated. The 150 foot setback shall be located in a non-buildable tract in residential development or residentially zoned property. The Town may consider either a 150 foot minimum width non-buildable tract or 150 foot easement for a ditch in a non-residential development or non-residential zoned property.

3. Coal Creek and Boulder Creek

All development shall be setback a minimum of 150 feet from the centerline of Boulder Creek or Coal Creek on both sides (300 feet total) or to the side of an adjacent street right-of-way if less than 150 feet as of the date of adoption of this UDC. The owner shall create a tract over the setback area and dedicate said tract to the Town.

a. Existing platted lots within 150 feet of the centerline of Boulder or Coal Creeks shall be exempt from complying with this setback requirement.

b. Any development on airport property that is directly related to the functioning and operations of the airport shall be exempt from this setback requirement. However, commercial and industrial development on the airport not directly related to the functioning and operations of the airport shall not be exempt.

C. Native and Specimen Tree and Vegetation Protection

1. Purpose

Protection of existing native and specimen tree and vegetation cover is intended to preserve the visual and aesthetic qualities of the Town; to encourage site design techniques that preserve the natural environment and enhance the developed environment; to control erosion, slippage, and sediment run-off into streams and creeks; and to protect and increase the value of properties within the Town.

2. Applicability

This Subsection shall apply to all new development in the Town, except for development on lots of record that were approved for single-family residential use prior to the effective date of this UDC or development on lots in a subdivision with an approved native and specimen tree and vegetation survey and protection plan.

3. Exceptions

The following areas and activities shall be excepted from this Subsection:

a. Property occupied by a single-family detached, single-family attached, duplex, or townhouse dwelling unit, unless nonresidential uses are proposed for such property. However, any construction, paving, or other activity on the property that may damage trees on the public right-of-way shall comply with the standards of Subsection 6.2.C.3.b below.

b. Single-family residential development on a legal lot within the Old Town area.

c. The removal of dead or naturally fallen trees or vegetation, or trees or vegetation that are found by the Town to be a threat to the public health, safety, or welfare.

d. The removal of invasive or noxious species of trees and vegetation.

e. The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections.

f. Property zoned agricultural and being actively used for agricultural purposes, except for trees and native vegetation located within 150 of the centerline of Boulder or Coal Creek.

4. Native and Specimen Tree and Vegetation Survey and Protection Plan

a. *When Required*

All proposed development subject to this Subsection 6.2.C, shall prepare and submit a native and specimen tree and vegetation survey and protection plan along with the Site Plan or Preliminary Plat application.

b. *Contents*

The native and specimen tree and vegetation survey and protection plan may be combined with the landscaping plan required in Section 6.4, and any Site Plan required by this UDC, and shall contain sufficient detail to enable the Town to verify compliance with this Section. The native and specimen tree and vegetation survey and protection plan shall, at a minimum, include the following information:

i. The range of height and caliper of the trees on the site;

ii. The predominant species within an area;

iii. The general appearance of the trees with regard to health;

iv. Identification and location of individual trees that are healthy and have a diameter at breast height ("DBH") of 4 inches or greater for deciduous trees, 3 inches or greater for ornamental trees and 8 feet high or greater for evergreen trees or that are otherwise noteworthy because of species, age, size, or rarity;

v. The species, size, and health of shrubs; and

vi. Areas of native and specimen trees and vegetation.

c. *Prepared by Knowledgeable Professional*

Native and specimen tree and vegetation surveys and protection plans shall be prepared by persons such as arborists, foresters, or landscape architects, who have the competence and knowledge to satisfactorily develop plans required by this Section.

5. Relationship to Landscaping Requirements

Development shall meet the requirements of this Section, in addition to the requirements of Section 6.4. However, any existing trees or vegetation that are in appropriate locations, in sufficient quantities, and of acceptable quality to be utilized to fulfill landscaping or buffering requirements of this UDC shall be preserved to the maximum extent practicable and shall result in corresponding credit against any additional landscaping required.

6. Standards for Tree Protection and Replacement

a. *Tree Retention Generally*

All healthy trees having a diameter at breast height ("DBH") of 4 inches or greater for deciduous trees, 3 inches or greater for ornamental trees and 8 feet high or greater for evergreen trees shall be preserved to the maximum extent reasonably practicable. Healthy trees that meet the size requirement shall be replaced by trees of no less than 2 inch caliper, with the total gross caliper inches of the replacement trees being 1 1/2 times greater than the total caliper inches of those trees removed. This requirement shall not prevent the removal of unhealthy trees in conjunction with site development. Any required replacement tree shall not be planted within an area such that the mature canopy of the tree will interfere with overhead utility lines, or that the mature root zone of the tree interferes with underground public utility lines. Trees required to be added per the landscaping requirements in Section 6.4 or by virtue of deed restrictions shall not be considered as replacement trees. If a property cannot physically meet the tree replacement requirement then at the Town's discretion, a fee-in-lieu payment may be considered by the Town.

Final approval shall be with the entity identified for final approval of the application. The fee-in-lieu payment will be equal to the Town's tree impact fee and the fee-in-lieu received will be deposited by the Town into that impact fee fund.

b. ***Tree Protection Before and During Construction***
Before construction activities commence on the site, the following protection measures shall be observed in order to protect all trees that are not going to be removed. The protection measures shall be maintained until construction activities around the protected trees are complete.

i. *Prior to Construction*

(A) *Tree Flagging*
All protected trees on the subject property within 40 feet of a construction area or surface improvements such as driveway, walks, etc., shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of 4 feet or more such that the tape is visible to workers operating construction equipment. This shall not include the flagging of all protected trees adjacent to right-of-way within approved residential subdivisions during the construction of the roadway.

(B) *Open Space Flagging*
All trees or groups of trees within areas intended to be saved as open space shall be enclosed with fluorescent orange tape along all areas of possible access or intrusion by construction equipment. Tape shall be supported at a maximum of 25-foot intervals by wrapping trees or by other approved methods. Single incident access for the purposes of clearing underbrush is permitted.

(C) *Protective Fencing*
Protective fencing shall be located at the drip lines of all protected trees that border the limits of construction. In situations where a protected tree is located within the immediate area of intended construction, protective fencing will be located at the drip line.

ii. *Permanent Construction Methods*

(A) *Boring*
Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.

(B) *Trenching*
All trenching where possible shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, or gas.

(C) *Root Pruning*
It is recommended that all roots 2 inches or larger in diameter which are exposed as a result of trenching or other excavation be cut off square with a sharp medium tooth saw and covered with pruning compound within 2 hours of initial exposure.

iii. *Issuance of Permit; Conditions*

No grading permit, public improvement permit, or building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of this Subsection. The Chief Building Official shall make available to the applicant a copy of this Section.

c. *Prohibited Activities*

The following activities shall be prohibited within the limits of the critical root zone of any protected tree:

i. *Material Storage*

No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.

ii. *Equipment Cleaning; Liquid Disposal*

No equipment shall be cleaned or other liquids deposited or permitted to flow overland within the limits of the critical root zone of a protected tree. This would include paint, oil, solvents, asphalt, concrete, mortar, or similar materials.

iii. *Tree Attachments*

No signs, wires, or other attachments, other than those of a protective nature, shall be attached to any protected tree.

iv. *Vehicular Traffic*

No vehicular or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This Subsection does not apply to single incident access within a critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

v. *Grade Changes*

No grade changes (cut or fill) shall be permitted within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Community Development Director.

vi. *Impervious Paving*

No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree.

7. Tree Pruning

a. *Generally*

i. Preserved trees shall be pruned to remove dead or hazardous branches to ensure the health of the tree and safety of the public.

ii. No protected tree shall be pruned in such a manner that significantly disfigures the tree or in a manner that would reasonably lead to the death of a tree, except where such pruning is necessary for safety.

b. *Pruning Standards*

All pruning shall be in accordance with the National Arborist Association Standards for Pruning of Shade Trees.

8. Maintenance or Replacement

All trees shall be placed on a permanent irrigation system. For the construction phase of the development, the applicant may propose an alternative method of watering until the permanent irrigation system is installed.

If any of the trees required to be retained or trees planted as a part of this Section should die within a period of 2 years after completion of the activities associated with construction, the owner of the property shall replace the trees within 6 months. Trees that are removed shall be replaced by trees of no less than 2 inch caliper for deciduous, 1 1/2 for ornamental and 8 feet for evergreen, with the total gross caliper inches of the replacement trees being equal to or greater that the total caliper inches of those trees removed.

9. Incentive for Additional Tree Protection

Applicants are strongly encouraged to save as much existing vegetation and tree cover on a development site as possible. A 5 to 20 percent reduction in the number of parking spaces required on the site may be granted for preservation of additional tree cover beyond that required by this Section, so that the reduction in the amount of required pavement can help preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Community Development Director. This reduction is discretionary and subject to the approval of the Community Development Director.

D. Community Gateways

1. Applicability

This Section shall apply to all new development in the Town.

2. Standards for Community Gateway Corridors

Along the following gateway corridors, the following additional standards shall apply to protect distinct entryways into the community:

a. ***Erie Parkway***

i. A minimum 30-foot landscaped buffer shall be maintained on either side of the Parkway. This buffer should utilize a variety of live plant material and berming to provide year-round visual interest. A minimum 8 foot wide sidewalk shall be incorporated as an integral component of the landscape buffer and landscape area within the right-of-way.

ii. All fencing facing the Parkway shall be a maximum of 4 feet in height and should have an open character, such as split rail or picket. Opaque fencing is prohibited.

iii. Parking shall be screened to the greatest extent reasonably practicable from the Parkway using a combination of berming, walls, or fencing and landscaping with a minimum height of 3 feet and maximum height of 4 feet. Such berming or screening walls and fencing may be located within the landscaped buffer prescribed in this Section. Parking, internal drives or streets may not extend into the landscape buffer.

iv. Signage on nonresidential property shall not be installed in the landscape buffer of the Parkway. Signage on nonresidential property adjacent to the Parkway but outside the landscape buffer shall be limited to wall signs and monument signs. Ground signs shall be prohibited on such nonresidential property.

v. Monument signs adjacent to the landscape buffer shall meet the following standards:

(A) Shall be constructed from similar materials as the primary building on the site;

(B) Shall be a maximum of 6 feet in height;

(C) Illuminated signs shall be internally illuminated or externally illuminated with downcast cut-off fixtures; and

(D) No more than 1 monument sign shall be permitted on any Lot.

vi. Signage for residential property within or adjacent to the landscape buffer of the Parkway shall be limited to monument signs.

vii. Garages and carports may not be used as a screen or barrier between the Parkway and a development site.

viii. Unroofed patios, terraces or decks may project into required landscape buffers on nonresidential properties provided that the floor shall not extend higher than 30 inches above the finished grade level and provided the projection is at least 15 feet from arterial right(s)-of-way. Landscaping shall be installed to shield the patio structure that is visible above grade.

b. ***Highway 52***

i. A minimum 30-foot landscaped buffer shall be maintained on either side of the Highway. This buffer should utilize a variety of live plant material and berming to provide year-round visual interest. A minimum 8 foot wide sidewalk shall be incorporated as an integral component of the landscape buffer and landscape area within the right-of-way.

ii. Single-family detached residential lots shall be set back a minimum of 300 feet from the right-of-way.

iii. Single-family attached and multi-family residential lots shall be set back a minimum of 80 feet from the right-of-way.

iv. All fencing facing the highway shall be a maximum of 4 feet in height and should have an open character, such as split rail or picket. Opaque fencing is prohibited.

v. Parking shall be screened to the greatest extent reasonably practicable from the highway using a combination of berming, walls, or fencing and landscaping with a minimum height of 3 feet and maximum height of 4 feet. Parking, internal drives or streets may not extend into the landscape buffer.

vi. Permanent signage along Highway 52 shall be limited to wall signs and monument signs constructed from similar materials as the primary buildings on the site. Ground signs shall be prohibited.

vii. Garages and carports may not be used as a screen or barrier between the highway and a development site.

c. ***Highway 7***

i. A minimum 30-foot landscaped buffer shall be maintained adjacent to the highway. This buffer should utilize a variety of live plant material and berming to provide year-round visual interest. A minimum 8 foot wide sidewalk shall be incorporated as an integral component of the landscape buffer and landscape area within the right-of-way.

ii. Parking shall be screened to the greatest extent reasonably practicable from the highway using a combination of berming, walls, or fencing and landscaping with a minimum height of 3 feet and maximum height of 4 feet. Parking, internal drives or streets may not extend into the landscape buffer.

iii. Permanent signage along Highway 7 shall be limited to wall signs and monument signs constructed from similar materials as the primary buildings on the site. Ground signs shall be prohibited.

iv. Garages and carports may not be used as a barrier or screen between the highway and a development site.

d. ***County Line Road***

i. A minimum 30-foot landscaped buffer shall be maintained on either side of the street. This buffer should utilize a variety of live plant material and berming to provide year-round visual interest. A minimum 8 foot wide sidewalk shall be incorporated as an integral component of the landscape buffer and landscape area within the right-of-way.

ii. All fencing facing the street shall be a maximum of 4 feet in height and should have an open character, such as split rail or picket. Opaque fencing is prohibited.

iii. Parking shall be screened to the greatest extent reasonably practicable from the street using a combination of berming, walls, or fencing and landscaping with a minimum height of 3 feet and maximum height of 4 feet. Parking, internal drives or streets may not extend into the landscape buffer.

iv. Permanent signage along County Line Road shall be limited to wall signs and monument signs constructed from similar materials as the primary buildings on the site. Ground signs shall be prohibited.

v. Garages may not be used as a barrier between the street and a development site.

e. ***Arapahoe Road and All Other Arterial Roads***

i. A minimum 30-foot landscaped buffer shall be maintained on either side of the street. This buffer should utilize a variety of live plant material and berming to provide year-round visual interest. A minimum 8 foot wide sidewalk shall be incorporated as an integral component of the landscape buffer and landscape area within the right-of-way.

ii. Parking shall be to the greatest extent reasonably practicable screened from the street using a combination of berming, walls, or fencing and landscaping with a minimum height of 3 feet and maximum height of 4 feet. Parking, internal drives or streets may not extend into the landscape buffer.

iii. Permanent signage along Arapahoe Road and all other arterials shall be limited to wall signs and monument signs constructed from similar materials as the primary buildings on the site. Ground signs shall be prohibited.

iv. Garages and carports may not be used as a screen or barrier between the street and a development site.

10.6.3 PARKS, OPEN SPACE, AND TRAILS

A. Purpose

This Section is intended to regulate the planning, development, construction, preservation, and maintenance of parks, open space, and trails throughout the Town. Parks, open space, and trail regulations are intended to preserve natural areas and resources, preserve scenic views, provide access to open areas and recreational opportunities, create public health benefits, and generally enhance the quality of life for residents. Particular emphasis should be placed on providing a diversity of parks, trails, and open space opportunities that serve residents of all ages and abilities and that are accessible from a variety of locations within the community.

B. Park Land Dedication, Park Construction and Neighborhood Park Land and Construction Cost Fee

1. Purpose

This Section is intended to provide lands and construction of Neighborhood parks or the Neighborhood Park Land and Construction Cost Fee for park demand generated by new residential subdivisions. In general, the dedicated lands shall be suitable for the development of Neighborhood parks. Where no suitable land is available or is required by the Town, based on Subsection 6.3.B.4 below, a Neighborhood Park Land and Construction Cost Fee may be substituted at the Town's discretion.

2. Applicability

Any person offering a Preliminary or Final Plat for development of any area zoned and to be used for residential purposes in the Town shall be required to dedicate: (1) a portion of land toward a community goal of 8.5 acres of park land per 1,000 residents; or (2) pay the Neighborhood Park Land and Construction Cost Fee pursuant to Subsection 6.3.B.7 below.

3. Amount of Park Land to be Dedicated

a. The amount of park land dedicated shall not be less than 8.5 acres of park land per 1,000 residents of the development unless the Board of Trustees makes an individualized finding that supports an alternate dedication requirement. Any such alternate dedication requirement shall be reasonably related to the impacts upon the Town's parks and recreation system that will be generated by the residents and users of the subject development. The following formula shall be used for determining the amount of land to be dedicated:

$$\frac{8.5 \text{ acres X (number of dwelling units) X (persons per dwelling unit)}}{1{,}000} = \text{area to be dedicated}$$

b. The distribution of this land should generally be as follows:

i. Pocket Parks: 0.5 acres/1,000 residents

ii. Neighborhood Parks: 3 acres/1,000 residents

iii. Community Parks: 5 acres/1,000 residents

The Board of Trustees shall have discretion to re-allocate acreage within the above categories for the benefit of the community.

c. The Community Development Director shall determine the number of persons per dwelling unit based upon data compiled by the Town from time-to-time, which shall be reviewed and adjusted by the Board of Trustees as necessary to reflect current figures.

d. The developer shall submit with each subdivision plat for multi-family residential development information concerning the number of dwelling units. Should the

developer fail to do so, the Community Development Department shall assume the highest density permitted in such multi-family residential district.

4. Characteristics of Park Land to be Dedicated and Constructed

a. ***Standard Criteria for Pocket, Neighborhood, and Community Parks***

To the maximum extent reasonably practicable, park land to be dedicated shall be generally consistent with the standard characteristics of parks identified in the Town's Comprehensive Master Plan and the Parks, Recreation, Open Space, and Trails ("PROST") Master Plan.

i. *Pocket Parks*

Pocket parks provide opportunities for passive outdoor recreation at a sub-neighborhood scale. Pocket parks shall be located within 1/4 mile of the residences they are intended to serve and may include lawn areas, picnic shelters and tables, play equipment, artwork or other amenities that are appropriate for the demographics and types of activities that the neighborhood may desire. Pocket parks shall be:

(A) 1/4 acre to 2 acres in size;

(B) Centrally located within neighborhoods served;

(C) Bordered on at least 1 side by public streets (excluding collector and arterial streets) to provide easy public access, visual surveillance, and parking;

(D) Accessible from the surrounding neighborhoods using sidewalks and/or trails;

(E) Pocket Parks shall be owned and maintained by an HOA or metropolitan district;

(F) Pocket Parks shall be platted with a dedicated public access easement; and

(G) Pocket Parks shall be constructed to Town "Standards and Specifications for Design and Construction of Public Improvements."

ii. *Neighborhood Parks*

Neighborhood parks shall provide places for recreation and gathering places within approximately 1/2 mile from most residences being served. Neighborhood parks may include multi-use lawn areas, picnic areas, playground equipment, small court games, community gardens and playing fields and facilities as appropriate. Neighborhood parks shall be:

(A) Of a size determined by Subsection 10.6.3.B.3 above, but not less than a minimum size of 7 acres;

(B) Centrally located within or adjacent to the neighborhood(s) served;

(C) Bordered on at least 2 sides by public streets (excluding arterial streets) to provide easy public access, visual surveillance and parking;

(D) Accessible from surrounding neighborhoods by sidewalks and/or trails;

(E) At the time of Preliminary Plat approval, the developer shall provide the Town with a master design plan for the Neighborhood

park, which shall include all of the park's amenities. The amenities included within the master design plan shall be selected by the developer from a list of approved amenities provided by the Town. The master design plan shall be subject to, and contingent upon, approval and acceptance by the Town. The developer shall construct the Neighborhood park in accordance with the Town approved and accepted master design plan. Construction of the Neighborhood park shall be at the sole expense of the developer as an obligation of, and as part of, the development of the residential subdivision. The Neighborhood park shall be constructed to the UDC standards and the Town "Standards and Specifications for Design and Construction of Public Improvements". The developer shall additionally be responsible for the cost of grading, grass, irrigation and water taps and raw water fees for the Neighborhood park. If the Neighborhood park is located in Weld County, the developer shall connect the park's irrigation system to the Town's reuse water system and pay the fees and costs associated therewith; and

(F) Neighborhood parks shall be owned by the Town. Maintenance of Neighborhood parks shall be the responsibility of the applicant, developer, HOA, or metropolitan district until such time as the Board of Trustees' acceptance of the Neighborhood park improvements, following completion of the construction of the Neighborhood park improvements by the developer. A formal resolution shall be passed by the Board of Trustees to specify the effective date for transfer of maintenance responsibility to the Town unless otherwise specified in a contractual agreement.

iii. *Community Parks*
Community parks serve multiple neighborhoods and focus on the recreational needs of the whole community. They provide opportunities for organized recreational activities as well as community events and gatherings. Community parks shall be:

(A) A minimum size of 30 acres;

(B) Sited in an area level enough to accommodate play fields or recreational facilities as needed;

(C) Maintain a balance between programmed sports facilities and other community activity areas, such as performance areas, festival spaces, gardens, water features, etc. that have broad appeal to the community;

(D) Accessible from a collector or arterial street;

(E) Integrated into the Town's trail system;

(F) Community Parks shall be owned by the Town. Maintenance of community parks shall be the responsibility of the applicant, developer, HOA, or Metropolitan District until such time as the Board of Trustees resolves to design and construct the park or upon final construction acceptance of park improvements, if built by the developer. A formal resolution shall be passed by a majority of the Board of Trustees to specify the effective date for

transfer of maintenance responsibility to the Town unless otherwise specified in a contractual agreement; and

(G) The Town shall typically be responsible for design and construction of community parks, however, the Town may designate the applicant to design and construct the community park. The Town shall designate what amenities shall be placed in the park and the maximum cost of the park improvements. The community park shall be constructed to UDC standards and the Town "Standards and Specification for Design and Construction of Public Improvements."

b. ***Additional Criteria for Park Land Dedications***

Except as otherwise required by the Planning Commission at the time of Preliminary Plat approval or by the Board of Trustees on acceptance of the dedication, all dedications of land under this Section shall meet the following criteria. These criteria should be considered general guidelines to ensure that dedicated land is suitable for park development.

i. *Aggregate Parcel*

The dedicated park land shall form a single parcel of land, except where the Board of Trustees determines that 2 or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Board of Trustees may require that such parcels be connected by a dedicated strip of land at least 30 feet in width.

ii. *Usability*

At least 75 percent of the dedicated land required by this Section shall be well-drained, level, and suitable for playing fields and recreational facilities. No part of such 75 percent shall be within any designated flood plain or floodway of the Town.

iii. *Connectivity*

All dedicated land shall, to the maximum extent reasonably feasible, be linked to parks, open space, and trails or adjacent parcels to form a connected system throughout the Town.

iv. *Environmental Considerations*

All parks should be located, designed, constructed, and maintained to minimize local, regional, and global environmental impacts as provided in the Town's Comprehensive Master Plan.

v. *Water Rights*

Water rights sufficient to irrigate and serve the intended uses of the dedicated park land shall be transferred to the Town prior to the recordation of the Final Plat.

vi. *Areas Not Eligible*

Lands within the following areas shall not be accepted for park land dedication:

(A) Private yards;

(B) Public or private streets or right-of-ways not intended for park, open space, or trail-related purposes;

(C) Open parking areas and driveways for dwelling units not intended for park, open space, or trail-related purposes;

(D) Streetscape or landscape buffers and median strips;

(E) Major utility easements over 30 feet wide;

(F) Oil and gas well sites and setbacks;

(G) Storm water detention and water quality ponds greater than 5 feet deep with slopes greater than 5:1;

(H) Mine shafts and associated setbacks; and

(I) Irrigation ditches and storm water channels.

5. Procedure for Dedication of Park Land

The dedication of park land shall be reviewed and approved as part of the preliminary plat. The developer shall designate on the preliminary plat and final plat the area or areas of land to be dedicated pursuant to this Section.

6. Submission of Deed and Title

Unless otherwise stipulated in a development agreement, the conveyance of dedicated land to the Town shall be by warranty deed, and the title shall be free and clear of all liens and encumbrances, including real property taxes prorated to the time of conveyance. The owner shall provide the Town with title insurance for the property. The deed shall be submitted no later than 30 days after the approval of a Final Plat, or as directed by the Town.

7. Payments of Neighborhood Park Land and Development Construction Cost Fee

a. ***Applicability***

i. In the event a developer of a development would not be required to dedicate and construct a Neighborhood park pursuant to the terms of this Section, the Town in its discretion may instead require the developer to pay the Neighborhood Park Land and Construction Cost Fee pursuant to this Subsection.

ii. When an area greater than 7 acres is required to be dedicated in a part of Town that already has sufficient park land (as specified in the Town of Erie Comprehensive Master Plan and the Town of Erie Parks, Recreation, Trails and Open Space Master Plan), the Planning Commission or Board of Trustees shall have the right to require payment of the Neighborhood Park Land and Construction Cost Fee rather than require a land dedication and construction of the park, in the interests of the public health, safety and welfare.

iii. Redevelopment of properties that previously dedicated land, constructed a park, paid fees in lieu, or paid the Neighborhood Park Land and Construction Cost Fee are exempt from paying an additional Neighborhood Park Land and Construction Cost Fee or making additional land dedication.

b. ***Payment into Parks Capital Fund***

In instances where payment of a Neighborhood Park Land and Construction Cost Fee is to be made in place of a required land dedication and park construction, the Neighborhood Park Land and Construction Cost Fee shall be paid into a Town Parks Capital Fund. The Neighborhood Park Land and Construction Cost Fee payment shall be set forth in Title 2, Chapter 10 of the Town Code, and may adjusted from time to time as necessary. The Neighborhood Park Land and

Construction Cost Fee payment by the developer shall be made prior to the recordation of the Final Plat.

c. ***Administration of Parks Capital Fund***
The Parks Capital Fund will be administered by the Town to provide a demonstrable benefit to contributing developments, provided that the establishment of all public parks shall be within the discretion of the Board of Trustees. The money paid by the developer will be expended exclusively to establish and construct park land that generally benefits the proposed development. The money shall be properly expended by the Town or returned to the developer within 7 years of the date of final plat recordation, unless there is a planned use for the funds through appropriation, the Town's 5-year capital improvement plan or other long-range capital planning process. The Town shall account for all money deposited to the fund, which may be expended for such purposes as acquisition of land, construction of improvements, and purchase of equipment for the relevant park.

C. Open Space and Trail Dedications and Fees In-lieu

1. Intent

Broad views and rolling agricultural lands are abundant and contribute significantly to the Town's character; however, many of these lands are planned for future development in the Town's Comprehensive Master Plan. In addition to providing land for trails, open space can help direct growth, maintain rural character, protect sensitive environmental areas, scenic views and historic resources, and provide opportunities for education, wildlife protection and observation, hiking, and other passive and active recreation activities for existing and future the Town residents.

2. Applicability

Any person filing a Preliminary or Final Plat for development of any area zoned and to be used for single-family, duplex, or multi-family residential purposes in the Town shall be required to dedicate: (1) a portion of land toward a community goal of 17 acres of open space per 1,000 residents; or (2) pay an in-lieu fee pursuant to Subsection 6.3.C.6.

3. Amount of Open Space to be Dedicated

a. The amount of open space to be dedicated shall not be less than 17 acres of open space land per 1,000 ultimate residents of the development unless the Board of Trustees makes an individualized finding that supports an alternate dedication requirement. Any such alternate dedication requirement shall be reasonably related to the impacts upon the Town's parks and recreation system that will be generated by the residents and users of the subject development. The following formula shall be used for determining the amount of land to be dedicated:

$$\frac{17 \text{ acres X (number of dwelling units) X (persons per dwelling unit)}}{1{,}000} = \text{area to be dedicated}$$

b. The Community Development Director shall determine the number of persons per dwelling unit based upon data compiled by the Town from time-to-time in the update of its comprehensive master plans, which shall be reviewed and adjusted by the Board of Trustees as necessary to reflect current figures.

c. The developer shall submit with each subdivision plat for multi-family residential development information concerning the number of dwelling units. Should the developer fail to do so, the Community Development Department shall assume the highest density permitted in such multi-family residential district.

4. Characteristics of Open Space to be Dedicated

a. ***Standard Criteria for Open Space***

Open space is characterized as undeveloped land that is permanently maintained in a natural or agricultural state. Open space land shall have the following characteristics:

i. A minimum of 10 contiguous acres;

ii. A parcel that is no less than 300 feet at the narrowest width, unless the Town approves a lesser amount for a trail;

iii. To the maximum extent reasonably feasible, a location that is contiguous with or connected to adjacent open space or parks;

iv. Is, generally, unencumbered by utility lines, built structures, and paved surfaces;

v. If the Town has not approved the open space dedication for agricultural purposes, then the property shall be covered with native vegetation and generally free of weeds and other noxious plants and trees. If land being dedicated is not in a native condition acceptable to the Town, then applicant shall be responsible for restoration of the property to native vegetation before the Town accepts it for maintenance; and

vi. Typically, open space shall be owned and maintained by the Town. The Town may consider a conservation easement as an alternative. Approval of a conservation easement shall be at the discretion of the Town approving body.

b. ***Permissible Functions/Use***

Open space shall serve 1 or more of the following functions:

i. Preserving rural/agricultural land;

ii. Producing crops for revenue;

iii. Protecting significant archeological, historic and cultural resources;

iv. Providing aquatic, wetland and riparian habitat and buffers;

v. Providing hedgerows, feeding, cover, breeding, foraging and nesting habitat;

vi. Preserving native wildlife habitat and their migration and travel corridors;

vii. Creating and preserving pastoral-scenic views to mountains, plains, and agricultural lands;

viii. Providing corridors and natural area destinations;

ix. Providing passive recreational experiences and trails;

x. Providing environmental education opportunities;

xi. Shaping growth; protecting landmark topographic features; and

xii. Protecting the public from natural and geologic hazards; providing visual and physical linkages between community resources.

Clearing of underbrush and debris and the provision of walks, fountains, fences, and other similar features are permitted within open space.

c. ***Resource Preservation***

To the maximum extent reasonably feasible, where significant natural and scenic resource assets exist on a property, the subdivider, developer, or owner shall give

priority to their preservation as open space. In reviewing the proposed location of open space areas, the Community Development Director shall use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected, with priority being given to the following areas (which are not listed in a particular order):

i. Flood hazard areas;

ii. Lakes, rivers, creeks, wetlands, stream/riparian corridors, and similar features;

iii. Wildlife habitat and migration corridors; and

iv. Native and specimen trees and plants.

d. ***Design Standards***

i. Open space shall not consist solely of undevelopable or "left- over" pieces of the site, but shall be designed as an integral part of the overall development plan, incorporating identified environmentally and historically significant components of the site.

ii. Open space shall be organized to create continuous, integrated systems that physically and visually connect with the following features dedicated or identified in the Town of Erie Parks, Recreation, Open Space and Trails Master Plan.

(A) Parks or greenways;

(B) School sites;

(C) Historic, cultural, or archeological sites and features; or

(D) Trail and open space systems.

iii. Open space shall be unobstructed by utility lines, built structures, or paved areas (other than trails).

iv. To maintain strong visual and physical linkages, to the maximum extent reasonably feasible open space shall not be less than 30 feet in width at the point of connection to adjacent lands or uses as described above. Where topography or other site features would prevent the above standard from being met, the point of connection may be reduced to less than 30 feet for short distances at the discretion of the Town.

v. Trail corridors outside of open space areas shall have a minimum corridor width of 30 feet.

e. ***Water Rights***

Water rights sufficient to irrigate and serve the intended uses of the dedicated open space shall be transferred to the Town prior to the recordation of the Final Plat.

f. ***Environmental Considerations***

All open space and trails should be located, designed, and maintained to minimize local, regional, and global environmental impacts as provided in the Town of Erie Comprehensive Master Plan.

g. ***Areas Not Eligible***

Lands within the following areas shall not be counted towards required open space dedication:

i. Private yards;

ii. Public or private streets or right-of-ways not intended for open space-related purposes;

iii. Open parking areas and driveways for dwelling units;

iv. Pocket, neighborhood, and community parks;

v. Land covered by structures not intended solely for recreational uses;

vi. Streetscape or landscape buffers;

vii. Median strips;

viii. Oil and gas well sites and required buffers; and

ix. Storm water channels, detention and water quality ponds greater than 5 feet deep with slopes greater than 5:1.

5. Procedure for Dedication of Open Space

a. The dedication of open space shall be reviewed and approved as part of the Preliminary Plat. The developer shall designate on the Preliminary Plat and Final Plat the area or areas of land to be dedicated pursuant to this Section.

b. The conveyance of dedicated land to the Town shall be by warranty deed, or conservation easement agreement and the title shall be free and clear of all liens and encumbrances, including real property taxes prorated to the time of conveyance. The owner shall pay for and provide the Town with title insurance for the property. The deed shall be submitted no later than 30 days after the approval of a Final Plat.

6. Payments of Fees In-Lieu of Land Dedication

a. ***Applicability***

i. Development of an area smaller than 5 acres for open space purposes usually is impractical from the Town's perspective. If a development would be required under this Section to dedicate less than 5 acres as open space, the Town in its discretion may require the developer to pay cash in-lieu of land pursuant to this Subsection.

ii. When an area greater than 5 acres is required to be dedicated in a part of Town that already has sufficient open space (as specified in the Town of Erie Comprehensive Master Plan and the Town of Erie Parks, Recreation, Open Space and Trails Master Plan), the Board of Trustees shall have the right to require payment of cash in-lieu of land dedication in the interests of the public health, safety and welfare.

b. ***Payment into Trails & Natural Areas Fund***

In instances where payment of fee is to be made in-lieu of land dedication, the fee-in-lieu of land shall be paid into the Trails & Natural Areas Fund. The fee-in-lieu payment shall be set forth in Title 2, Chapter 10 of the Town Code, and may be adjusted from time to time as necessary. The open space dedication payment by the developer shall be made prior to the recordation of the Final Plat.

c. ***Administration of Trails & Natural Areas Fund***

The Trails & Natural Areas Fund shall be administered by the Town to provide a demonstrable benefit to contributing developments, provided that the establishment of all public open space or trail systems shall be within the discretion of the Board of Trustees. The money paid by the developer will be expended to establish an open space site that generally benefits the proposed development. The money shall be properly expended by the Town or returned to the developer within 7 years

of the date of Final Plat recordation. The Town shall account for all money deposited to the Trails & Natural Areas Fund, which may be expended for such purposes as acquisition of land, construction of improvements, and purchase of equipment for the relevant park/open space area.

10.6.4 LANDSCAPING, SCREENING, AND FENCING

A. Purpose

This Section is intended to ensure that new landscaping and the retention of existing vegetation is an integral part of all development and that it contributes added high quality to development, retains and increases property values, conserves water, and improves the environmental and aesthetic character of the community. It is also the intent of this Section to provide flexible requirements that encourage and allow for creativity in landscape design.

B. Applicability

This Section shall apply to the following:

1. New Development

All new development unless specifically excepted in Subsection 6.4.B.5 below;

2. Expansion of Existing Development
Applications for building permits for construction must be approved for the following:

a. All new development (not including additions);

b. Any change of use from 1 primary use classification to another (for example, residential use to commercial use);

c. An increase of the number of stories for a building on a lot;

d. An increase of the combined gross floor area of a building of more than 10 percent or 5,000 square feet, whichever is less; and

e. An increase in the non-permeable lot coverage by more than 2,000 square feet.

3. Change of Use
Any change of use from 1 primary use classification to another (for example, residential use to commercial use).

4. Subdivision of a Structure
Subdivision of a structure, including conversion into condominiums, into 2 or more separate dwelling units or spaces.

5. Exceptions

a. The following development types and areas are excepted from the requirements of this Subsection, unless they make application that qualifies as applicable under Subsections 6.4 B.2, 3, or 4 above:

i. Temporary uses approved pursuant to this UDC; and

ii. All landscape plans approved under prior ordinances of the Town shall remain in effect subject to fulfillment of all terms of such plans previously filed and approved.

b. The following development types and areas shall be subject to Subsections 6.4.E.1; 6.4.E.5; 6.4.F.2; 6.4.F.5; 6.4.F.8; 6.4.F.9; and 6.4.H and exempted from the remainder of Section 6.4:

i. Individual single-family and duplex dwelling units on separate lots, where such residential use is the primary use on the lot; and

ii. New single-family detached and duplex subdivisions with 4 or fewer lots and 4 or fewer dwelling units.

c. All development shall be subject to Subsection 6.4.H.

C. Alternative Equivalent Compliance

The alternative equivalent compliance procedure in Subsection 6.1.C may be used to propose alternative means of complying with the intent of this Section.

D. Landscape Plan

All development applications shall be accompanied by a landscape plan meeting the requirements of this Section. The landscape plans shall be submitted and reviewed as part of the Site Plan process. Installation of approved landscaping shall occur prior to issuance of a Certificate of Occupancy or during the first month of the planting season, whichever is sooner. If the landscaping installation does not occur before issuance of a Certificate of Occupancy, then the Town will require a letter of credit or other guarantee for improvements not installed as detailed in Subsection 6.4.F.7.

E. Minimum Landscaping Requirements

The minimum landscaping requirements in this Chapter are cumulative.

1. Right-of-way

The property owner shall provide:

a. 1 deciduous or ornamental street tree for every 40 linear feet of street frontage or portion thereof, with a minimum of 2 trees per lot for lots that have a minimum width of 60 feet. Street trees shall be planted within the tree lawn portion of the right-of-way with adequate spacing to allow for the mature spread of the trees. When a tree lawn is not provided, trees shall be planted within 10 feet of the back of curb.

b. Live groundcover as appropriate to the use and function of the area described in Subsection 6.4.E.1.a above, including grass, trees, flowers, or shrubs. In commercial areas, such area may be paved if it functions as pedestrian access to storefronts and is integrated into the overall design of the other improvements on the site.

c. With the exception of the owners of single-family detached dwelling units, the property owner shall install an automatic irrigation system for all landscaping within public right-of-ways.

2. Water Efficiency in Landscape Design

Landscape improvements shall be designed with water efficiency as a major goal. Landscape plans shall use the follow design treatments to facilitate water conservation:

a. Appropriate turf selection to minimize the use of bluegrass;

b. Use of mulch to maintain soil moisture and reduce evaporation;

c. Zoning of plant materials according to their microclimate needs and water requirements;

d. Improvement of the soil with organic matter if needed;

e. Efficient irrigation systems;

f. Proper maintenance and irrigation schedules; and

g. Recirculation of water for decorative water features.

3. Water Efficiency in Irrigation Design

All required landscaping shall be irrigated as required for plant establishment and maintenance. Irrigation systems shall be designed to achieve water efficiency as a major goal and is encouraged to generally conform to the irrigation design guidelines set forth in Subsection 4.A.4 of the publication "Water—Efficient Landscape Design: A Model Ordinance For Colorado Communities" published by the Colorado Department of Local Affairs (2004 and as amended).

4. Common Open Area

Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, live plant groundcover, a water-efficient irrigation system for all landscaped areas, and paving.

5. Single-family and Duplex Dwelling Units

In addition to the right-of-way landscaping described in Subsection 6.4.E.1 above, the property owner shall:

a. Provide landscaping in the front yard of each home. There shall be a minimum of 75 percent of the gross front yard area, excluding driveways, landscaped with live plant materials.

b. Install landscaping within the side and rear yard such that 50 percent of the combined (side and rear) yards is landscaped with live plant material.

c. Maintain the landscaping within the adjacent street right-of-way.

6. Multi-Family Dwelling Units

In addition to the right-of-way landscaping described in Subsection 6.4.E.1 above, the property owner shall:

a. Install trees on-site, a minimum of 1 tree per 1,000 square feet of landscaped area, distributed on the site.

b. Install a minimum of 1 shrub per 150 square feet of landscaped area. Shrubs shall be grouped and distributed throughout the site. Trees may be substituted for up to 1/2 of the required shrubs at the rate of 1 tree for 10 shrubs and vice-versa, subject to Town approval.

c. Install groundcover, either irrigated turf maintained to appropriate standards for active recreation in active recreation areas, or where appropriate, native grass for areas that will not function as active recreation areas. Native grass shall be weed-free and maintained at an appropriate height according to species. Use of irrigated turf is discouraged and shall be minimized to the maximum extent reasonably practicable.

d. Install parking lot landscaping as required in Subsection 6.4.E.8 below.

e. Provide a water-efficient irrigation system for all landscaped areas.

f. Maintain the landscaping within the common open spaces and adjacent street right-of-way.

g. Provide a minimum of 15 percent of the entire site with landscaping of live plant materials.

7. Nonresidential

a. The property owner shall provide right-of-way landscaping pursuant to Subsection 6.4.E.1 above.

b. Landscape improvements shall be designed to enhance the overall appearance of the development and integrate the project with adjacent land uses and the surrounding neighborhood. A minimum of 15 percent of the gross site area shall be landscaped area.

c. The property owner shall provide:

i. A minimum of 1 tree per 1,000 square feet of landscaped area, distributed on the site.

ii. A minimum of 1 shrub per 150 square feet of landscaped area. Shrubs shall be grouped and distributed throughout the site. Trees may be substituted for up to 1/2 of the required shrubs at the rate of 1 tree for 10 shrubs, and vice-versa, subject to Town approval.

iii. All landscaped areas shall be watered by a water-efficient irrigation system.

iv. Parking lot landscaping as required in Subsection 6.4.E.8 below.

d. The property owner shall screen industrial and commercial loading areas, including vehicle loading areas, and service and storage areas visible from public right-of-ways or adjacent property, with an extension of the building architecture. Chain link fencing with slats, tires, or building materials shall not be used as screening materials.

e. The property owner shall maintain the landscaping within the adjacent street right-of-way.

8. Parking Lots

a. Parking lot landscaping shall break up expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development, and enhance the overall appearance of each project. All parking lots with 10 spaces or more, on a single lot shall be subject to the requirements of this Section. Parking lot landscaping requirements are in addition to any other landscaping that may be required for the site.

b. Parking spaces shall not encroach into any required setback or landscape buffer area unless that parking area is part of a shared assemblage that crosses a property line.

c. No more than 70 percent of the total parking provided shall be located between the front facade of the principal entranceway and the principal adjacent street, except in Old Town, where all off street parking shall be located to the rear or side of all primary buildings and not along primary street frontages.

d. Live plant material intended as a buffer shall be planted at a density so as to provide effective screening within 2 years from the date of installation.

e. All developments shall provide:

i. A minimum of 1 tree per 15 parking spaces, to be placed in islands that are a minimum of 10 feet wide, and shall use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.

ii. A minimum of 1 shrub per parking space, to be grouped in landscape islands or around the parking lot perimeter.

iii. Shrubs and ornamental grasses in planting areas less than 10 feet wide.

iv. Outside of the downtown, a minimum landscape setback to parking lots, 30 feet from arterial right-of-ways or 15 feet from any other street right-of-ways either public or private. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street. The setback, on streets other than arterials, may be reduced to 10 feet if used in combination with a 3 to 4-foot articulated masonry or stone decorative wall with trees and shrubs on both sides of the wall to soften its appearance. The minimum landscape setback to parking lots from primary internal drive circulation routes in a multi-building complex shall be 10 feet.

v. In the Downtown, 1 of the following landscape options for a parking lot adjacent to the street right-of-way:

(A) A perimeter landscaped area less than 5 feet wide but at least 3 feet wide with ornamental fencing or masonry walls and wheel stops or curbing in the parking lot that prevent any vehicle overhang into the landscaped areas; or

(B) An ornamental fence or masonry wall without landscaping, provided that a planting strip exists between the sidewalk and the adjacent public streets and the planting strip is planted with trees to the minimum specifications of this Section. This option shall not be available to parking lots that are a principal or temporary use on the site.

9. Stormwater Facilities

a. To the maximum extent reasonably feasible, stormwater facilities shall be located, designed, and managed for use as year-round neighborhood open space and passive recreation areas. Alternatively, appropriately designed stormwater facilities may be located, designed, and managed to serve as an entryway feature for a development.

b. Stormwater facilities shall be designed to appear as an extension of the surrounding landscape, with a natural shape, natural slopes of 4:1 or less and naturalized landscape plantings. Stormwater facilities shall be designed to allow for naturalization with trees and woody plant materials.

c. Berming to increase facility capacity shall be discouraged. If permitted, the maximum height of the berm shall be 3 feet with berming to be contoured to take on a naturalized shape.

d. The use of concrete or other impervious materials in stormwater facilities shall be limited to areas necessary to prevent erosion that cannot be accomplished using other stormwater design or landscape techniques. Such erosion devices shall either be buried below live plant materials or designed in a naturalized manner.

e. In commercial and industrial developments, a more structured facility that is designed to complement the architecture and site design will be considered by the Town.

f. Credit towards minimum park or open space requirements may be available for portions of detention ponds that are outside the area required to store water quality volume, provided they are designed according to Subsections 6.4.E.9.a and b

above, and are useable by residents as parks or open space. To be eligible for this credit, detention basins shall not be more than an average of 3 feet deep and shall also meet at least 1 of the use definitions of parks and open space. Average depth shall be measured from existing grade.

F. General Landscaping Requirements and Standards

1. Landscape Materials List

Live plant materials shall be selected from the landscape materials list maintained by the Town. Materials not on the list may be approved by the Community Development Director if it is determined that they are equally suitable for local soil and water conditions and would provide the same level of visual benefits.

2. Artificial Materials Prohibited

Artificial plants, artificial grasses, and other artificial plant material are prohibited as a means of complying with these landscaping regulations. However, they may be used for athletic fields and similar uses as approved by the Town, but shall not be used in any manner to satisfy the requirements of these landscape regulations.

3. Plant Quality

Xeriscape plant materials are strongly encouraged. All landscape materials shall be in compliance with the current standards recommended by the American Association of Nurserymen. Plants shall have a habit of growth that is normal for the species and shall be of good health, vigorous growth, and free from insect pests, diseases, and injuries. All plants shall equal or exceed the measurements specified on the landscape plan. Substitutions shall not be permitted without the written approval of the Community Development Director.

4. Plant Measurements

In order to satisfy landscaping requirements of this Section, all live plant materials shall meet or exceed the Town of Erie Standards and Specifications for Design and Construction of Public Improvements.

5. Sight Distance Triangles

Landscaping shall comply with sight distance triangle requirements as described in the Town of Erie Standards and Specifications for Design and Construction of Public Improvements.

6. Irrigation

All landscape areas shall be provided with an adequate and complete-coverage automatic water-efficient irrigation system as provided in Subsection 6.4.E.3.

7. Guarantee of Installation

Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy for all structures. However, if the landscaping is not able to be installed prior to a Certificate of Occupancy being issued due to winter weather, the property owner shall post a financial guarantee for the improvements equal to 115 percent of the cost of improvements before the Certificate of Occupancy is issued. Installation shall then occur by June 30 of the following year. This guarantee shall be released upon acceptance by the Town for the installation of the completed landscaping. This requirement is separate from those that may be found in the Development Agreement.

8. Maintenance

Every property owner and any tenants shall maintain and keep their landscaped areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance shall include, but is not limited to, the following:

a. Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not part of the landscape.

b. All live plant material shall be maintained in a healthy and growing condition, and must be replaced with live plant material of similar variety and size (size not to be smaller than the minimum required by this UDC at the time of replacement) if diseased, damaged, destroyed, or removed within 2 years of installation.

c. The property owner or tenants shall provide all regular and normal maintenance of landscaping including weeding, irrigation, fertilization, pruning, and mowing necessary to comply with this Section.

d. Cleaning of abutting waterways and maintenance of landscaped areas in the public right-of-way adjacent to the property, unless such streets, waterways, or landscaped areas are expressly designed to be maintained by a designated governmental authority.

e. The property owner shall not use live plant materials that exhibit evidence of insect, pest, or disease, and shall appropriately treat any and all damaged plants, and shall remove and replace any and all dead plant material with living plant materials.

9. Failure to Maintain Landscaping

If the required maintenance is not being performed pursuant to the terms of this Section, the owner of the property shall be notified, in writing by certified mail, return receipt requested, of the failure to properly maintain landscaping.

a. The notice shall give the owner not less than 5 days nor more than 10 days in which to bring the landscaping into compliance with this Section.

b. In the event that the owner fails or neglects to comply with the above notice, the Community Development Director may cause the necessary work to be performed and shall make reasonable efforts to notify the owner of the cost of such work, plus the charges as authorized in this Section; however, in no event shall failure of the owner to receive notice of the cost and charges void the lien provided for in this Section.

c. The actual cost of such work plus 15 percent for inspection and other associated administrative costs shall, in the event the payment is not made to the Town within 30 days after completion of said work, become a lien against the property as of the date the Town Finance Director certifies the cost of and charges to the office of the County Treasurer for collection in the same manner as general property taxes are collected.

G. Screening

1. Purpose

Screening consists of landscaping, the retention of natural vegetation, or the use of physical structures to block views of specific activities or specific parts of a property or structure. Applicants are encouraged to locate the types of features listed in this Section where they are not visible from off-site or public areas of a site, so that screening is unnecessary.

2. Applicability

Unless otherwise excepted in Subsection 6.4.B above, all uses shall be required to provide screening as specified in this Section to block the views of the specified features from any adjacent street or public open space or any adjacent property or public areas of a site. Public areas of a site include parking lots, sales areas, outside eating areas, or other areas to which customers, clients, and guests are given regular access.

3. Outdoor Refuse/Recycling Collection and Donation Bin Facilities

For purposes of this Section, the term "refuse/recycling collection receptacles" includes dumpsters, garbage cans, trash compactors, recycling receptacles, donation bins, debris piles, or grease containers, but does not include trash or recycling receptacles for pedestrians or for temporary construction sites. This Section also does not apply to refuse collection receptacles such as garbage cans and recycling receptacles that are stored indoors and brought outdoors on garbage pickup days.

In order to reduce the visual impacts of outdoor refuse/recycling collection receptacles, and to avoid problems with blown trash and pests, all outdoor refuse/recycling collection receptacles shall adhere to the following standards:

a. *Location*

Outdoor refuse/recycling collection receptacles shall not be located in a required front setback, and should, depending on the size of the site and need for access by refuse/recycling collection vehicles, be set back from the front plane of the principal structure. Refuse/recycling collection receptacles shall not be located in any setback area or required landscaping area which abuts an adjacent residential use. Refuse/recycling collection receptacles shall not be located within any area used to meet the minimum landscaping or parking and loading area requirements of this UDC, or be located in a manner that obstructs or interferes with any designated vehicular or pedestrian circulation routes onsite.

b. *Screening Enclosure*

All outdoor refuse/recycling collection receptacles, other than those used by a single-family dwelling units, shall be screened from view on all sides by a durable sight-obscuring enclosure consisting of a solid fence or wall 6 feet in height that matches the building materials of the principal building that it serves. The access shall be screened with an opaque gate 6 feet in height. Donation bins are not required to provide screening for the public access areas of the facility. The enclosure shall be maintained in working order, and remain closed except during deposits and pick-ups.

c. *Maintenance of Refuse/Recycling Collection Receptacles and Screening Enclosures*

Lids are required on all outdoor refuse/recycling collection receptacles in screening enclosures without roof structures. Lids shall remain closed between pick-ups, and shall be maintained in working order. Screening enclosures and gates shall be kept in good repair.

4. Service and Off-Street Loading Areas

Service and off-street loading areas shall be designed and located to reduce the visual and acoustic impacts of these functions on adjacent properties and public streets. Non-enclosed service and off-street loading areas adjacent to residential properties and public streets shall be screened with opaque materials that are an integral part of the building architecture, including, durable, sight-obscuring walls and/or fences 6 feet in height. Screening materials shall be the same as, or of equal quality to, the materials used for the primary building. Landscaping shall also be incorporated to aid in screening the non-enclosed service and off-street loading areas and softening the appearance of the screening wall or fence.

5. Drive Through Service and Stacking Drives

Drive through service areas and stacking drives shall be designed and located to reduce the potential visual and acoustic impacts of these functions on adjacent residential property, public streets, and primary internal drive circulation routes in a multi-building complex.

a. Drive through service ordering and pick-up window areas shall not be orientated toward residential property, arterial streets, and collector streets.

b. The minimum landscape setback to drive through service areas and stacking drives from streets, and primary internal drive circulation routes in a multi-building complex shall be 10 feet.

6. Rooftop Mechanical Equipment

Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of 1 of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of 1 of the primary materials used on the primary facade of the building so as to achieve complete screening.

7. Wall-Mounted Mechanical Equipment and Meters

Wall-mounted mechanical equipment should not be placed on the front facade of a building or on a facade that faces a right-of-way to the maximum extent reasonably practicable. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, that extends 6 inches or more from the outer building wall shall be screened from view from streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of 1 of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least 80 percent of the equipment from view. Wall-mounted mechanical equipment that extends 6 inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building.

8. Outdoor Storage

In no case shall the storage or parking of trailers, semi-trailers, cargo containers or shipping containers outdoors, or the warehousing of goods in such containers, be permitted as a principal use. Outdoor storage may be permitted as an accessory use through the Site Plan review process described in Section 7.12. The storage area shall meet all of the following requirements as well as design criteria found in Subsection 10.6.4.G.10:

a. Each outdoor storage area shall be screened from view from all property lines and adjacent right-of-ways by an opaque fence or wall between 6 and 8 feet in height that incorporates at least 1 of the predominant materials and 1 of the predominant colors used in the primary structure. The fence may exceed 8 feet in height where the difference in grade between the right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area. Materials may not be stored higher than the height of the primary structure. The perimeter of the fence or wall must be landscaped with a 7-foot wide strip containing a minimum of 1 tree for every 150 square feet of lot area.

b. A landscaped earth berm may be used instead of or in combination with a required fence or wall. The total height of the screening, including fence and berming, shall not exceed the maximum fencing height requirement.

c. If the outdoor storage area is covered, then the covering shall include at least 1 of the predominant exposed roofing colors on the primary structure.

d. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

e. No materials may be stored in areas intended for vehicular or pedestrian circulation.

f. If installed, exterior lighting shall meet the functional needs of the facility and the requirements of this UDC without adversely affecting adjacent properties or the neighborhood.

9. Ground-Mounted Mechanical Equipment and Utility Fixtures

In addition to the requirements and standards set forth in Subsection 5.4.J, ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least 80 percent of the view. Such equipment and fixtures shall not be installed:

a. Within 100 feet of the intersection of 2 public streets to the maximum extent reasonably practicable as determined by the Community Development Director. The 100 foot setback shall be measured from the edge of the street right-of-way. When this standard is deemed impracticable an alternative placement shall be reviewed and determined by the Community Development Director.

b. In any parkway or public street medians.

c. On any sidewalk.

10. Non-Residential Outdoor Storage

a. Each outdoor storage area shall be screened from view from all property lines and adjacent right-of-ways by a solid fence or wall between 6 and 8 feet in height. The fence shall meet the following standards:

i. The fence shall incorporate at least 1 of the predominant materials and 1 of the predominant colors used in the primary structure. However, the fencing material shall not be metal.

ii. The fence may exceed 8 feet in height where the difference in grade between the right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area. Approval for fencing that exceeds 8 feet in height shall be at the discretion of the final decision maker for the application.

iii. Fencing of outdoor storage, adjacent to a public right-of-way, park, trail or open space, shall provide visual interest by varying the fence setback to the street and creating planting pockets. Uninterrupted lengths of fence should be limited to 150 feet without providing planting pockets. Planting pockets shall be a minimum of 12 feet deep and a minimum of 50 feet long and be densely planted with shrubs and trees. Additionally 2 foot by 2 foot masonry columns shall be placed a minimum of every 75 feet of fence length.

iv. Materials may not be stored higher than the height of the fence.

v. Seven feet outside the exterior perimeter of the fence or wall shall be landscaped and shall contain a minimum of 1 tree for every 150 square feet of lot area. The 7 foot landscape area shall not be located in a street right-of-way. This is in addition to the requirement for fencing along a street, in iii. above.

b. A landscaped earth berm may be used instead of or in combination with a required fence or wall. The height of the screening with a berm shall meet the fencing requirement.

c. ***Additional Screening for Outdoor Storage for Industrial Uses and Commercial Vehicle Storage***
The following design criteria shall be required in addition to the design criteria above and design criteria found in Subsection 3.3.G.8:

i. A minimum 30 foot wide planting area composed of screening landscaping is required around the perimeter of the site when the site is adjacent to residential districts. The 30 foot wide planting area shall not be located within a street right-of- way.

ii. A minimum 15 foot wide planting area composed of screening landscaping is required around the perimeter of the site when the site is adjacent to non-residential districts or street right-of-ways. The 15 foot wide planting area shall not be located within a street right-of-way.

iii. No outdoor storage shall occur within a front or side setback on the lot.

11. Uses Adjacent to Auto Wrecking, Recycling and Salvage Yard/Junkyard

a. ***Screening***

i. A 30-foot wide planting area composed of screening landscaping is required around the perimeter of the auto wrecking, recycling and salvage yard or junkyard when adjacent to residential districts, and 15-foot wide planting area is required when adjacent to all other zone districts or streets. The planting area shall not be located within a street right-of-way.

ii. An auto wrecking, recycling and salvage yard or junkyard shall be screened by ornamental walls or fences so that they cannot be seen by a person standing at ground level at any place immediately adjacent to the lot on which the operation is located.

12. Cluster Mailbox Facilities

a. Cluster mailbox facilities shall follow the following design standards:

i. Cluster mailbox facilities shall be located on a concrete pad with concrete walk access to a sidewalk.

ii. Cluster mailbox facilities shall have low landscape materials such as shrubs, perennials or annuals that enhance the facility without creating access problems for mail delivery or safety vision issues.

H. Fencing and Walls

1. Purpose

The purposes of these fencing and wall standards are:

a. To permit the construction of appropriate fences and walls while preventing the monotonous appearance of uninterrupted walls and fences from dominating the Town's streetscapes;

b. To establish a generally consistent landscaped buffer along major roadways and community entrance corridors, in lieu of more typical fencing and walls, that provides an element of consistency between individual developments and enhances the rolling topography and rural character of the Town; and

c. To promote a more open character for development that visually integrates such development with the surrounding community.

2. Applicability

These fencing and wall standards shall apply to all development.

3. Fences, Hedges, and Walls Permitted as Accessory Uses

Fences, hedges (serving as fences), and walls are permitted in the various zone districts as accessory uses in accordance with the limitations provided in this Chapter.

4. Location

a. Fences, hedges, and walls must be located within or on the property lines and maintained by the property owner.

b. A fence, hedge, or wall located in rear yard areas that abut a side property line or rear property line of another property may be located within or on the property line; except, that if the rear property line is adjacent to a driveway, alley or street, the site distance triangle requirements shall apply.

c. A fence, hedge, or wall located in side yard areas that abut a side property line or rear property line of another property may be located within or on the property line; except, that if the side property line is adjacent to a driveway, alley or street, the site distance triangle requirements shall apply.

d. Fences adjacent to sidewalks must be placed at least 12 inches from the edge of the sidewalk. Gates adjacent to sidewalks shall open inward to the property.

5. Height Restrictions

a. A solid material fence, hedge, or wall located in a front yard area shall have a maximum height of 3 feet within the front yard setback. A limited solid fence in a front yard area shall have a maximum height of 4 feet within the front yard setback.

b. Solid fences or walls abutting open space, parks, and trails shall be limited to 4 feet in height. Fences or walls that are not more than 50 percent opaque may be extended up to 5 feet in height at the Town's discretion. Open fencing styles may include wire mesh attached to the interior of the fence.

c. No fence in any district shall exceed 6 feet in height; except:

i. Fences adjacent to State Highways may be up to 8 feet in height.

ii. Fences in the LI and AP districts may be up to 8 feet in height; fences in the NMU (Outside Old Town), CMU, B, CC and RC districts may be up to 8 feet in height when approved as a Special Review Use permit; fences in a PUD may be up to 8 feet in height when approved as part of the PUD zoning approval.

iii. Fences around a court (e.g., tennis, squash racquet, squash tennis or badminton) or around a publicly owned recreation area may exceed 6 feet in height if constructed of limited solid material.

6. Construction Standards for Solid Material Fences

a. ***Compliance with Building Code***

Solid material fences must be constructed to meet the wind design criteria of the adopted uniform building code using a basic wind speed of 80 miles per hour. All wood fence materials shall be treated wood or wood with natural resistance to decay, or equivalent. All wood shall be construction Grade 2, or better.

b. ***Alternative Standards***

As an alternative to a fence engineered to building code standards, fences may be built to the following minimum design standards:

i. Solid wood fences less than 6 feet in height shall have 4 inch by 4 inch wood posts, or equivalent. Post spacing shall be arranged so that the surface area of the fence between posts does not exceed 36 square feet. Solid wood fences over 6 feet in height and less than 8 feet in height shall have 4 inch by 4 inch wood posts, or equivalent, spaced 5 feet on center; or 4 inch by 6 inch wood posts, or equivalent, spaced 8 feet on center.

ii. For fences less than 5 feet in height, 2 horizontal 2 inch by 4 inch wooden rails, or equivalent, are required. The lower rails shall be within 12 inches to ground level and the upper rails shall be 12 inches to the top of the posts.

iii. For fences 5 feet to 6 feet in height, 3 horizontal 2 inch by 4 inch wooden rails, or equivalent, are required, equally spaced from ground level to the top of the fence.

iv. For fences over 6 feet in height, 4 horizontal 2 inch by 4 inch wooden rails, or equivalent, are required, equally spaced from ground level to the top of the fence.

v. All posts for fences of 4 feet to 8 feet in height shall be set in concrete at a depth of not less than 2 feet into the ground. Diameter of the concrete required under this Section shall not be less than 10 inches for a 4 inch by 4 inch wood post and 12 inches for a 4 inch by 6 inch wood post. The post shall extend 3 inches from the bottom of the concrete pier into gravel or sandfill to allow moisture to escape.

vi. Vertical wood, or equivalent, fence boards or pickets shall be a minimum of 3/-4 inch in thickness and shall be spaced such that a sphere 4 inches in diameter cannot pass through.

7. Restrictions Regarding Certain Materials

a. Fences in the RC, LI, PD and AP zoning districts may include up to 4 strands of barbless wire, with the lowest strand at least 6 feet above ground level. The barbless wire may be placed vertically or at a 45 degree angle; provided, that it does not extend across the property line.

b. Electric fences and barbed wire stock fences are permitted only in the AG/OS, PLI, RP1, RP2, RP3, ER, RR, and PD (when approved as part of the development guide) zoning districts. Barbed wire may not be used adjacent to a residential zone.

c. Fences constructed primarily of chicken wire, or wafer board, or particleboard, or plywood are prohibited along any property line or in any required building setback where visible from a public street.

8. Fences, Hedges and Walls in Districts Adjacent to Residential Districts

a. In the B, CC, RC, LI, PD and AP zoning districts, a solid material fence or wall or a combination of earthen berms, fences and walls shall be constructed between land uses when adjacent to a residential zone or district. Outside storage in the nonresidential and multi-family districts shall be fully screened with a solid material wall or a combination of earthen berms, fences, walls and evergreen plant materials.

b. All fences must be kept in good repair. Fence posts and all vertical members of a fence shall be plumb.

9. Perimeter Fencing and Walls

a. ***Uninterrupted Fencing and Walls Prohibited***

The use of uninterrupted fencing and walls to separate developments from perimeter streets, adjacent developments and the surrounding community is prohibited.

b. ***Perimeter Fencing***

Where perimeter fencing or walls are provided around a subdivision or development, such fences shall be subject to the following standards:

i. Fences and walls shall be constructed of durable, easily maintained materials such as, but not limited to, stone or simulated stone, metal, brick, vinyl, or treated, stained or painted wood Sections. Chain link, wire mesh, or other similar products shall be prohibited. In residential, light wire mesh may be attached to an open fence such as a wood 3 rail fence to keep pets and children from crossing through.

ii. The “finished” side of the fence or wall shall face the adjacent street, trail, or open space.

iii. Perimeter fencing shall include columns with a maximum spacing of 50 feet. Individual columns shall be a minimum of 2 feet by 2 feet, with a minimum of 1 foot projecting in front of the fence towards the street. Columns shall include a cap detail for visual interest.

iv. A minimum 8-foot buffer shall be provided between the back of a sidewalk and a fence or wall. Landscaping, including trees, shall be incorporated within the buffer to soften the appearance of the wall or fence.

v. No more than 75 percent of any street frontage shall be occupied by the fence or wall.

vi. The required 25 percent openings in the fence or wall frontage shall serve to visually link intersecting streets, view corridors into and out of the development, pedestrian entryways, and parks or open space. Fences or walls that have a surface area that is not more than 50 percent opaque, hedges and screens composed of living plant material, or any land use with a wall or fence lower than 42 inches, may count toward the 25 percent requirement.

vii. The maximum length of continuous, unbroken, and uninterrupted fence plane shall be 150 feet. A break in the plane of a fence or wall may be achieved by 1 of the following:

(A) A break in the length of the wall or fence that is at least 50 feet long and at least 8 feet in depth;

(B) A change to a fence that is not more than 50percent opaque, such as an open rail or wrought iron fence, that has planting pockets a minimum of 4 feet in depth and 50 feet long;

(C) A non-fenced opening at minimum of 50 feet in length.

viii. Fences or walls shall not exceed 5 feet in height.

ix. When a primary entrance to the structure is oriented toward a perimeter street, the perimeter fencing along the street shall be limited to fences or walls that are not more than 50 percent opaque and do not exceed 4 feet

in height. Fences or walls required to screen parking are not subject to this requirement.

x. A variety of landscaping shall be provided in combination with any of the above fencing options to incorporate seasonal color, plant variety, and berming to break up the visual mass of walls and fences.

xi. Landscaped berms shall not be used in the Downtown or Old Town districts. In all other districts, landscaped berms may be used in lieu of fencing or walls, or in combination with fencing or walls shall meet the following standards:

(A) Berms shall incorporate the curvilinear characteristics of natural landforms and shall not exceed 4 feet in height; and

(B) For visual relief, berms shall incorporate a variety of plantings.

10. Nonconforming Fences, Hedges and Walls
Nonconforming fences, hedges, and walls in existence on the effective date hereof may continue to exist until such time as they are removed, or damaged such that the cost of repairs is greater than 50 percent of its value, at which time the fence, hedge or wall must be brought into full compliance with this UDC.

10.6.5 TRANSPORTATION AND ACCESS

A. Purpose

The purpose of this Section is to support the creation of a highly connected transportation system within the Town in order to provide choices for drivers, bicyclists, and pedestrians; increase effectiveness of municipal service delivery; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as employment, schools, parks, and shopping centers; reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; mitigate the traffic impacts of new development, and free up arterial capacity to better serve regional long-distance travel needs.

B. Applicability

The standards of this Section 6.5 shall apply to all new development and expansion of existing buildings except for development on a single-family detached lot in an approved subdivision.

C. Traffic Impact Mitigation

1. Applicability of Traffic Impact Analysis Requirement
The transportation system for new development shall be capable of supporting the proposed development in addition to the existing and future uses in the area. Evaluation of system capacity shall be undertaken through a Traffic Impact Analysis (TIA), which should consider the following factors without limitation: street capacity and level of service; vehicle access and loading; on-street parking impacts; the availability of transit service and connections to transit; impacts on adjacent neighborhoods; and traffic safety including pedestrian safety. At a minimum, a TIA shall be required with applications for development review and approval when:

a. Trip generation during any peak hour is expected to exceed 250 trips per day or more than 100 trips during any 1-hour peak period, based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual (or any successor publication);

b. A TIA is required by the Town, Planning Commission or Board of Trustees as a condition of any land use application approved pursuant to the requirements of this UDC; and

c. The Community Development Director shall, unless deemed unnecessary through a waiver, also require a TIA for:

i. Any project that proposes access to a street with Level of Service "D" or below;

ii. Any application for a Rezoning, Special Review Use, or Site Plan review;

iii. Any case where the previous TIA for the property is more than 2 years old;

iv. Any case where increased land use intensity will result in increased traffic generation; and

v. Any case in which the Community Development Director determines that a TIA should be required because of other traffic concerns than may be affected by the proposed development.

2. Traffic Impact Analysis and Development Review Process

a. A scoping meeting between the developer and the Community Development Director shall be required prior to the start of the TIA in order to determine its parameters.

b. When access points are not defined or a Site Plan is not available at the time the TIA is prepared, additional studies may be required when a site plan becomes available or the access points are defined.

3. Traffic Mitigation Measures

The applicant shall, as part of the TIA, recommend measures to minimize or mitigate the anticipated impacts and determine the adequacy of the development's planned access points. Mitigation measures shall be acceptable to the Community Development Director and may include, without limitation: an access management plan; transportation demand management measures; street improvements on or off the site; placement of pedestrian, bicycle or transit facilities on or off the site; or other capital improvement projects such as traffic calming infrastructure or capacity improvements.

D. Streets and On-Site Vehicular Circulation

1. Street Standards

All streets shall meet the standards and requirements set forth in Subsections 5.4.G and H, the Town Transportation Plan and the Town-adopted Construction Standards.

2. Street Connectivity

a. ***Purpose***

Street and block patterns should include a clear hierarchy of well-connected streets that distribute traffic over multiple streets and avoids traffic congestion on principal routes. Within each residential development, the access and circulation system should accommodate the safe, efficient, and convenient movement of vehicles, bicycles, and pedestrians through the development, and provide ample opportunities for linking adjacent neighborhoods, properties, and land uses. Local neighborhood street systems are intended to provide multiple direct connections to and between local destinations such as parks, schools, and shopping. These connections should knit separate developments together, rather than forming barriers between them.

b. ***Vehicular Access to Public Streets***

Any development of more than 100 residential dwelling units or additions to existing developments such that the total number of dwelling units exceeds 100 shall be required to provide vehicular access to at least 4 public streets unless such provision is deemed impractical by the Community Development Director due to topography, natural features, or the configuration of adjacent developments.

c. ***Connections to Vacant Land***

Where new development is adjacent to land likely to be developed or redeveloped in the future, all streets, bicycle paths, and access ways in the development's proposed street system shall continue through to the boundary lines of the area to provide for the orderly subdivision of such adjacent land or the transportation and access needs of the community. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity.

d. ***Access***

i. All non-residential development shall be designed to allow for cross-access to adjacent properties to encourage shared parking and shared access points on public or private streets. When cross-access is deemed impractical by the Community Development Director on the basis of topography, the presence of natural features, or vehicular safety factors, this requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. A cross access easement shall be referenced as a note on a plat or be recorded prior to Site Plan approval for the development.

ii. Whenever feasible, there shall be no direct driveway access (ingress or egress) from any single-family residential lots to any non-residential collector street, arterial street or highway. Whenever feasible, all single-family residential lots shall have direct thoroughfare access only from residential collector and local residential streets.

e. ***Cul-de-Sacs and Dead-End Streets***

The use of dead end streets or cul-de-sacs should be minimized unless their use is required by site constraints such as extreme topography or the preservation of natural features. Should they be incorporated, a view corridor, at the cul-de-sac head, a minimum of 35 feet in width shall be provided to maintain open views and pedestrian access. View corridors shall be created in a separate tract from buildable lots. View corridors shall contain a pedestrian walkway or trail connection whenever possible unless deemed unfeasible by the Town. Width of the pedestrian walkway or trail connection shall be generally consistent with the Town of Erie Comprehensive Master Plan and the Standards and Specification for Design and Construction of Public Improvements.

f. ***Neighborhood Circulation***

Street connections shall connect neighborhoods to each other and to local destinations such as schools, parks, greenbelt trail systems, and shopping centers, while minimizing neighborhood cut-through vehicle traffic movements that are non-local in nature. Configuration of local and internal streets and traffic calming measures shall be used to discourage use of the local street system for cut-through collector or arterial vehicular traffic.

g. ***Gated Communities Prohibited***

Gated communities that feature entry guardhouses, gates across access routes, or similar features are prohibited.

h. ***Multi-family Residential Connectivity***

i. Multi-family development sites greater than 5 acres shall include a minimum of 2 through-access drives. An exception may be made in the circumstance where a site is landlocked by existing development or other physical constraints, or where existing natural features on the site require the use of protective measures that would otherwise make a second access drive infeasible.

ii. Where head-in parking is provided along a public or private street, attached sidewalks may be used in lieu of detached sidewalks.

i. ***Residential Streets***

i. Residential streets shall be laid out so that use by through-traffic will be discouraged. Traffic-calming techniques such as diverters, neck-downs, street gardens, curvilinear alignments, etc. are encouraged to reduce speeds and cut-through traffic. Stop signs shall not be used to regulate or calm speeds.

ii. Should topography or other constraints require the use of straight streets that extend more than 600 feet without being punctuated by cross streets, an oblong median , traffic-calming device or similar feature shall be used to slow traffic and break-up the “runway” appearance.

iii. To the maximum extent reasonably practicable, streets shall be arranged to follow the natural contours of the site.

3. Block Standards

a. ***Purpose***

Block standards are designed with the following intents:

i. To help break-down the scale and size of developments into a series of smaller, more human-scale, and walkable blocks.

ii. To ensure that blocks are organized in terms of both their orientation and size in a manner that limits disturbance of a site’s natural features.

iii. To ensure than residential developments incorporate a well-defined pattern of blocks that provide frequent connections and serve as a framework for a varied mix of residential uses.

b. ***General Design Considerations***

Generally, blocks shall be designed subject to the following considerations:

i. To provide for adequate building sites suitable to the special needs of the type of use contemplated.

ii. To accommodate the requirements of this UDC for lot sizes and dimensions.

iii. To create convenient access and control, and safety of vehicular and pedestrian traffic circulation, and emergency vehicles.

c. ***Maximum Block Lengths***

In the Downtown and Old Town Residential Districts, the maximum block length between intersecting streets shall be 600 feet. In all other districts, the maximum length of blocks between intersecting streets shall be 1,500 feet. The average block face across each development site shall be a maximum of 600 feet. In cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or

decreased to meet the existing conditions having due regard for connecting streets, circulation of traffic, and public safety. Such increases or decreases are subject to the review and recommendation of the Town staff.

E. Standards for Emergency Access

1. Emergency access points, required by the Mountain View Fire Protection District, shall meet the following requirements:

a. The roadway must be able to support the weight of emergency apparatus.

b. The roadway must be a minimum of 15 feet wide and usually run in a fairly straight line.

c. The roadway must be comprised of an all-weather surface.

d. The roadway must be maintained and usable at all times during the year.

e. The point of entry must be signed as an "Emergency Access Point - Emergency Vehicles Only".

f. Any form of barricade shall be easily removed without a lot of effort, such as a barricade that can be laid down with a hydrant wrench.

F. Standards for Pedestrian Facilities

1. Sidewalks

a. All sidewalks shall be designed to comply with the Town's Standards and Specifications for Design and Construction of Public Improvements.

b. Detached sidewalks shall be installed on both sides of all public streets.

c. Detached sidewalks shall be provided for all public and private streets within a multi-family development, and shall meet the following standards:

i. All sidewalks, as required above, shall be detached from the adjacent street and separated by a tree lawn that is a minimum of 8 feet in width.

ii. Tree lawns shall be landscaped according to Subsection 6.4.E.

d. When deemed appropriate by the Public Works Director and Community Development Director, pedestrian crossings shall be made safer for pedestrians by 1 of the following: by shortening crosswalk distance with curb extensions, reducing sidewalk curb radii, and eliminating free right-turn lanes. Signals that allow longer crossing times in commercial and mixed-use districts, mid-block crossings in high-pedestrian use areas (if well-marked and traffic speeds are low), and medians shall be provided as appropriate.

2. On-site Pedestrian Walkways

a. ***Continuous Pedestrian Access***
Pedestrian walkways shall form an on-site circulation system that minimizes conflict between pedestrians and traffic at all points of pedestrian access to streets, on-site parking and building entrances.

b. ***On-site Pedestrian Connections***
Site Plans shall orient to pedestrian access points and connections to surrounding street and trails networks, to destinations such as schools or shopping, and to pedestrian linkage points on adjacent parcels, including building entrances, transit stops, walkways, and signalized street crossings. On-site pedestrian walkways shall connect (a) building entrances to 1 another and (b) from building entrances to public sidewalk connections and existing or planned transit stops. If buildings are

not placed directly adjacent to the public sidewalk, then pedestrian walkways shall link the principal pedestrian site access to building entrances. All developments that contain more than 1 building shall provide walkways between the principal entrances of the buildings.

c. ***Through-Block Connections***
Within all developments, to the maximum extent reasonably practicable, pedestrian ways, crosswalks, or multi-purpose trails no less than 5 feet in width, located within a tract or easement a minimum of 30 feet in width, shall be constructed near the center and entirely through any block that is 900 feet or more in length.

d. ***Cul-de-sacs and Dead-end Streets***
Where residential developments have cul-de-sacs or dead-end streets, such streets shall be connected to the closest local or collector street or to cul-de-sacs in adjoining subdivisions via a sidewalk or multi-use path, except where deemed impractical by the Community Development Director.

3. Trails

a. Trails shall be located in general conformance with the Town's Comprehensive Master Plan, Parks, Recreation, Trails and Open Space Master Plan and Section 6.3 of this UDC.

b. Trails shall be constructed in conformance with the Parks, Recreation, Trails and Open Space Master Plan, the Standards and Specifications for Design and Construction of Public Improvements and American with Disabilities Act (ADA) requirements.

c. Subdivisions shall provide trail connections to future adjacent development and existing adjacent trails.

d. The minimum width for a trail corridor shall be 30 feet.

e. If a trail is located on land not dedicated to the Town, a public access easement shall be granted by identification on the plat and by plat note.

G. Standards for Bicycle Facilities

1. Bicycle Parking
All development shall provide bicycle parking areas that comply with the following standards:

a. ***Location***
Bicycle parking spaces shall be conveniently located, but in no case shall such facilities be located farther than 100 linear feet from the primary building entrance.

b. ***Spaces Required***
Bicycle parking spaces shall be provided at the following rates:

i. A minimum of 2 bicycle parking spaces or 1 bicycle parking space per 20 off-street parking spaces for all commercial and multi-family uses, whichever is greater.

ii. All other uses or combination of uses shall provide a minimum of 2 bicycle parking spaces per building or 1 space per 10,000 square feet of building area, whichever is greater.

c. ***Securing Device***
A rack or other structure shall be provided to secure parked bicycles.

2. Bicycle Lanes

Bicycle lanes are required in Town design standards for arterial and major collector streets. They are encouraged in the design of local streets where low traffic speeds and volumes allow bicyclists and motorists to safely share the street.

10.6.6 OFF-STREET PARKING AND LOADING

A. Purpose

This Section is intended to provide for the location and design of off-street parking areas to accommodate motor vehicles, while balancing the needs of pedestrians, bicyclists, and transit users. Parking areas are secondary and supportive to the primary land uses on the site and parking lot design should reduce the prominence of these areas while emphasizing the primary facade and orienting pedestrians toward the principal entranceways and walkways.

B. Applicability

1. Generally

a. The off-street parking and loading standards of this Section shall apply to all parking lots and parking structures accessory to any new building constructed and to any new or changed use in every district.

b. The requirements of this Section shall apply to all temporary parking lots and parking lots that are the principal use on a site.

2. Expansions and Enlargements

The standards of this Section shall apply when an existing structure or use is expanded or enlarged. Additional off-street parking and loading spaces shall be required to serve the enlarged or expanded area, provided that in all cases the number of off-street parking and loading spaces provided for the entire use (pre-existing plus expansion) must equal 100 percent of the minimum ratio established in this Section.

C. Parking Lot Layout and Design Plan (10 or More Spaces)

1. Applicability

For all proposed parking lots with 10 or more spaces, the applicant shall submit a parking lot layout and design plan for review and approval by the Community Development Director. The plan shall contain sufficient detail to enable the Community Development Director to verify compliance with this Section 6.6. Subject to approval of the Community Development Director, the parking layout and design plan may be combined with other plans required under this UDC, such as the landscaping plan required in Section 6.4.

2. Minimum Plan Requirements

a. The parking lot layout and design plan shall be prepared by a design professional such as a certified land use planner, landscape architect, or registered architect. Such plans shall not be prepared by land surveyors unless they are an otherwise qualified design professional.

b. All parking layout and design plans and Site Plans are subject to review and approval by the Community Development Director to ensure that provisions have been made to minimize interference with street traffic flow and assure safe interior vehicular and pedestrian circulation, transit, and parking.

D. Off-Street Parking Requirements

1. Schedule A

Unless otherwise expressly stated in this UDC, off-street parking spaces shall be provided in accordance with Table 6.6-1.

a. Fleet parking shall be in addition to the minimum parking calculated from Table 6.6-1. One fleet parking space shall be provided for each fleet vehicle. Parking of fleet vehicles outside of a building shall be classified as outdoor storage and shall be required to be screened in accordance with Subsection 6.4.H.8.a.

b. Development with zoning or development approvals that would permit a future change of use that will require additional parking to meet the standards of this Section shall provide an undeveloped area on the site that can accommodate any future parking needs. However, such area for future parking need not be paved or improved, but shall be landscaped as required by this UDC.

c. Off-Street Parking Location

i. Off-street parking for residential uses shall be located within 200 feet of the primary building entrance of the primary building.

ii. Off-street parking for non-residential uses shall be located within 600 feet of the primary building entrance of the primary building.

iii. Off-street parking shall be located on the same lot or parcel of land as the structure they are intended to serve unless off-site parking is approved through the process in Subsection 6.6.E.2.

iv. Off-street parking spaces for non-residential uses shall not be located in front of garage doors.

v. Off-street parking spaces for non-residential uses may only be located adjacent to building doors when a pedestrian walkway is provided between the building and all parking spaces on that side of building.

vi. Enclosed off-street parking spaces for non-residential uses must demonstrate that they have public access for customers.

vii. The following shall count toward the minimum parking requirement:

(A) Surface parking;

(B) Accessible parking;

(C) Vanpool and carpool parking; and

(D) Structured parking, underground parking and parking within, above or beneath the building(s) it serves.

TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A
"du" = dwelling unit "sf" = gross square feet

USE CATEGORY	USE TYPE	OFF-STREET SPACES REQUIRED
Household Living Residential	Dwelling, Duplex	2 per du
	Dwelling, Live/Work	See Subsection 6.6.D.3
	Dwelling, Mobile Home	2 per du
	Dwelling, Multi-Family	1.5 spaces per efficiency, studio or 1-bedroom du; 2 spaces per du with 2 or more bedrooms, plus 1 guest space per 3 du's
	Dwelling, Single-Family	2 spaces per du, + 1 guest space per 3 du's

TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A
"du" = dwelling unit "sf" = gross square feet

USE CATEGORY	USE TYPE	OFF-STREET SPACES REQUIRED
	Attached	
	Dwelling, Single-Family Detached	2 spaces per du
	Mobile Home Park	2 spaces per du, + 1 guest space per 4 du's
	Model Home	See Subsection 6.6.D.3
Group Living	Dormitory	1 per 1,000 sf
	Group Home, Residential	1 per 2 beds plus 1 per 100 sf of assembly area
	Group Home, Large	1 per 4 beds plus 1 per 300 sf of office area plus requirement for dwelling, if located in a du
	Group Home, Small	1 per 4 beds plus 1 per 300 sf of office area plus requirement for dwelling, if located in a du
	Retirement Home, Nursing Home, or Assisted Living Facility	See Subsection 6.6.D.3
Aviation	Airport and related uses	See Schedule B
	Heliport	See Schedule B
	Helistop	See Schedule B
Cemetery	Cemetery	See Subsection 6.6.D.3
Child Care	Child Care Center, Large	1 per 6 children of licensed capacity
	Child Care Center, Small	1 per 6 children of licensed capacity
Community Facilities	Community Center (Public)	1 per 800 sf of assembly area plus 1 per 300 sf of office area
	Correctional Facility	See Subsection 6.6.D.3
	Governmental Office	1 per 300 sf
	Neighborhood Recreation Center (Indoor/Outdoor)	1 per 300 sf
	Public Safety Station	See Subsection 6.6.D.3
	Transit Center	See Subsection 6.6.D.3
Cultural Facilities	Botanical garden	1 per 5,000 sf of land area
	Library	1 per 400 sf
	Museum	1 per 400 sf
	Zoo	1 per 2, 000 sf of land area
Educational Use	College or University	1 per 300 sf
	Commercial School	1 per 300 sf

TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A
"du" = dwelling unit "sf" = gross square feet

USE CATEGORY	USE TYPE	OFF-STREET SPACES REQUIRED
	School (public or private)	1 per 50 sf of floor area in the multipurpose room (elementary); 1 per 6 seats in the main auditorium or assembly room, based on maximum capacity (middle or high school)
Human Health Services	Dental or Medical Office, Clinic, Lab	1 per 300 sf
	Laboratory	See Subsection 6.6.D.3
	Hospital	1 per 2 beds based on max capacity
	Substance Abuse Treatment Facility, Outpatient	1 per 250 sf
	Urgent Care Center	1 per 250 sf
Park and Open Space	Athletic Fields and Courts	See Subsection 6.6.D.3
	Community Garden	See Subsection 6.6.D.3
	Open Space	See Subsection 6.6.D.3
	Outdoor Amphitheater, Public	See Subsection 6.6.D.3
	Park	See Subsection 6.6.D.3 for Neighborhood and Community Parks; none for smaller parks
Religious Assembly	Religious Assembly	1 per 4 seats of principal assembly room; if no fixed seating, then based on max capacity
Telecom. Facilities	Antenna Collocation on Existing Tower	none
	Concealed Antennae and Towers	none
	Non-Concealed Building-Mounted Antennae and Towers	none
	Non-Concealed Freestanding Towers	none
Utility Facilities	Utility Facility, All types	See Subsection 6.6.D.3
Agricultural	Agricultural Cultivation	See Subsection 6.6.D.3
	Agricultural Grazing	See Subsection 6.6.D.3
Animal Sales and Care	Animal Hospital, Large Animals	4 spaces per doctor, plus one space per employee on the maximum shift.
	Animal Hospital, Large Animals (outdoor facilities)	1 per 600 sf
	Animal Hospital, Small Animals	1 per 600 sf
	Animal Hospital, Small Animals (outdoor facilities)	1 per 600 sf

TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A "du" = dwelling unit "sf" = gross square feet		
USE CATEGORY	USE TYPE	OFF-STREET SPACES REQUIRED
	Horse Stables	1 space for each 2 stalls
	Kennel or Animal Day Care	1 per 600 sf
	Kennel or Animal Day Care (outdoor facilities)	See Subsection 6.6.D.3
	Pet store	1 space per 300 sq. ft. of gross floor area
Assembly	General Assembly Uses	1 per 4 seats of principal assembly area or if no fixed seating then based on max capacity
Financial Institution	Automated teller machine (freestanding)	2 spaces per machine
	Bank	1 space per 200 sq. ft. of gross floor area, plus 4 spaces for each teller station
	Bank, with drive-through or drive-up service	1 per 300 sf (plus vehicle stacking spaces if drive-through is provided)
	Check-cashing Facility	1 space per 200 sq. ft. of gross floor area, plus 4 spaces for each teller station
Food and Beverage Service	Bar/Tavern	1 space per 3 seats plus 1 space per employee on maximum shift
	Bar/Tavern with outdoor seating area	1 space per 3 seats plus 1 space per employee on maximum shift
	Nightclub	1 per 3 seats or if no fixed seating, then based on max capacity
	Restaurant	1 space per 3 seats plus 1 space per employee on maximum shift
	Restaurant, with drive-through or drive-up service	1 per 100 sf plus vehicle stacking space
	Restaurant, with outdoor seating area	1 space per 3 seats plus 1 space per employee on maximum shift
Office	Office, Business or Professional	1 per 300 sf
	Recording or Broadcasting Studio	1 per 300 sf
Recreation/ Entertainment, Indoor	Adult Amusement or Entertainment	1 per 300 sf
	Commercial Amusement, Indoor	1 per 300 sf
	Fitness and recreational sports center	1 per 4 persons at max capacity
	Shooting Range, Indoor	1 space per target area, plus 1 space per employee/safety marshal on maximum shift.
	Sports Arena	1 space per every 4 seats.
Recreation/ Entertainment, Outdoor	Amusement Park	1 per 3 persons at max capacity
	Campground	1 10' x 30' space for every campsite

TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A
"du" = dwelling unit "sf" = gross square feet

USE CATEGORY	USE TYPE	OFF-STREET SPACES REQUIRED
	General Outdoor Recreation, Commercial	1 per 3 persons at max capacity
	Golf Course	4 per green
	Golf Driving Range	1.5 spaces per tee
	Racetrack	1 space for every 3 seats
	Recreational vehicle park	1 per 200 sf of site area
	Shooting Range, Outdoor	2 per target area, or 1 per 5 seats, whichever is greater
Retail Sales and Service	Convenience Store	1 per 200 sf
	Convenience Store, with Service Station	1 per 300 sf, plus 4 per bay and vehicle stacking
	Farm Market	See Subsection 6.6.D.3
	Funeral Parlor or Mortuary	1 per 150 sf of main assembly room
	General Retail	1 per 200 sf
	Personal Service Establishment	1 per 200 sf
	Repair Shop	1 per 200 sf
	Shopping Center	See Schedule B
Vehicles and Equipment	Car Wash, Full Service	4 per bay plus vehicle stacking spaces
	Service Station	4 per bay plus vehicle stacking
	Towing and Storage Facility	See Schedule B
	Vehicle Sales and Rental	See Schedule B
	Vehicle Service and Repair, Heavy	See Schedule B
	Vehicle Service and Repair, Light	4 per bay plus stacking spaces
Visitor Accom-modation	Bed and Breakfast	1 space per guest room, plus 2 spaces for the permanent residents
	Boarding or Rooming House	1 space for each roomer, plus 2 spaces for the owner or manager occupant.
	Extended Stay Lodgings	1.5 per guestroom or 1 bedroom unit; 1.75 per 2 bedroom unit; 2 per 3 bedroom unit
	Hotel or Motel	1 space per guest room, plus 1 space per employee on the maximum shift, plus 50 percent of the spaces otherwise required for accessory uses (e.g., bars and restaurants)
Industrial Service	Building Materials and Lumber Sales	See Schedule B

TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A "du" = dwelling unit "sf" = gross square feet		
USE CATEGORY	USE TYPE	OFF-STREET SPACES REQUIRED
	Contractor's Shop or Storage Yard	See Schedule B and/or 6.6.D.3
	Heavy Equipment Sales, Service and Rental	See Schedule B
	Industrial, Heavy	See Schedule B
	Industrial, Light	See Schedule B
	Research and Development Facility	See Schedule B
Manufacturing and Production	Heavy Manufacturing, General	See Schedule B
	Light Manufacturing, General	See Schedule B
	Mining and Mineral Extraction	See Schedule B
Warehouse and Freight Movement	Freight or Truck Yard	See Schedule B
	Mini-warehouse/Self Storage	See Schedule B
	Wholesale Distribution Center	See Schedule B
Waste-Related Uses	Auto Wrecking and Salvage Yard/Junkyard	See Subsection 6.6.D.3
	Hazardous Materials Handling and Transfer Facility	See Subsection 6.6.D.3
	Recycling Collection Point	See Subsection 6.6.D.3
	Recycling Center	See Subsection 6.6.D.3
	Sanitary Landfill	See Subsection 6.6.D.3

2. Schedule B

Uses subject to Off-Street Parking Schedule "B" shall provide the following minimum number of off-street parking spaces, as set forth in Table 6.6-2. Unless otherwise approved, lots containing more than 1 activity shall provide parking in an amount equal to the total of the requirements for each individual activity that composes the use as listed in the table. For a multi-tenant building, each individual business shall calculate their parking requirement individually, not as an aggregate.

TABLE 6.6-2: OFF-STREET PARKING SCHEDULE B	
Activity	**Number of Spaces Required**
Office area	1 per 300 sq. ft.
Indoor sales area	1 per 250 sq. ft.

TABLE 6.6-2: OFF-STREET PARKING SCHEDULE B	
Activity	**Number of Spaces Required**
Outdoor sales or display area (3,000 sq. ft. or less)	1 per 750 sq. ft.
Outdoor sales or display area (over 3,000 sq. ft.)	1 per 2,000 sq. ft.
Indoor storage/warehousing/vehicle service/manufacturing area	
1–3,000 sq. ft.	1 per 300 sq. ft.
3,001–5,000 sq. ft.	1 per 650 sq. ft.
5,001–10,000 sq. ft.	1 per 750 sq. ft.
10,001–50,000 sq. ft.	1 per 1,250 sq. ft.
50,001 sq. ft.+	1 per 1,500 sq. ft.

Any development with zoning or development approvals that permit a future change of use that will require additional parking to meet the standards of this Section shall provide an undeveloped area on the site that can accommodate any future parking needs. However, such area for future parking need not be paved or improved, but shall be landscaped as required by this UDC.

3. Parking Requirements for Miscellaneous Uses

Uses that reference this Section have widely varying parking and loading demand characteristics, making it impossible to specify a single off-street parking or loading standard. Upon receiving a development application for a use subject to this Section, the Building Official and the Community Development Director shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking and loading study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Transportation Engineers (ITE), or other acceptable estimates as approved by the Community Development Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

4. Maximum Number of Spaces Permitted

a. *General Maximum Requirement*

For any use categorized as a “Commercial” or “Industrial” use in Chapter 3, off–street vehicle parking spaces shall not be provided in an amount that is more than 125 percent of the minimum requirements established in Table 6.6-1, *Off-Street Parking Schedule A*. The maximum number of allowable parking spaces may be adjusted by the Community Development Director if the applicant provides written information documenting that the proposed commercial or industrial use would not be economically viable without such adjustment.

b. *Exceptions*

i. If application of the maximum parking standard would result in less than 6 parking spaces, the development shall be permitted 6 parking spaces.

ii. Exceptions to the maximum parking requirement may be permitted in situations that meet the following criteria by the Community Development Director:

(A) The proposed development has unique or unusual characteristics such as high sales volume per floor area or low parking turnover, which create a parking demand that exceeds the maximum ratio and which typically does not apply to comparable uses;

(B) The parking demand cannot be accommodated by on-street parking, shared parking with nearby uses, or by increasing the supply of spaces that are excepted from the maximum ratio; and

(C) The request is the minimum necessary variation from the standards.

c. ***Paving of Excess Parking***
Where an exception is granted to the maximum number of spaces permitted on a site pursuant to this Section, the excess parking area shall be covered with pervious paving acceptable to the Town and shall be landscaped as required by this UDC.

d. ***Calculation of Maximum Parking Requirements***
For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum parking requirement, but shall count toward the minimum requirement:

i. Accessible parking;

ii. Vanpool and carpool parking; and

iii. Structured parking, underground parking, and parking within, above, or beneath the building(s) it serves.

E. Parking Alternatives

The Community Development Director may approve alternatives to providing the minimum number of off-street parking spaces in accordance with the following standards.

1. Shared Parking

The Community Development Director may approve shared parking facilities for developments or uses with different operating hours or different peak business periods if the shared parking complies with all of the following standards:

a. ***Location***
Non-residential shared parking spaces shall be located within 600 feet of an entrance, and residential shared parking spaces shall be located within 200 feet of an entrance unless approved by the Community Development Director.

b. ***Zoning Classification***
Shared parking areas shall be located on a site with the same or a more intensive zoning classification than required for the primary uses served.

c. ***Shared Parking Study***
Applicants proposing to use shared parking as a means of satisfying off-street parking requirements shall submit a shared parking analysis that clearly demonstrates the feasibility of shared parking. The study shall be provided in a form established by the Community Development Director and shall be made available to the public. It shall address, at a minimum, the size and type of the proposed development, location of required parking, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. The applicant shall

also demonstrate that any parking reduction requested as part of the shared parking study will not result in the spillover of parking onto other properties.

d. ***Agreement for Shared Parking***
The parties involved in the joint use of off-street parking facilities shall submit a written agreement in a form to be recorded for such joint use, approved by the Community Development Director as to form and content. The Community Development Director may impose such conditions of approval as may be necessary to ensure the adequacy of parking in areas affected by such an agreement. Recordation of the agreement shall take place before issuance of a building permit for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of Off-Street Parking Schedule A.

2. Off-Site Parking
The Community Development Director may approve the location of required off-site parking spaces on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards:

a. ***Location***
No off-site nonresidential parking space may be located more than 600 feet from an entrance and no residential parking space more than 200 feet (measured along the shortest legal pedestrian route) unless approved by the Community Development Director. Off-site parking spaces shall be connected to the use by acceptable pedestrian facilities. Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway, a traffic signal, a shuttle bus, or other traffic control is provided or other traffic control or remote parking shuttle bus service is provided.

b. ***Zoning Classification***
Off-site parking areas shall have the same or a more intensive zoning classification applicable to the primary use served.

c. ***Control of Site***
Required parking spaces for residential uses must be located on the site of the use or within a tract owned in common by all the owners of the properties that will use the tract.

d. ***Ineligible Activities***

i. Required parking spaces for persons with disabilities may not be located off-site.

ii. Off-site parking may not be used to satisfy the parking requirements for single-family residential uses.

e. ***Agreement for Off-Site Parking***
In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement between the record owners shall be required. The agreement shall guarantee the use of the off-site parking area in perpetuity. An attested copy of the agreement between the owners of record shall be submitted to the Town for recordation in a form established by the Town attorney. Recordation of the agreement shall take place before issuance of a building permit or Certificate of Occupancy for any use to be served by the off-site parking area. An off-site parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of this UDC. No use shall be continued if the parking is removed unless substitute

parking facilities are provided, and the Community Development Director shall be notified at least 60 days prior to the termination of a lease for off-site parking.

f. ***On-street Parking***
On-street parking spaces in the right-of-way adjacent to the property may be counted to satisfy the minimum off-street parking requirements, if approved by the Community Development Director. In mixed-use districts, on-street parking meeting the above criteria shall be counted towards off-street parking requirements.

3. Downtown District and the NMU (Old Town) District Parking

a. ***Commercial Uses***
There shall be no minimum off-street parking requirements for any commercial use in the Downtown District and the NMU (Old Town) district. See Subsection 6.6.I.3 for prohibitions on off-street parking areas along street frontage in the Downtown District and the NMU (Old Town) district.

b. ***Residential Uses***
There shall be minimum off-street parking requirements for any residential uses in the Downtown District and the NMU (Old Town) district. See Subsection 6.6.I.3 for prohibitions on off-street parking areas along street frontage in the Downtown District and the NMU (Old Town) district.

4. Automatic Parking Reductions in Old Town Residential and Mixed-Use Districts

a. ***Old Town Residential District***
Applicants for development in the Old Town Residential district are eligible for an automatic parking reduction of 20 percent of the minimum parking requirements of this Section.

b. ***Mixed-use Districts***
In the mixed-use districts, the total requirement for off-street parking facilities shall be the sum of the requirements for the various uses computed separately, subject to the modifications set forth below. The modifications are available cumulatively, but overall they may not reduce the minimum requirements by more than 20 percent.

i. Each use within mixed-use districts is eligible for a 5 percent parking reduction to reflect the reduced automobile use associated with mixed-use developments.

ii. A ten percent parking reduction for multi-family residential dwelling units may be permitted if the proposed use is located within 300 feet of a transit stop with midday service headways of 30 minutes or less in each direction.

iii. For non-residential uses, the minimum parking requirement may be reduced 10 percent if the use incorporates a transit stop with midday service headways of 30 minutes or less in each direction. The transit stop design shall be compatible with the design and materials of the non-residential use of which it is associated.

5. District-Wide Parking
Minimum required off-street parking spaces may be waived or reduced for properties within the boundaries of a public parking or local improvement district that provides district-wide parking facilities, based on the projected parking demand to be addressed by the district-wide facility.

6. Stacked, Tandem, and Valet Parking

Stacked, tandem, or valet parking for nonresidential uses is permitted if an attendant is present to move vehicles. In addition, a guarantee acceptable to the Town shall be filed with the Town ensuring that a valet parking attendant shall always be on duty when the parking lot is in operation.

7. Structured Parking

a. ***Maximum Parking Waiver***

Where 75 percent or more of the parking accessory to a use is in structured parking, there shall be no maximum cap on the number of parking spaces.

b. ***Floor Area Bonus for Automated and Underground Parking in the Commercial and Mixed-use Districts***

A height or density bonus may be granted by the Town for underground parking structures and automated parking structures in the commercial and mixed-use districts. The bonus shall be granted at a ratio of 3 square feet of additional bonus area for each square foot of structured parking that is underground or within an automated parking structure.

8. Other Eligible Alternatives

At the Town's discretion, the Community Development Director may approve any other alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates to the satisfaction of the Community Development Director that the proposed plan will protect surrounding neighborhoods, maintain traffic circulation patterns, and promote quality urban design to at least the same extent as would strict compliance with otherwise applicable off-street parking standards.

F. Off-Street Loading Requirements

No building or structure used for any commercial, business, industrial, or public/institutional use shall be erected, nor shall any such existing building or structure be altered so as to increase its gross floor area by 25 percent, without prior provision for off-street loading space in conformance with the following minimum requirements:

1. Types of Loading Berths

Required off-street loading space shall be provided in berths that conform to the following minimum specifications:

a. Type A berths shall be at least 60 feet long by 10 feet wide by 14 feet 6 inches high, inside dimensions.

b. Type B berths shall be at least 30 feet long by 10 feet wide by 14 feet 6 inches high, inside dimensions.

2. Number of Spaces

The following numbers and types of berths shall be provided for the specified uses in Table 6.6-3. The uses specified in this Subsection shall include all structures designed, intended, or arranged for such use.

TABLE 6.6-3: OFF-STREET LOADING BERTHS

Use	Aggregate Gross Floor Area (square feet)	Berths Required	Type
Public/Institutional Uses			
Cultural facilities	7,000--24,000	1	B

TABLE 6.6-3: OFF-STREET LOADING BERTHS			
Use	**Aggregate Gross Floor Area (square feet)**	**Berths Required**	**Type**
	24,000--50,000	2	B
	50,000--100,000	3	B
	Each additional 50,000 or fraction thereof	1 additional	B
Educational facilities	Over 14,000	1	B
Human health care facilities	10,000--100,000	1	B
	Over 100,000	2	B
Railroad freight terminals and other transportation facilities	12,000--36,000	1	A
	36,000--60,000	2	A
	60,000--100,000	3	A
	Each additional 50,000 or fraction thereof	1 additional	A
Commercial Uses			
Assembly uses	25,000--150,000	1	A
	150,000--400,000	2	B
	Each additional 250,000 or fraction thereof	1 additional	B
All commercial establishments not otherwise specified	7,000--24,000	1	B
	24,000--50,000	2	B
	50,000--100,000	3	B
	Each additional 50,000 or fraction thereof	1 additional	B
Visitor accommodations and office uses	25,000--40,000	1	B
	40,000--100,000	2	B
	Each additional 100,000 or fraction thereof	1 additional	B
Industrial Uses			
All industrial uses	12,000--36,000	1	A
	36,000--60,000	2	A
	60,000--100,000	3	A
	Each additional 50,000 or fraction thereof	1 additional	A

3. Uses Not Specifically Mentioned

In the case of a use not specifically mentioned in this Section, the requirements for off-street loading facilities shall be the same as the use mentioned in this Section which, in the opinion of the Community Development Director, has most similar parking characteristics to the use mentioned in terms of loading classification.

4. Concurrent Different Uses

When any proposed structure will be used concurrently for different purposes, final determination of loading requirements shall be made by the Community Development

Director, but in no event shall the loading requirements be less than the total requirements for each use based upon its aggregate gross floor area.

5. Location of Off-Street Loading Facilities

Off-street loading facilities required under this Section shall be in all cases on the same lot or parcel of land as the structure they are intended to serve. The required off-street loading space shall not be part of the area used to satisfy the off-street parking requirements unless approved by the Community Development Director based on the adequacy of the site to accommodate both simultaneously. To the maximum extent reasonably feasible, loading areas shall be located to the rear of a site. To the maximum extent reasonably feasible, off-street loading facilities shall not face adjacent residential areas or in an area with a residential zoning classification. To the maximum extent reasonably feasible, off-street loading facilities shall be oriented away from views from the street. Mitigation techniques, including appropriate siting and site design measures, may be required by the Community Development Director. The Downtown district shall be excepted from this requirement.

6. Manner of Using Loading Areas

No space for loading or unloading of vehicles shall be so located that a vehicle using such loading space projects into any public street. Adequate access and turnaround area shall be provided on-site so that vehicles are not impeding streets. Loading space shall be provided with access to an alley, or, if no alley adjoins the lot, with access to a street. Any required side or rear yard may be used for loading unless otherwise prohibited by this UDC. Design and location of entrances and exits for required off-street loading areas shall be subject to the approval of the Community Development Director based on consideration of the traffic flow and traffic safety. Service and off-street loading areas shall comply with the screening requirements for such areas set forth in Subsection 6.4.G.

7. Signs

The owners of the property shall provide, locate, and maintain loading signs as specified by the Community Development Director. Such signs shall not be counted against permitted advertising sign area.

G. Computation of Parking and Loading Requirements

1. Fractions

When measurements of the number of required spaces result in a fractional number, any fraction shall be rounded up to the next higher whole number.

2. Multiple Uses

Lots containing more than 1 use shall provide parking and loading in an amount equal to the total of the requirements for all uses.

3. Area Measurements

Unless otherwise specified, all square footage-based parking and loading standards shall be computed on the basis of gross floor area of the use in question. Structured parking within a building shall not be counted in such measurement.

4. Computation of Off-Street Parking

Required off-street loading space shall not be included as off-street parking space in computation of required off-street parking space.

5. Parking for Unlisted Uses

Parking requirements for uses not specifically listed in Table 6.6-1 shall be determined by the Community Development Director based on the requirements for the closest

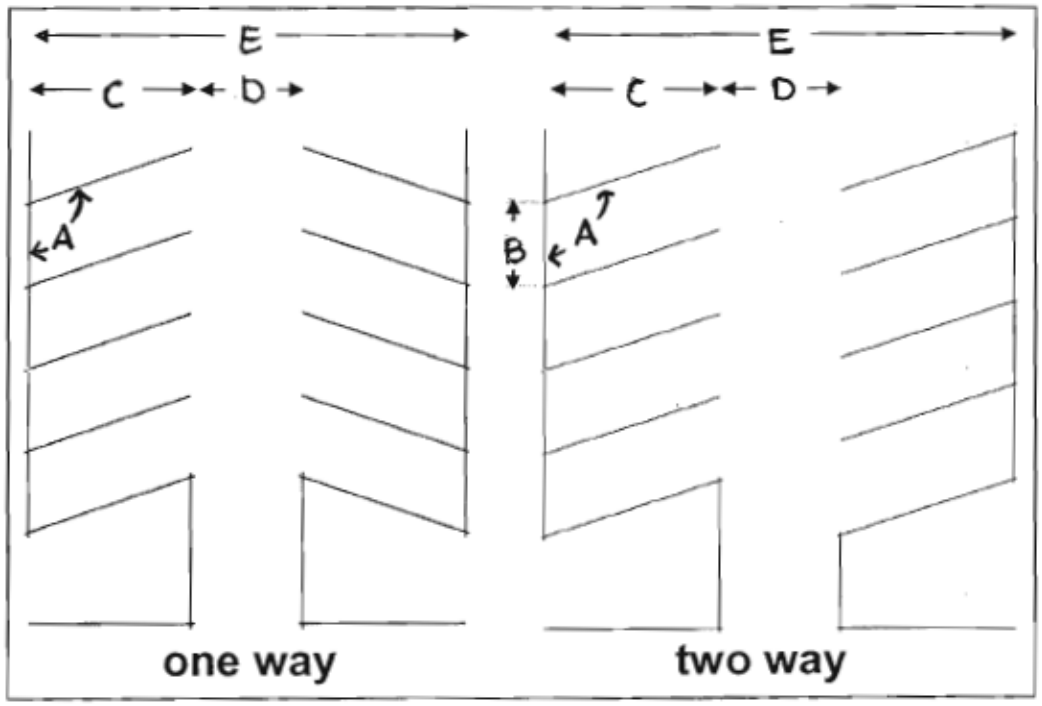
comparable use, as well as on the particular parking demand and trip generation characteristics of the proposed use. The Community Development Director may alternately require the submittal of a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Transportation Engineers, and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

H. Dimensions of Parking Spaces

The parking configuration stated in the following Table 6.6-4 shall apply to all required off-street parking.

TABLE 6.6-4: PARKING DIMENSIONS

Parking Angle	Curb Length	Stall Length	Aisle Width		Bay Width	
			One Way	Two Way	One Way	Two Way
A	B	C	D	D	E	E
90degrees	9 feet 9.5 feet 10 feet	20 feet	24 feet	24 feet	64 feet	64 feet
60degrees	10.5 feet	21 feet	18 feet	22 feet	60 feet	64 feet
45degrees	13 feet	20 feet	13 feet	20 feet	53 feet	60 feet
30degrees	18 feet	18 feet	12 feet	20 feet	46 feet	55 feet
0degrees	23 feet	8 feet	12 feet	20 feet	20 feet	36 feet



1. Recreational Vehicle Spaces
Parking spaces for recreational vehicles, if provided, shall be a maximum of 10 feet by 40 feet.

I. Parking Lot Design Standards

1. Purpose
The general purpose statement for Off-Street Parking Requirements set forth in Subsection 6.6.A shall apply to the standards of this Section.

2. Limitations on Parking Spaces in Front Yards and Setbacks
The parking limitations set forth in Section 6.4 shall apply to the design standards of this Section.

3. Design and Location of Parking Lots/Vehicular Stacking Spaces

a. *Design and Maintenance*

i. All parking lots/vehicular stacking spaces shall be designed, constructed, and drained in accordance with Town ordinances and regulations.

ii. Parking lots/vehicular stacking spaces shall be continually maintained in compliance with the approved site and/or subdivision plan.

iii. Each parking lot/vehicular stacking spaces shall meet all applicable landscaping, screening, and buffering requirements in Section 6.4 of this UDC.

iv. Parking lots/vehicular stacking spaces designated to meet the minimum parking requirements shall be paved in concrete or asphalt. Recycled concrete, recycled asphalt or equivalent may be considered by the Community Development Director for non-public storage areas.

v. Two-way internal circulation drives without parking spaces shall have a minimum drive width of 24 feet. One-way internal circulation drives without parking shall have a minimum drive width of 12 feet.

b. *Vehicular Circulation*

i. All parking areas shall be located and designed so as to avoid undue interference with the use of public streets and alleys. Parking areas shall provide suitable maneuvering room so that all vehicles may enter an abutting street in a forward direction. The backing of a motor vehicle onto a public street from a parking lot shall be prohibited.

ii. All stacking lanes for day care centers shall be located at least 10 feet from the principal building with either an on-site turnaround or separate points for ingress and egress.

iii. In the Old Town districts, pedestrian pathways shall be separated from auto circulation routes in parking areas.

c. *Buffering and Screening*

i. Outside the Old Town districts, all parking areas shall be separated at least 10 feet from buildings, in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area. This separation may be eliminated in the rear of buildings in areas designed for unloading and loading of materials; this applies primarily to industrial and warehousing buildings.

ii. In the Old Town districts, the visual impact and presence of vehicles shall be minimized by siting parking areas to the rear or interior of the property

rather than along street frontage, or by providing underground and structured parking. Parking areas shall be screened from views both interior and exterior to the site.

d. ***Location of Parking Structures***
In Old Town districts, maximum frontage of parking structures along any 1 block shall be 200 feet.

4. Stacking Spaces for Drive-Through Uses
In addition to meeting the off-street parking requirements of this Section, drive-through facilities specified in Table 6.6-4 shall comply with the following minimum stacking space standards:

TABLE 6.6-5: SCHEDULE OF VEHICULAR STACKING SPACES

Type of Use	Minimum Vehicular Stacking Spaces	Measured From
Bank, teller lane	4	Teller window
Bank, ATM	3	Teller machine
Restaurant, with drive through	8	Order box
Pharmacy, with drive through	4	Pick-up window
Car Wash, automatic	6	Bay entrance
Car Wash, self-service	3	Bay entrance
Car Wash, full service	4	Bay entrance
Auto Service Station, gas pump island	30 feet from each end of island	

5. Handicapped Parking Requirements

a. ***Residential Uses***
Handicapped-accessible parking for residential uses shall be provided at the rate of 1 space per each dwelling unit that is designed for occupancy by the handicapped.

b. ***Non-Residential Uses***

Handicapped-accessible parking spaces shall be provided for uses other than residential, at the rate shown in Table 6.6-6 below. At least 1 space out of every 8 handicapped-accessible parking spaces must be designed as van accessible. A van accessible parking space is 8 feet wide with an adjacent 8 foot access aisle.

TABLE 6.6-6: HANDICAPPED PARKING FOR NON-RESIDENTIAL USES	
Total Number of Required Parking Spaces	**Number of Required Handicapped Spaces**
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total spaces
Above 1,000	20 spaces, plus 1 space for each 100 over 1,000 spaces or fraction thereof.

J. Prohibited Occupation of Parking Spaces

1. Except for infrequent, special, temporary events not to exceed 7 consecutive days, required parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons, and employees only, and shall not be used for the storage of vehicles or materials or for the parking of fleet vehicles used in conducting the business or use, for the purpose of displaying goods, or for the purpose of advertising.
2. Parking for which a fee or other payment is paid or received shall be a principal use, not an accessory use unless approved as part of a Special Review Use or Planned Unit Development application.

10.6.7 RESIDENTIAL USE CATEGORY DESIGN STANDARDS

A. Purpose

The standards of this Section are intended to promote high-quality residential development and construction; protect property values; encourage visual variety and architectural compatibility; and promote an integrated character for the Town's neighborhoods. Specifically, the standards shall:

1. Promote new residential developments that are distinctive, have character, and relate and connect to established neighborhoods;
2. Provide variety and visual interest in the exterior design of residential buildings;
3. Provide for a variety of lot sizes and housing types for a range of households and age groups;
4. Enhance the residential streetscape and diminish the prominence of garages and parking areas;
5. Enhance public safety by preventing garages from obscuring main entrances or blocking views of the street from inside residences; and
6. Improve the compatibility of attached and multi-family residential development with the residential character of surrounding neighborhoods.

B. Applicability

This Section applies to development of all uses classified as "residential" in the "use category" by Chapter 3, unless otherwise indicated.

C. Alternative Equivalent Compliance

The alternative equivalent compliance procedure in Section 6.1 may be used to propose alternative means of complying with the intent of this Section. The Board of Trustees shall determine alternative equivalent compliance for Mix of Housing Types in Subsection 6.7.D.1.

D. General Standards for All Residential Development

1. Mix of Housing Types

a. *Intent*

i. To promote a more diverse community through the provision of a variety of housing types.

ii. To encourage developments that are not dominated by a single type of home or dwelling unit, within a narrow range of price points and densities.

iii. To encourage "neighborhood-oriented" multi-family developments that incorporate a variety of housing types, such as a combination of duplex, stacked tri-plex/quad-plex, manor homes, live-work units, townhomes, apartments, and single-family dwelling units in a range of sizes.

b. *Diversification Standards*

i. Diversification Standards shall not apply to:

(A) All zone districts that do not allow residential uses.

(B) Residential zone districts RP1, RP2, RP3, RR, and ER.

(C) Mixed-Use zone districts DT, NMU and CMU.

ii. Residential development parcels, including parcels part of a phased development, shall provide a minimum mix of housing, based on the size of the development as required in Table 6.7-1 below:

TABLE 6.7-1: HOUSING DIVERSITY

Development Parcel Size	Required Mix of Housing Type				
0-40 Acres	1 housing type				
41-80 Acres	2 housing types	or	1 housing type and 1 housing type variation		
81-160 Acres	3 housing types	or	2 housing types and 1 housing type variation		
161-240 Acres	4 housing types	or	3 housing types and 1 housing type variation	or	2 housing types and 2 housing type variations
241-320 Acres	4 housing types	or	3 housing types and 1 housing type variation		
321-480 Acres	5 housing types	or	4 housing types and 1 housing type variation	or	3 housing types and 2 housing type variations
481-640 Acres	5 housing types	or	4 housing types and 1 housing type variation		
641+ Acres	6 housing types	or	5 housing types and 1 housing type variation	or	4 housing types and 2 housing type variations

iii. Housing types that apply to Table 6.7-1 include:

(A) Duplex;

(B) Stacked Tri-plex/Quad-plex;

(C) Manor Home;

(D) Townhouse (Single-Family Attached Dwelling Unit);

(E) Apartment (Multi-family Dwelling Unit);

(F) Live-Work units; and

(G) Single-family Detached.

iv. Housing type variations that apply to Table 6.7-1 include:

(A) Duplex

(1) Front loaded

(2) Alley loaded

(B) Stacked Tri-plex/Quad-plex

(1) 3 dwelling units per building

(2) 4 dwelling units per building

(C) Manor Home

(1) Variation in building length of 30 percent or more

(2) Variation in building footprint of 30 percent or more

(D) Townhouse (Single-Family Attached Dwelling Unit)

(1) Front loaded

(2) Alley loaded

(E) Apartment (Multi-family Dwelling Unit)

(1) Variation in building length of 30 percent or more

(2) Variation in building footprint of 30 percent or more

(F) Live-Work units

(1) Front loaded

(2) Alley loaded

(G) Single-family Detached

(1) Front loaded

(2) Alley loaded

(3) Lot size under 5,000 square feet

(4) Lot size 5,000 to 9,999 square feet

(5) Lot size 10,000 to 39,999 square feet

(6) Lot size 40,000 square feet or more

v. Multi-family developments shall meet 1 of the following:

(A) A minimum of 50 percent of the total planned dwelling units shall vary in size from other dwelling units by at least 250 square feet.

(B) A maximum of 50 percent of the total planned dwelling units may have the same number of bedrooms.

(C) A minimum of 10 percent of the total planned dwelling units shall have at least 3 bedrooms.

E. Additional Standards for Single-Family Detached Dwelling Units

1. Architectural Variety and Character

a. ***General Purpose***

The purposes of these architectural variety and character standards are to:

i. Encourage creativity in design and the use of masonry materials on the primary/facade of single-family detached dwelling units that results in attractive, long-lasting neighborhoods; and

ii. Discourage the use of "cookie cutter" development patterns for new single-family development.

b. ***Applicability***

These standards shall apply to all uses classified as "single family detached dwelling unit" by Chapter 3, for all new lots, in subdivisions created under this UDC, with the following exceptions:

i. Single-family detached dwelling units in Minor Subdivisions;

ii. The "Architectural Character" standards in Subsection 6.7.E.1.d shall not apply to single-family detached dwelling units in the Rural Residential (RR), Estate Residential (ER) and Suburban Residential (SR) zone districts.

c. ***Architectural Variety***

i. *Design Standards*

(A) No home model elevation including garage elevation shall be repeated directly across any street from the same home model elevation.

(B) No home model elevation shall be repeated more than once every 4 lots on the same side of the street.

ii. *Tracking*

(A) It shall be the responsibility of the developer to provide to the Town a plat sheet tracking document that maintains a record of home model variety for every development parcel. The developer shall demonstrate compliance with this Section prior to issuance of a building permit.

(B) It shall be the responsibility of the developer to disclose these architectural variety standards to potential homebuyers. Failure on the part of the developer to disclose these requirements shall not be grounds for relief from these architectural variety standards as applied to any individual home.

d. ***Architectural Character***

Each single-family detached dwelling unit shall meet 1 of the following materials and design standards:

i. *Materials and Design Standards*

(A) Masonry materials (brick, stone, stucco or other approved masonry materials) shall be utilized on front facades at a ratio of 1:2 (or higher), of siding to masonry materials. Masonry materials shall

wrap around inside corners and return a minimum of 2 feet at outside corners, or

(B) Dwelling Units that do not meet the 1:2 (or higher) ratio of siding to masonry materials shall be designed with a high level of architectural detailing, in an architectural style that traditionally does not include masonry materials. Architectural Design Standards illustrating a level of architectural detail equal to or better than found within the single-family detached residential areas of the Erie Commons and Erie Village Subdivisions shall be submitted by the developer for review and approval by the Community Development Director.

ii. *Tracking*

(A) It shall be the responsibility of the developer to submit construction drawings of the elevations for each model of single-family detached home proposed to be used within the plat. The Town shall review and confirm that the model meets 1 of the 2 requirements above in Subsection 6.7.E.1.d.i before a building permit may be issued.

2. Orientation of Dwellings to the Street

Each residence shall have at least 1 primary pedestrian doorway for access to the dwelling unit located on the elevation of the dwelling unit facing the front lot line of the property, on or within 8 feet of the most forward plane of the living space within the house, and clearly visible from the street or public area adjacent to the front lot line. On corner lots, the pedestrian doorway may be located facing any adjacent street. Unless prohibited by terrain or other site constraints, the orientation of new lots shall repeat the predominant relationship of buildings to buildings and buildings to street along the same block face or the facing block face. An exception shall be made for alley-loaded single-family detached dwelling units that do not have street frontage but do front onto a park or park-like common open area. In such case where the dwelling unit does not have street frontage, 1 primary pedestrian doorway shall be oriented toward a pedestrian walk in the park that connects to a street.

3. Garages

The regulations for garages shall be applied to all non-living space or storage areas within garages and to all non-living space or storage spaces of the home.

a. ***Diversity of Garage Location***

i. In all zone districts except for Rural Residential (RR) and Estate Residential (ER), a diversity of garage styles is required. Diversity shall be achieved by providing a minimum of 2 of the garage variation choices listed below. To meet the diversity requirement each garage variation chosen shall each be used on at least 25 percent of the single family homes within the development. The 2 variations chosen will be a minimum of 50 percent of the development; the remaining 50 percent may be any of the choices listed below.

(A) Alley-loaded garages;

(B) Side-loaded garages;

(C) Garages recessed a minimum of 4 feet behind the front facade of the living space within the house;

(D) Garages that protrude no less than 2 feet or no more than 5 feet in front of the dwelling unit portion of the structure; and

(E) Garages recessed a minimum of 2 feet beneath a second floor bay.

ii. *Tracking*
It shall be the responsibility of the developer to submit construction drawings of the elevations for each model of single-family detached home proposed to be used in each plat. The Town shall review and confirm that the model meets the diversity requirement listed above.

b. ***Width/Facade Ratio***
Garages shall not comprise more than 45 percent of the front facade of the principal dwelling structure for 1 and 2 car garages, or 55 percent for 3 car garages.

c. ***3 or More Car Garage Orientation***
The third or more bay of any 3 or more car garage shall:

i. Have a different orientation from the first 2;

ii. Shall be off-set by 2 feet when having the same orientation; or

iii. Shall be tandem to the first 2.

4. Minimum Front Porch
The minimum size of front porches shall be 60 square feet of floor area, excluding the stoop and any projections, with a minimum depth of 6 feet.

F. Additional Standards for Multi-family Residential

1. Building Design and Character

a. ***General Purpose***
The purposes of these building design and character standards are to:

i. Establish a more predictable approach to multi-family development that encourages creativity in design for individualism of buildings or dwelling units that results in attractive, long-lasting multi-family neighborhoods.

ii. Discourage the use of "cookie cutter" development patterns for new multi-family development that are out of character with the more "eclectic" design features traditionally found in the Old Town Area.

b. ***Application***
These standards shall apply to all multi-family residential development within the Town. Multi-family development shall include: duplex homes, town homes, stacked tri-plex and quad-plex homes, manor homes, apartments, and small lot single-family homes with lot sizes less than 5,000 square feet.

c. ***Building Orientation***

i. *Intent*
To organize the primary entrances and facades of multi-family buildings with a clear orientation towards the street, as opposed to the more internal organization of buildings typically found with multi-family developments.

(A) To create an integrated neighborhood appearance for multi-family developments that establishes a pattern that is integrated with adjacent uses instead of segregated as a separate sub-community.

(B) To create an integrated neighborhood appearance for multi-family developments that establishes a pattern that is integrated with adjacent uses instead of segregated as a separate sub-community.

ii. *Design Standards*

(A) The primary entrance and facade of individual buildings within a multi-family development shall be oriented towards:

(1) Primary internal or perimeter streets, or

(2) Common open space, such as interior courtyards, parks, or on-site natural areas or features with a clearly defined and easily accessible pedestrian circulation system.

(B) Primary entrances and facades shall not be oriented towards alleys, parking lots, garages, or carports.

d. ***Architectural Character***

i. *Intent*

(A) To improve the appearance of multi-family developments through the incorporation of architectural detailing, facade articulation, and other features designed to provide a more distinct character and human scale for multi-family buildings of all sizes.

(B) To encourage the use of architectural styles that reinforces the Town's traditional character.

ii. *Design Standards*

(A) All sides of a multi-family building shall display a similar level of quality and architectural detailing. The majority of a building's architectural features and treatments shall not be restricted to a single facade. Building details, including roof forms, windows, doors, trim, and siding materials, shall reflect the architectural style of the building.

(B) On multi-family buildings of 10 dwelling units or less, the massing and use of exterior materials is encouraged to be arranged to give each building the appearance of a large single-family home. This includes duplexes, manor homes, and stacked tri-plex/quad-plex homes but does not necessarily apply to townhomes in which the unique individualism of each dwelling unit is expressed.

(C) The maximum length of any multi-family building shall be 156 feet.

(D) Blocky, uniform facades are prohibited. The facades of all multi-family buildings shall be articulated through the incorporation of 2 or more of the following:

(1) Balconies;

(2) Bay or box windows;

(3) Insets or other relief in the wall plane;

(4) Porches;

(5) Dormers;

(6) Variations in materials; or

(7) Variations in roof forms.

(E) The incorporation of a variety of roof forms is strongly encouraged. Generally, multi-family buildings shall incorporate roof pitches of between 3:12 and 12:12; however, alternative roof forms may be permitted at the discretion of the Community Development Director.

(F) Roof overhangs shall be a minimum of 12 inches to establish strong shadow lines and complement the pitch and architectural style of the structure.

(G) Horizontal variations in materials along the facade of a multi-family building shall occur in conjunction with a change in wall plane, preferably at the inside corner of a wall.

e. ***Architectural Variety***

i. *Intent*

(A) To ensure that individual groupings of multi-family buildings within a larger development exhibit a distinct variation in size and mass that allows them to be easily distinguished from surrounding building groupings.

(B) To avoid the bleak, “barracks-type” appearance associated with large concentrations of identical or very similar structures.

ii. *Design Standards*

(A) *Apartments*

(1) Apartment developments shall incorporate a variety of distinct building designs according to the scale of the development, as follows:

- 3-10 buildings: 2 models minimum.
- 11-20 buildings: 3 models minimum.
- 21 or more buildings: 1 model for every 6 buildings minimum.

(2) Distinct building designs, as required above, shall be easily distinguished through a minimum of 2 of the following:

- A variation in length of 30 percent or more;
- A variation in the footprint of the building of 30percent or more;
- A distinct variation in color and use of materials;
- A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass, i.e., apartments vs. townhomes or duplexes; or
- A distinct variation in building height and roof form.

(3) Apartment buildings shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.

(4) Apartment buildings shall provide concentrated dwelling unit access points. Monotonous access balconies and corridors running the length of a building shall be prohibited.

(B) *Townhomes*

(1) No more than 6 townhome dwelling units may be attached in any single row or building cluster.

(2) Within each townhome row or cluster, individual dwelling units shall be differentiated through 2 or more of the following methods:

- Use of distinct color variation between individual dwelling units;
- Use of distinct variations in materials between individual dwelling units;
- Use of distinct variations in architectural style or features, such as a porch or similar feature, between individual dwelling units;
- Use of distinct variations in roof form,
- Variation in garage orientations; or
- A variation in the plane of the front facade to provide a minimum 3 foot variation between individual dwelling units.

Duplexes/Stacked Tri-plex/Quad-plex/Manor Homes

(1) A continuous row of identical homes along a block shall be prohibited. Individual structures shall be differentiated through 2 or more of the following methods:

- Use of distinct color variation and materials between individual structures;
- Variation in garage orientation;
- Use of distinct variations in roof form, or
- Use of distinct variations in architectural features, such as porches, roof form, windows, or similar feature, between individual structures.

(2) Models with identical facades shall not be placed adjacent to or across the street from 1 another.

f. ***Materials***

i. *Intent*

(A) To maximize the quality, value, and longevity of multi-family neighborhoods through the use of durable materials that will minimize maintenance costs and improve the overall appearance of the development.

(B) To encourage the use of recycled and other environmentally-friendly, Leadership in Energy and Environmental Design (LEED) certified building materials.

ii. *Design Standards*

(A) Primary exterior building materials on multi-family structures shall be constructed from durable materials with product warranties or an industry expected life of a minimum of 25-years.

(B) Exterior Insulating and Finish System (EIFS) shall not be permitted.

(C) All multi-family structures shall utilize durable, environmentally sensitive roofing materials with product warranties or an industry expected life of a minimum of 25 years.

2. Parking and Garage Placement

On-street parking spaces may be counted towards guest parking for a multi-family development, provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. On-street parking spaces being counted towards the minimum requirement for guest parking shall be identified on plans at time of submittal to the Town. Required dwelling unit parking shall be off-street.

a. ***Apartments***

i. To the maximum extent reasonably feasible, garage entries, carports, parking lots, and parking structures shall be internalized in building groupings or located away from street frontages.

ii. Parking lots and freestanding parking structures (detached garages or carports) shall not occupy more than 30percent of each perimeter public street frontage.

iii. To the maximum extent reasonably practicable, freestanding parking structures (detached garages or carports) that are visible from perimeter public streets shall be sited perpendicular to the perimeter street in order to reduce visual impacts on the streetscape.

iv. Carports and common garages shall be limited to 60 feet in length.

v. Garage doors of attached garages shall not comprise more than 45percent of the total length of an apartment building's front facade, and the plane of a garage door shall be offset by at least 4 feet from the plane of an adjacent garage door.

vi. Detached garages and carports shall incorporate compatible materials, scale, colors, architectural details, and roof slopes similar to those of the primary multi-family buildings.

vii. Rear walls of detached garages over 40 feet in length that back onto the perimeter street shall be articulated or punctuated through the use of 2 or more of the following options:

(A) 6 or more window openings defined by frames, sills and lintels;

(B) 3, 100 square foot trellis structures spaced along the rear wall, planted with an approved vine or creeping plant to cover the structure at maturity;

(C) Change in wall plane of at least 6 inches every 10 feet;

(D) Vertical change in material or masonry pattern; or

(E) 1 roof dormer for each 10 feet of length.

b. ***Townhomes, Duplex, Stacked Tri-plex/Quad-plex, and Manor Homes***

i. *Front-loading Garages*

Garages that protrude towards the street in front of the primary facade of the primary structure shall not be permitted. Garage doors on all front-loading (street-oriented) garages shall be either:

(A) Recessed a minimum of 4 feet behind the front facade of the dwelling unit portion of the structure, or a front porch that is at minimum of 5 feet x 8 feet; or

(B) Recessed a minimum of 2 feet beneath a second floor bay.

ii. *Side-loading Garages*
Side-loaded garages shall provide windows or other architectural details that mimic the features of the living portion of the dwelling unit on the side of the garage facing the front street.

iii. The use of alley or side-loaded garages, or the use of a combination of garage orientations is encouraged where feasible.

iv. Garages shall not comprise more than 45percent of the front facade of the principal dwelling unit structure for 1 or 2-car garages.

3. Alleys
To break up the appearance of long expanses of garages, 1 or more of the following techniques shall be employed:

a. The use of a planting area on either side of the alley where the alley intersects with a public street. Each planting area shall be landscaped with 1 deciduous tree and shall have the remaining surface area beneath the tree covered with ground cover or other herbaceous plant materials, in conjunction with a wood or stone mulch;

b. The incorporation of individual planting areas between alley-loaded garages; or

c. The incorporation of a variety of garage setbacks and configurations along the length of the alley.

4. Block Standards
The requirements set forth in Section 6.5, shall apply to multi-family residential block design.

10.6.8 COMMERCIAL AND PUBLIC/INSTITUTIONAL USE CATEGORIES, MIXED-USE DESIGN STANDARDS

A. Alternative Equivalent Compliance

The alternative equivalent compliance procedure in Section 6.1 may be used to propose alternative means of complying with the intent of this Section.

B. Standards for the Downtown (DT) and Neighborhood Mixed-Use (NMU – Old Town) Districts

1. Purpose
These standards are intended to provide guidance for all mixed-use, commercial and public/institutional infill and redevelopment within the DT and NMU (Old Town) and to ensure that new development respects the small-town scale and historic context of the area. The standards will assist investors in making design choices that will have a positive impact on both the historic and future character of the DT and NMU (Old Town). Development in the DT and NMU (Old Town) should respect the historic character and reinforce the image of the DT and NMU (Old Town) as an attractive, pedestrian-oriented district.

2. Applicability

These standards shall apply to development in the DT and NMU (Old Town) Districts of any structure categorized in Chapter 3, as a "commercial" or "public/institutional" use.

3. Site Layout

a. ***Contextual Setback***

New structures shall respond to the contextual building setback and orientation of the surrounding structures on the block. If setbacks on either side of the development site are not consistent, an average of the setbacks found along the block on both sides of the street may be used.

b. ***Parallel to Lot Lines***

New construction shall be built parallel to lot lines to reflect the historical orientation of non-residential structures. Structures shall not be oriented at an angle to lot lines.

c. ***Building to Sidewalk Edge***

In the DT District, a minimum of 80 percent of the primary building facade for new buildings shall be located adjacent to the sidewalk edge, unless upon review of the contextual setback above, the Community Development Director determines an alternative setback would be more appropriate.

d. ***Orientation of Primary Facade***

The primary facade of a structure shall be oriented to the street, not to an interior court.

4. Building Front Width Pattern

a. In the Downtown District, historic commercial building front width pattern or spacing of façade bays shall be reinforced in new structures. Storefront-type development shall typically be differentiated every 25 feet along the block.

b. In the Neighborhood Mixed-Use District, structures wider than 25 feet shall, to the maximum extent reasonably feasible, be divided into modules that reflect the traditional building widths of the adjacent properties or the standard 25 foot storefront type development.

c. A single, large, dominant building mass on a building front shall be avoided. Buildings wider than 25 feet along a street shall design the building to appear as an aggregation of the historical design patterning for building widths found in Old Town that also integrate variation in height, texture, color and façade depth. All building facades shall have similar levels of architectural detailing.

5. Building Floor Height

The appearance of floors of new buildings shall appear to be similar in height to those of existing historic buildings in the downtown. The level of the first floor shall be at or near grade-level at the entrance.

6. Building Design

a. ***Historic Building Styles***

New designs shall draw upon the common elements of historic buildings in the community (without copying them). Examples of common elements include similar fenestration, cornice lines, building widths, and other exterior features. This will allow new structures to be seen as products of their own time, yet compatible with their historic neighbors.

b. ***Ground-Floor Pedestrian Interest***

i. The ground floor of a new building or addition to a building shall encourage pedestrian activity by providing the following elements along primary pedestrian ways:

(A) A traditional storefront with large display windows, awnings, kick plates and transoms, or public art and landscaping; or decorative wall surfaces and trims for all applicable Use Categories, in Table 3-1, other than Commercial Uses of Retail Sales and Service; Food and Beverage Service; and Financial Institution.

(B) Traditional storefront elements such as large display windows, awnings, kick plates, and transoms for new buildings with businesses for Commercial Uses of Retail Sales and Service; Food and Beverages Service; and Financial Institution found in Table 3.1. Building additions for businesses in these Commercial Use categories are encouraged to incorporate the traditional storefront elements listed above but may use the choices listed in (A) above for existing historic buildings.

ii. Buildings shall avoid blank walls or a vacant lot appearance along streets, primary pedestrian ways, and adjacent residential.

iii. All primary entry doors to the building shall be oriented to the adjacent street. Primary entry doors and entry ways into buildings shall feature at least 3 of the numbered elements below:

(A) Awnings;

(B) Recesses or projections;

(C) Arcades;

(D) Outdoor patios;

(E) Large display windows;

(F) Decorative moldings that are integrated with other decorative moldings on the building; or

(G) Accent landscaping beds.

c. ***Upper-Floor Distinction***

New buildings shall maintain the distinction between the upper floor and the street level.

i. The distinction between the street level and upper levels should be expressed through detailing, changes in materials, and fenestration.

ii. Upper floors shall be perceived as being more opaque than the lower floor.

iii. Third story floors shall be setback a minimum of 6 feet from the front facade.

d. ***Wall Articulation***

i. Structure's having single walls exceeding 50 feet in length shall incorporate a minimum of 3 or more of the numbered choices below at least every 50 feet in length:

(A) Changes in color, graphical patterning, texture or material;

(B) Projections, recesses, and reveals, expressing structural bays or other aspects of the architecture with a minimum change of plane of 12 inches;

(C) Windows and fenestration;

(D) Awnings; or

(E) Gable projections or other projecting architectural features.

ii. Buildings shall avoid blank walls or a vacant lot appearance along streets, primary pedestrian ways, and adjacent residential.

e. ***Roofs***
In the DT District, the primary roof form for new buildings shall appear to be flat, as traditionally found on the Town's downtown commercial structures. Additions to structures should have similar roof forms and pitches.

f. ***Building Materials***

i. No more than 25 percent of each façade of the building shall be finished with metal material. Metal materials used shall be compatible with the historic character of the DT and NMU-Old Town District.

ii. Façade building materials shall not create excessive glare. Mirrored glass shall not be permitted.

g. ***Awnings***
Fabric awnings are encouraged.

i. Awnings shall be canvas with a matte finish. Awnings with high-gloss finishes were not historically found in the Old Town and shall not be used.

ii. Operable awnings are encouraged.

iii. Illuminated, plastic awnings are not appropriate for the Old Town and shall be prohibited.

iv. Awning colors shall be compatible with the overall color scheme of the façade. Solid colors or subtle striped patterns shall be used.

C. Standards for the Neighborhood Mixed-Use (NMU outside of Old Town), Community Mixed-Use (CMU), Community Commercial (CC), Regional Commercial (RC), Business (B), and Public Land and Institutions (PLI)

1. Purpose
This Section is intended to promote high-quality building design, foster a more human scale and attractive street front in Commercial, Mixed-Use and Public Land and Institution Districts, project a positive image to encourage economic development in the Town, and protect property values both of the subject property and surrounding areas.

2. Applicability
These standards apply to development outside DT and NMU (Old Town) of any structure categorized in Chapter 3, as a "commercial," "public/institutional" use category or is mixed-use development.

3. Building Orientation

a. All primary buildings shall be oriented towards a public street. If any such building is on a lot or tract with frontage on a public park or open space, it shall have equally detailed façade, constructed of equally high quality materials, facing such park or open space.

b. If the proposed development consists of only 1 building, such building shall be oriented toward the primary abutting street.

c. If the proposed development consists of more than 1 building, all primary and pad site buildings shall be arranged and grouped so that their primary orientation compliments adjacent, existing development and:

i. Frames and encloses a pedestrian and/or vehicle access corridor within the development site; or

ii. Frames and encloses on at least 3 sides parking areas, public spaces, or other site amenities.

d. Building functions that do not directly serve the public, such as loading bays, and blank walls, should not be placed directly along the street. Garages that face streets shall be recessed behind the façade of primary buildings.

4. Building Massing and Façade

a. ***Building Mass***

A single, large, dominant building mass shall be avoided. Buildings shall be designed to integrate variations in height, texture, color, and façade depth. All building facades shall have similar levels of architectural detailing.

b. ***Wall Articulation***

Primary structures having single walls exceeding 40 feet in length shall incorporate 3 or more of the following features at least every 40 feet in length:

i. Changes in color, graphical patterning, changes in texture, or changes in material;

ii. Projections, recesses, and reveals, expressing structural bays or other aspects of the architecture with a minimum change of plane of 12 inches;

iii. Windows and fenestrations;

iv. Awnings; or

v. Gable projections or other projecting architectural features.

c. ***Entrances***

Each primary structure shall have a clearly defined main pedestrian entrance featuring at least 3 of the following elements:

i. Canopies or porticos;

ii. Overhangs;

iii. Recesses or projections;

iv. Arcades;

v. Arches;

vi. Peaked roof forms;

vii. Outdoor patios;

viii. Display windows;

ix. Architectural tilework or moldings integrated into the building design; or

x. Integrated planters or wing walls that incorporate landscaped areas or seating areas.

5. **Height Transitions Adjacent to Streets or Residential Areas**
   The height of each building taller than 35 feet shall be stepped down from its highest roofline at least 1 full story on any portion of the building located within 50 feet of a street-right-of-way or an adjacent area with single-family detached or duplex residential development.

6. **Roofs**
   - **a.** In the Mixed-Use Districts sloping roofs containing top-floor dwelling units or top-floor commercial spaces such as offices are encouraged.
   - **b.** Where flat roofs are used, a parapet wall at least 18 inches in height shall be used on all sides of the structure. The design or height of the parapet shall include at least 1 change in setback or height of at least 3 feet along each 60 lineal feet of façade.
   - **c.** On all structures exceeding 2 stories in height, roofs shall internally drain, and external scuppers and wall drains shall be prohibited.

7. **Ground Floor Treatment**
   Buildings shall incorporate a human scale near ground level on commercial buildings and along street facades and entryways through the use of such scale elements as windows, doors, columns, and beams.

8. **Building Materials**
   - **a.** No more than 25 percent of each façade of the building shall be finished with metal material.
   - **b.** Façade building materials shall not create excessive glare when viewed from any public street or from any residential area. Mirrored glass with a reflectance greater than 20 percent shall not cover more than 10 percent of any exterior façade of a primary or accessory structure.

9. **Bright Colors**
   Intense, bright, or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors, but shall not constitute more than 10 percent of the area of each elevation of a building. Permitted sign areas shall be excluded from this calculation.

D. Additional Standards for Neighborhood Mixed-Use (NMU outside of Old Town) and Community Mixed-Use (CMU) Districts

1. **Purpose**
   These standards are intended to supplement the standards in Subsection 6.8.C and provide guidance for mixed-use development and to promote high-quality building design, foster a more human scale and attractive street front in the Mixed-Use districts outside of Old Town.

2. **Applicability**
   These standards apply to development outside the Old Town area for the NMU and CMU zone districts.

3. **Required Mix of Uses**
   To ensure a balance of commercial, office, residential, and public/institutional primary use categories found in Table 3-1, the requirements of Table 6.8-1 shall apply to all development parcels greater than 5 acres in the Community Mixed-Use (CMU) and Neighborhood Mixed Use (NMU-outside Old Town) Districts. Each required principal use shall occupy a minimum of 25 percent of the gross floor area of the entire CMU or NMU District development area.

TABLE 6.8-1: REQUIRED MIX OF USES IN MIXED-USE DISTRICTS

Parcel Size	Minimum Number of Principal Uses	Residential Use Required
5-20 Acres	2	Yes
More than 20 Acres	3	Yes
Note: To meet these standards, there must be a minimum of 1 use from 2 different principal use groups included in the plan for development. The use groups that qualify as meeting the minimum number of uses in the Mixed Use Districts shall be the residential, office, commercial and public/institutional use groups.		

4. Design Standards

a. Maximum front setback for a principal building shall be:

i. 10 feet in NMU.

ii. 25 feet in CMU.

b. A principal building shall occupy a minimum of 35 percent of a front lot line.

c. The 3rd story front facade of a principal building shall be setback a minimum of 6 feet from the lower story front facades.

d. In the NMU district, residential dwelling units shall not occupy ground floors of buildings; however lobbies serving the upper residential floors may be located on the ground floor.

e. Drive-through or up facilities shall be prohibited in the NMU district.

10.6.9 AVIATION, MANUFACTURING AND LIGHT INDUSTRIAL USE CATEGORIES AND DESIGN STANDARDS

A. Purpose

To encourage high-quality design appropriate for aviation, manufacturing and light industrial uses while promoting economic development, protecting adjacent uses and fostering a positive image for the community.

B. Application

All development or any structure in aviation, manufacturing and light industrial use categories in Chapter 3.

C. Building Orientation

1. At least 1 primary entrance for each principal use building shall be oriented towards a public street. If any such building is on a lot or tract with frontage on a public park or open space, or is adjacent to a property zoned or used for residential use, it shall have equally detailed facade, constructed of equally high quality materials, facing such park or open space.

2. If the proposed development consists of only 1 building, such building shall be oriented toward the primary abutting street.

3. If the proposed development consists of more than 1 principal use building, all principal use buildings shall be arranged and grouped so that their primary orientation addresses all adjacent streets and complements adjacent, existing development. Internal to the site the building should:

a. Frame and enclose pedestrian and/or vehicle access corridors; or

b. Frames and encloses on at least 3 sides parking areas, public spaces, or other site amenities.

4. Building functions that do not directly serve the public, such as loading bays, and blank walls, should not be placed directly along the street.

D. Wall Articulation

The standards and requirements set forth in Subsection 6.8.C.4.b, shall apply to buildings in the aviation, manufacturing and light industrial use categories.

E. Entrances

The standards and requirements set forth in Subsection 6.8.C.4.c, shall apply to buildings in the aviation, manufacturing and light industrial use categories.

F. Roofs

The standards and requirements set forth in Subsection 6.8.C.6, shall apply to buildings in the aviation, manufacturing and light industrial use categories.

G. Materials

1. No more than 25 percent of the facade(s) of any building facing a public street, trail, park, open space or any residential area shall be finished with metal material.

2. Facade building materials shall not create excessive glare when viewed from any public street or from any residential area. Mirrored glass with a reflectance greater than 20 percent shall not cover more than 10 percent of any exterior facade.

H. Bright Colors

The standards and requirements set forth in Subsection 6.8.C.9, shall apply to buildings in the aviation, manufacturing and light industrial use categories.

I. Screening

All outdoor activity and storage shall be screened from public view. See requirements in Subsection 6.4.G.

10.6.10 EXTERIOR LIGHTING

A. Purpose

The general purpose of this Section is to require outdoor lighting that is adequate for safety and convenience; in scale with the activity to be illuminated and its surroundings; directed to the surface or activity to be illuminated; and designed to clearly render people and objects and contribute to a pleasant nighttime environment. Additional specific purposes are to:

1. Provide safety and personal security as well as convenience and utility in areas of public use or traverse, for uses where there is outdoor public activity during hours of darkness;

2. Control glare and excessive brightness to improve visual performance, allow better visibility with relatively less light, and protect residents from nuisance and discomfort;

3. Control trespass light onto neighboring properties to protect inhabitants from the consequences of stray light shining in inhabitants' eyes or onto neighboring properties;

4. Result in cost and energy savings to establishments by carefully directing light at the surface area or activity to be illuminated, using only the amount of light necessary; and

5. Control light pollution to minimize the negative effects of misdirected light and recapture views to the night sky.

B. Applicability

1. General

All exterior lighting for any type of residential or nonresidential development shall comply with the standards of this Section, unless excepted in Subsection 6.10.B.3.

2. Lighting Plan Requirement

All nonresidential developments and all residential developments with more than 5 lots or dwelling units shall submit a proposed exterior lighting plan. The plan must be submitted concurrently with the Site Plan or subdivision application. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.

3. Excepted Lighting

The following types of lighting are excepted from the requirements of this Section.

a. Soffit or wall-mounted luminaries that are permanently attached to single-family residential dwelling units, not to exceed the height of the eave.

b. Public street and right-of-way lighting.

c. Temporary decorative seasonal lighting provided that individual lamps have a light output of 60 watts or less.

d. Temporary lighting for emergency or nighttime work and construction.

e. Temporary lighting for theatrical, television, and performance areas, or for special public events.

f. Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.

g. Lighting required and regulated by the Federal Aviation Administration.

h. Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, provided that such uses comply with the following standards:

i. Maximum permitted light post height: 80 feet.

ii. Maximum permitted illumination at the property line: 2 foot-candles.

iii. Limits on hours of illumination: Exterior lighting shall be extinguished no later than 11:00 pm.

C. General Review Standard

If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this Section, properties that comply with the design standards of Subsection 6.10.D below shall be deemed to not adversely affect adjacent properties or the community.

D. Design and Illumination Standards

Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:

1. Any light source or lamp that emits more than 900 lumens (13 watt compact fluorescent or 60 watt incandescent) shall be concealed or shielded with an IESNA full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property. For purposes of this standard, "cutoff angle" is defined as the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted.
2. All fixtures shall utilize 1 of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), or high-pressure sodium with a color rendering index above 70.
3. The maximum height of any lighting pole serving a residential use shall be 20 feet. The maximum height serving any other type of use shall be 25 feet, except in parking lots larger than 5 acres, the maximum height shall be 35 feet if the pole is located at least 100 feet from any residential use.
4. Maximum lighting level uniformity (maximum to minimum) for residential parking lots shall be 15:1 and for nonresidential 10:1.
5. Parking lots and other background spaces shall be illuminated as unobtrusively as possible while meeting the functional needs of safe circulation and protection of people and property. Foreground spaces, such as building entrances and outside seating areas, shall utilize local lighting that defines the space without glare. Floodlights shall not be utilized to light all or any portion of a building facade between 10:00 pm and 6:00 am.
6. Lighting on automobile service station, convenience store, and other outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.
7. The style of light standards and fixtures shall be generally consistent with the style and character of architecture proposed on the site.
8. In no case shall exterior lighting add more than 1 foot-candle to illumination levels at any point off-site.
9. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.
10. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
11. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.
12. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.

10.6.11 OPERATIONAL STANDARDS

A. Purpose

The purpose of these operational standards is to prevent land or buildings within the Town from being used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable conditions that would create adverse impacts on the residents, employees, or visitors on the property itself or on nearby properties.

B. Applicability

The provisions of this Section shall apply to all land within the Town.

C. Standards

1. **Vibration**
   No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line.

2. **Air Pollution**
   There shall not be discharged into the atmosphere any contaminant for which threshold limit values are listed for working atmosphere by the American Conference of Governmental Industrial Hygienists in such quantity that the concentration of the contaminant at ground level at any point beyond the boundary of the property shall at any time exceed the threshold limit. Visible emissions of any kind at ground level past the lot line of the property on which the source of the emissions is located are prohibited.

3. **Odors**
   Any condition or operation that results in the creation of odors, vapors, or gaseous emissions of such intensity and character as to be detrimental to the health and welfare of the public or that interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

4. **Electromagnetic Radiation**
   It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the then-current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation.

5. **Materials and Waste Handling**
   No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to wildlife or insects shall be stored outdoors only in closed, impermeable trash containers that are screened in accordance with this UDC. Toxic and hazardous materials and chemicals shall be stored, secured and maintained so that there is no contamination of ground, air, or water sources at or adjacent to the site. Notwithstanding anything contained herein, all treatment, storage, disposal, or transportation of hazardous waste shall be in conformance with all Federal and State statutes, codes, and regulations. Provisions shall be provided so that all lubrication and fuel substances shall be prevented from leaking and/or draining onto the property.

6. **Noise**
   [Reserved]

10.6.12 SIGNS

A. Purpose

The intent of this Section shall be to define the types of signs that will be permitted in the various zoning districts and those that will be prohibited and the manner in which sign areas and dimensions will be measured, and to except certain types of signs from this Section. It is further the intent of this Section to encourage the erection of signs that are attractive and generally compatible

with the adjacent property; that will preserve and enhance property values within the community; that will provide for the public convenience, health and welfare; and that will protect the public safety.

B. Sign Permit Requirements and Exceptions

1. Building And Sign Permits Required
No sign shall be painted, constructed, erected, remodeled, relocated, expanded or have the copy of the sign changed or altered (unless the sign was approved to allow such modifications) until a building permit and a sign permit for such sign have been obtained from the Town.

2. Compliance with Provisions

a. No permit shall be issued unless there is full compliance with the provisions of this Section.

b. All signs must conform to the regulations and design standards of the adopted building and electrical codes.

3. Maintenance and Upkeep
All signs shall be maintained and kept in good repair, including without limitation, the repair of glass, plastic or other sign face material that is missing, broken, damaged, or deteriorated; and the repair of any pole, frame support, or similar structure that is broken, damaged, or deteriorated. The maintenance, renovation, or repair of a sign without structural alteration and without change of sign copy shall not require a new sign permit, but may require a building permit under the Town's adopted building code.

4. Sign Permit Fees
The fee for a sign permit shall be the building permit fee charged for the sign as determined by the currently adopted building and electrical codes.

5. Exceptions from Sign Permit
The following signs shall be excepted from the requirement of obtaining a sign permit but shall comply with all other regulations imposed by this Section:

a. ***Government Signs***
Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs concerning public health, safety and welfare.

b. ***Building Numbers***
Address numerals and other signs required to be maintained by law or governmental order, rule or regulation; provided, that the copy and size of the sign do not exceed the requirements of such law, order, rule or regulation.

c. ***Small Signs on Private Property***
Small signs, not exceeding 4 square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and the like.

d. ***Scoreboards***
Scoreboards in athletic stadiums.

e. ***Holiday Decorations***
Holiday decorations associated with any national, local, or religious holiday; provided, that such signs shall be displayed for not more than 60 days in any 1 year, and may be of any type, number, area, height, location, illumination, or animation.

f. ***Temporary Signs***

i. Temporary signs or posters announcing or advertising events sponsored by noncommercial organizations shall be excepted from limitations of window and fabric signs. Such signs shall be removed within 7 days after the occurrence of the advertised event.

ii. Temporary, non-illuminated real estate signs that do not exceed 6 square feet per face in total area and 4 feet in height. The sign must be on the property advertised for sale. The signs are limited to no more than 1 sign per street frontage. The sign must be removed within 7 days after the sale or rental of the subject property.

g. ***Memorial Signs***

Memorial signs and tablets displayed on private property, or in cemeteries.

h. ***Nameplates***

Nameplate signs not exceeding 2 square feet in gross surface area accessory to a single-family or duplex dwelling unit.

i. ***Signs Accessory to Churches, Schools, Other Institutions***

i. Identification signs not exceeding 32 square feet in gross surface area accessory to a church, school, or public or nonprofit institution.

ii. Bulletin board signs not exceeding 15 square feet in gross surface area accessory to a church, school or public or nonprofit institution.

j. ***Agricultural Business Signs***

Business signs when located on property used for agricultural purposes and about the sale of agricultural products produced on the premises.

k. ***Political Signs***

Signs concerning candidacy for public office or urging action on any ballot issue in a primary, general, or special election shall be permitted subject to the area and height restrictions set forth in this Section. The person responsible for the erection or distribution of any political signs, or the owner of the property upon which such signs are located, shall remove such signs within 10 days after the elections to which the signs pertain, unless such signs continue to be pertinent to an election to be held within 90 days, in which case such signs shall be removed within 10 days after the election to which they pertain.

l. ***Garage or Yard Sale Signs***

Garage or yard sale signs are excepted if displayed not more than 2 days before the date of the sale and removed within 12 hours of the end of the sale. Garage or yard sale signs may not interfere with traffic signs or the vision clearance triangle at intersections.

m. ***Home Occupation Signs***

Signs identifying or advertising home occupations are prohibited.

C. Location of Signs

1. On Same Lot as Premises

Unless otherwise provided for in the UDC, signs may be erected, altered, and maintained only on the same lot as the permitted use(s) it advertises or identifies.

2. Attaching to Trees or Utility Poles

No sign shall be attached to a tree or utility pole whether on public or private property.

3. **Interference with Traffic; Imitation of Traffic Signs and Signals**
No sign shall be permitted in the vision clearance triangle or at any location where, because of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, nor may it interfere with, mislead or confuse traffic.

4. **Attachments to Signs**
Except for real estate signs, no riders or attachments to signs shall be permitted.

5. **Public Right-of-way**
No sign shall be permitted on public right-of-way except governmental traffic control or governmental informational signs (see Subsection 6.12.B.5.a).

6. **Roof Signs**
No roof signs are permitted.

7. **Projecting over Public Property**
No sign shall project over public property more than 2 feet beyond the property line. The minimum clearance above a sidewalk or public place shall be 8 feet. Any end panel of a projecting sign shall be counted as a face of the sign and shall be included in the area of that sign if said end panel is more than 1 foot in width. Not more than 1 projecting sign shall be permitted on each face of a building adjacent to a street.

D. Size Standards

1. **Permitted Total Sign Area**
   - **a.** The permitted sign area in each zoning district shall be as follows:
     - **i.** AG/OS, RP1, RP2 and RP3 Districts: 32 square feet.
     - **ii.** RR, ER, and HR Districts:
       - **(A)** Nameplate Signs: 4 square feet.
       - **(B)** Identification Signs: 32 square feet.
     - **iii.** SR, LR, MR and OTR Districts:
       - **(A)** Nameplate Signs: 2 square feet.
       - **(B)** Identification Signs: 32 square feet.
     - **iv.** DT and NMU (Old Town) Districts: 1 square foot for each lineal foot of tenant frontage. The maximum allowable gross surface area for a sign shall be 32 square feet per face.
     - **v.** NMU (outside of Old Town), CMU, PLI, LI, AP, CC, RC and B Districts: 1 square foot for each lineal foot of tenant frontage. The maximum allowable gross surface area for a principle wall sign shall be 100 square feet. Secondary wall signs and monument signs shall be limited to 32 square feet per face.
   - **b.** Tenants with less than 32 linear feet of tenant frontage are permitted to have up to 32 square feet of sign area.
   - **c.** Any request for an increase in the maximum allowable area for a sign must be specifically approved by the Planning Commission as part of a Site Plan review.

2. **Measurement of Gross Surface Area**
   - **a.** The area of any sign having parts with or without backing shall be measured by determining the total area of all squares, rectangles, triangles, portions of a circle

or any combination thereof constituting the smallest single continuous perimeter enclosing the extreme limits of any of the following combinations:

i. The display surface or face of the sign including all frames, backing, faceplates, nonstructural trim or other component parts not otherwise used for support for parts of the sign; or

ii. Each word, written representation (including any series of letters), emblems or figures of a similar character, and including all frames, faceplates, nonstructural trim or other component parts not otherwise used for support for parts of the sign.

iii. All window signs shall be included in the total allowable sign area for the premises.

b. On corner and double frontage lots, each building frontage that abuts a street, highway, private drive, or alley shall be considered a separate building frontage.

3. Sign Height

a. Sign height shall be measured from average ground level at the base of or below the sign to the highest element of the sign. The maximum height of a sign in each zoning district shall be as follows:

i. AG/OS, RP-1, RP-2, RP-3 and all Residential Districts: 6 feet, except construction signs.

ii. DT and NMU (Old Town) Districts: Monument signs shall not exceed 6 feet in height. Wall signs shall not exceed the height of the roofline to which it is attached.

iii. NMU (outside of Old Town), CMU, PLI, RC, CC, B, LI, and AP Districts: Monument signs shall not exceed 10 feet in height. Wall signs shall not exceed the height of the roofline to which it is attached.

(A) Except that monument signs adjacent to Erie Parkway shall have a maximum height of 6 feet per Subsection 6.2.D.2.a.v.

b. Any request for an increase in the maximum allowable height must be specifically approved by the Planning Commission as part of a Site Plan review.

E. Number of Signs Permitted

1. Number of Signs Permitted

The following shall be the number of signs permitted in the applicable district:

a. AG/OS, RP-1, RP-2, RP-3, and all Residential Districts: 2 signs per street frontage.

b. DT and NMU (Old Town): 3 signs per tenant for each tenant building frontage.

c. NMU (outside of Old Town), CMU, CC, RC, B, LI, PLI, and AP Districts: 5 signs per tenant, (a maximum of 1 principle sign and 4 secondary signs) for each tenant building frontage, unless specified differently on an approved PD or PUD plan.

2. Increase in Maximum Number

The Planning Commission has the authority to permit an increase in the maximum number of signs. Any request for an increase in the maximum number of signs permitted must be specifically approved by the Planning Commission as part of a Site Plan review.

F. Requirements for Specific Types of Signs

1. Illuminated Signs

Illuminated signs shall be shaded to avoid casting bright light upon property in any residential district or upon any public street, park, public facility, or hospital facility.

2. Flashing Or Moving Signs

No flashing signs, signs emitting sounds, rotating or moving signs, animated signs, signs with moving lights or signs that create the illusion of movement shall be permitted. A sign whereon the current time or temperature is shown by intermittent lighting shall not be deemed to be a flashing sign.

3. Fabric Signs

Fabric signs for commercial purposes may be permitted for grand openings or similar occasions but shall be removed within 30 days from the date installed. Only 1 fabric sign per applicant/tenant shall be permitted in any calendar year, except by Special Review Use.

4. Development Identification Signs

a. ***Non-Residential***

Development Identification signs shall be permitted and be permitted to identify the development and the developments tenants. One Development Identification sign shall be permitted per arterial roadway or state highway frontage.

i. Monument signs of a maximum height of 10 feet with a maximum gross surface area of 1 square foot for each 3 lineal feet of street frontage up to a maximum of 150 square feet per face are permitted.

(A) Except that monument signs adjacent to Erie Parkway shall have a maximum height of 6 feet per Subsection 6.2.D.2.a.v.

ii. The Planning Commission has the authority to permit an increase in the maximum number of signs. Any request for an increase in the maximum allowable height or maximum allowable area of a Development Identification sign must be specifically approved by the Planning Commission as part of a Site Plan review.

b. ***Residential***

Development Identification signs shall be permitted and be permitted to contain the name of the subdivision and identifying the subdivision as within the Town of Erie. Only monument signs of a maximum height of 6 feet and a maximum gross surface area 100 square feet are permitted. A maximum of 2 monument signs are permitted at each primary entrance to the subdivision. Secondary monument signs internal to the development are permitted with a maximum height of 6 feet and a maximum gross surface area of 32 square feet.

5. Vehicle Signs

No person shall park any vehicle or trailer on a public right-of-way or public property, or on private property, so as to be visible from a public right-of-way that has attached thereto or placed thereon any sign or advertising device for the basic purpose of providing the advertisement of products or directing people to a business or activity on the same or nearby premises. This provision applies only where the primary purpose of a vehicle is for advertising purposes and is not intended to prohibit any form of vehicular signs, such as a sign attached to a truck or motor vehicle, which vehicle is primarily used for business purposes other than advertising.

6. Temporary Signs

Temporary signs in all zoning districts shall be subject to the following specific requirements:

a. ***Construction Signs***

Signs advertising subdivision, development, construction or other improvement of a property shall be permitted in any zoning district, and shall comply with the following:

i. Such signs shall be limited to freestanding, wall or window signs, shall not exceed 64 square feet in total area nor 32 square feet per face, and shall not exceed 8 feet in height. For residential developments consisting of 5 dwelling units or less, the maximum area permitted for a construction sign shall be 6 square feet per face for each dwelling unit being constructed. Construction signs shall be removed within 30 days from the time that 95 percent of the lots or dwelling units in the platted subdivision, or filing thereof, have been sold, or the construction project is completed, whichever occurs earlier.

ii. Construction signs shall be displayed only on the property to which the sign pertains. 1 such sign shall be permitted per street upon which the property either has frontage or has an entrance from a major thoroughfare; provided, that the minimum distance between signs on any single development shall be 1000 feet.

iii. In addition to a construction sign advertising a subdivision, there shall be permitted 1 model home sign identifying each different model, not to exceed 6 square feet in total area, on each lot upon which a model home is located. Such model home sign shall be removed at the time the dwelling unit ceases to be a model home.

b. ***Subdivision Directional Signs***

Signs informing the public as to route or change in direction of travel to arrive at a platted subdivision within the Town and on which a construction sign is permitted shall be permitted in any zoning district and shall comply with the following:

i. Such signs shall not exceed 15 square feet per sign in total area or 10 square feet per sign face, and shall not exceed 8 feet in height.

ii. Copy of such signs shall be limited to the name of the developer, the name of the development or project, any characteristic insignia or trademark, and necessary travel directions.

iii. Subdivision directional signs shall be located only on undeveloped land adjacent to major thoroughfares, which land may be property other than the subdivision or development to which the sign refers. The minimum distance between signs on the same thoroughfare and referring to the same subdivision shall be 1 mile.

iv. Applications for permits for subdivision directional signs shall be accompanied by a statement, signed by the owner of the property on which the sign is to be placed, showing his consent to erect the sign and assuming the responsibility for its removal.

v. Subdivision directional signs shall not be displayed before the date of recordation of the Final Plat, and shall be removed within 30 days from the time that 95 percent of the lots or dwelling units in the subdivision, or filing thereof, have been sold.

c. ***Other Temporary Signs***
Temporary signs not specifically regulated by the preceding Subsections shall be displayed only in accordance with the following conditions:

i. Such signs shall be limited to freestanding, window or wall signs only, shall not exceed 32 square feet in total surface area per use, and shall comply with the applicable height and setback regulations for the district in which they are located.

ii. Such signs shall not remain in place for more than 30 days; except, that the building official may, for good cause, extend the time up to 30 days upon written application.

10.6.13 ABANDONED MINES

A. General Provisions

All development with undermining and/or mine shafts shall provide the Town with Geological and Geotechnical Hazards reports prepared, signed and stamped by a professional in the field of undermining. The reports shall be referred to the Colorado Geological Survey for review and comment. Recommendations from the reports and Colorado Geological Survey shall be evaluated by the Town when considering appropriate land uses, restrictions applicable to land development, and foundation design due to undermining constraints. Undermining and/or mine shafts shall be noted on Sketch Plans, Preliminary Plats, Final Plats and Site Plans.

B. Mineshafts

1. All mineshafts shall be capped and monumented in accordance with State requirements, and accepted by the State before Final Plat or Site Plan approvals.

2. Mineshafts shall not be located on a residential lot.

3. Mineshafts may be located in a street right-of-way, tract, or in a non-residential lot with an easement restricted for parking, open space or landscape use. Any modifications to this provision proposed by the applicant for Town consideration shall be in compliance with recommendations from the Geological and Geotechnical Hazards reports and the Colorado Geological Survey.

4. Minimum dimensions for tracts/easements and minimum distances from abandoned mineshafts to residential lots and non-residential structures shall be determined based on recommendations from the Geological and Geotechnical Hazards reports and the Colorado Geological Survey.

C. Mine Tailings

If mine tailings are located on a property, the removal of mine tailings shall be addressed in a Development Agreement. The Town shall require submittal of a professional certification that the mine tailings and hazard associated with the tailing has been removed and completed.

10.6.14 DEVELOPMENT AND DESIGN STANDARDS TO ACCOMMODATE OIL AND GAS WELLS AND PRODUCTION FACILITIES

A. Existing Oil and Gas Wells and Production Facilities

1. All development with existing oil and gas wells and associated above ground production facilities shall provide the following setback to lots, buildings, and streets from existing wells and associated above ground production facilities:

a. Residential lots and non-residential buildings not identified in Subsection 6.14.A.1.b below, shall be set back a minimum of 150 feet.

b. An assembly building shall be set back a minimum of 350 feet.

c. Street right-of-ways shall be setback a minimum of 150 feet.

2. In a residential subdivision the well and associated production facilities shall be placed in a non-development tract.

3. In order to minimize the impact on streets and pedestrian paths and tracking of debris onto streets and pedestrian paths, subdivision design shall provide the following Town requirements and improvements for access roads to oil and gas wells and associated production facilities:

a. Subdivision shall minimize the need for access roads to connect to streets with local street classifications.

b. An access plan for the well and production facilities shall be submitted to the Town identifying which local streets that are impacted by well access needs. The streets identified shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities.

c. The developer shall improve the well and production facilities access road from the point of connection to a street a minimum distance of 200 feet on the access road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the street and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities.

d. The Town may require the developer to gate or restrict access (bollards) to the access road to minimize unauthorized use of the access.

e. If an access road intersects with a pedestrian trail or walk, the developer shall pave, as a hard surface (concrete or asphalt), the access road 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.

f. All proposed access road changes or restrictions shall be approved by the mineral right owner before Final Plat approval.

4. Developments with existing oil and gas wells and associated above ground production facilities shall add fencing to non-fenced wells and facilities or upgrade fencing for wells and facilities in conformance with the following requirements.

a. Oil and gas well facilities (above ground) within the Town shall be fenced with wrought iron fencing or Ameristar Impasses or Stronghold fencing or approved equivalent, as determined by the Community Development Director.

b. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.

c. All proposed fencing changes shall be approved by the mineral right owner before Final Plat approval or for sites already platted, before Site Plan approval.

5. Developments with existing oil and gas wells and associated above ground production facilities shall paint the wells and associated above ground production facilities a color determined by the Community Development Director. All proposed paint improvements shall be approved by the mineral right owner either before Final Plat or Site Plan approval.

6. Developments with existing oil and gas wells and associated above ground production facilities shall provide screening by installing berming with landscaping when required by the Town. All proposed landscape improvements shall be approved by the mineral right owner either before Final Plat or Site Plan approval.

B. Oil and Gas Well Pipelines

1. Gas and oil well pipelines and their associated easements shall not be located on residential lots.
2. Streets should be platted so pipelines cross at a substantially right angle to the street.
3. The Final Plat shall show easements for gas and oil well pipelines that are a minimum of 30 feet wide.

C. Abandoned Oil and Gas Wells and Production Facilities

1. Oil and gas wells and production facilities shall be abandoned and reclaimed before approval of a Final Plat. The following shall be completed before approval is granted by the Town:
   a. A letter of confirmation from the State shall be submitted to the Town regarding the completion of the abandonment and reclamation process in accordance with State law and COGCC regulations.
   b. Recorded documentation of abandonment of easements associated with the well shall be submitted to the Town.
2. Capped wellheads shall be identified by a concrete and brass monument that will be recorded and noted on the final plat.
3. All subdivisions with wellheads abandoned and reclaimed in accordance with state law and COGCC regulations shall use the following standards to plat lots and streets:
   a. Streets may be platted over abandoned wellheads if conflicts do not occur with infrastructure requirements within the street.
   b. A non-residential lot may contain an abandoned wellhead. The plat shall identify a building setback of 25 feet from the monumented abandoned wellhead.
   c. Residential lots 1 acre or larger may plat over an abandoned wellhead. The plat shall identify a building setback of 25 feet from the monumented abandoned wellhead.
   d. Abandoned wellheads, and the required setback surrounding the abandoned wellhead, shall not be located in single-family lots under 1 acre in size.
   e. Abandoned wellheads, and the required setback surrounding the abandoned wellhead, shall not be located in multi-family lots.
   f. In subdivisions where an abandoned wellhead cannot be placed in a street or lot meeting the standards of this Subsection; the abandoned wellhead shall be placed in a tract. The abandoned wellhead and required setback surrounding the abandoned wellhead may not be located in a park.

D. Future Oil and Gas Wells and Production Facilities

1. All subdivisions that have oil and gas rights associated with the property that have not been executed need to take those rights into consideration when platting. The Town strongly

encourages developers to either purchase the mineral rights or to negotiate the co-location of future and/or existing wells to minimize the impact on subdivision of the property.

2. Any agreements between the property owner and mineral right owner shall be submitted to the Town. Location and setback information agreed to in the agreement shall be reflected on the plat.

3. If co-location of facilities will affect existing or proposed Town owned sites, then the Town shall be a party to the agreement.

4. The following setbacks shall be provided to future oil and gas wells and above ground production facilities:

a. Residential lots and non-residential buildings shall be set back a minimum of 350 feet. This setback may be reduced as an incentive to developers to co-locate facilities. Developers who propose to co-locate facilities shall provide the Town with a copy of a recorded surface use agreement with the mineral right owner/lessee prior to approval of a Site Plan, Final Plat, or Minor Subdivision. For applications that require a Preliminary Plat, the applicant shall provide the Town with a draft of the surface use agreement and/or a letter from the mineral right owner/lessee acknowledging that they are actively negotiating a surface use agreement to co-locate the facilities as represented by the applicant. Any reduction of the 350 foot setback proposed by the applicant for Town consideration shall be in compliance with all COGCC regulations and requirements.

b. Street right-of-ways shall be setback a minimum of 150 feet from future oil and gas wells and above ground facilities.

5. The future oil and gas well and production facilities setbacks identified above shall be identified on the plat.

6. In a residential subdivision the future well and associated production facilities shall be placed in a tract.

7. Subdivision design shall address the following Town requirements for future access roads and pipelines to future oil and gas wells and associated production facilities:

a. Subdivision design shall minimize the need for future access roads to connect with local street classifications. If future access roads are designed to connect to local streets then the local streets accessed shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities.

b. An access plan for the future well, production facilities, and pipelines shall be submitted to the Town. The Plan shall identify which local streets that are impacted by well access needs. The streets identified shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities. The Plan shall also identify routing of future pipelines so that the appropriate easements and or tracts can be created during the platting process to accommodate the pipelines.

c. Future gas and oil well pipelines and their associated easements on the Final Plat shall not be located on residential lots.

d. Streets shall be platted so future pipelines will cross at a substantially right angle to the street.

e. The Final Plat shall show easements for future gas and oil well pipelines that are a minimum of 30 feet wide.

CHAPTER 7: REVIEW AND APPROVAL PROCEDURES

10.7.1 SUMMARY AND ORGANIZATION OF THIS CHAPTER

A. This Chapter describes the procedures for review and approval of all applications for development activity in the Town. Common procedures, which are applicable to all or most types of development applications, are in Section 7.2. Subsequent Sections set forth additional provisions that are unique to each type of application, including staff and review board assignments, review standards, and other information.

B. Table 7.1-1 summarizes the review and decision-making responsibilities for the administration of the procedures described in this Chapter. The table is a summary tool and does not describe all possible types of decisions made under this UDC. Other duties and responsibilities are described in this Chapter.

C. The Community Development Director may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this Chapter.

TABLE 7.1-1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES

NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 7.

R = Review (Responsible for Review or Recommendation) **H = Hearing (Public Hearing Required)**
D = Decision (Responsible for Final Decision) **A = Appeal (Authority to Hear/Decide Appeals**

			Decision-Making Body						Notice Required		
Procedure	**Section**	**Pre-App Conf?**	**Board of Trustees**	**Planning Comm.**	**Board of Adjstmnt.**	**Chief Building Official**	**Town Staff**	**Referral Agencies/ Consultants**	**Mailed**	**Published**	**Posted**
Annexation	7.3	Yes	D-H				R			X	
Initial Zoning	7.4	Yes	D-H				R		X	X	X
Rezoning	7.5	Yes	D-H	R-H			R	R	X	X	X
Rezoning to PUD:	7.6	Yes	D-H	R			R	R	X	X	X
Subdivision: Sketch Plan	7.7 C.	Yes					R				
Subdivision: Preliminary Plat	7.7 C.		D-H	R-H			R	R	X	X	X
Subdivision: Final Plat	7.7 D.	Yes		A-H			D	R			
Subdivision: Minor Subdivision	7.7 E.	Yes		A-H			D	R			
Subdivision: Minor Subdivision – Non-Residential Parcels	7.7.F	Yes	D-H	R-H			R	R	X	X	X
Variance	7.9				D		R	R	X	X	X
Vacation	7.10	Yes	D	A-H			R	R			
Easement/Land Dedication	7.11		D				R				
Site Plan: Administrative Review	7.12 D	Yes	A-H				D	R			
Site Plan: Planning Commission Review	7.12 E	Yes	A-H	D-H			R	R	X	X	X

TABLE 7.1-1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES

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			Decision-Making Body						Notice Required		
Procedure	**Section**	**Pre-App Conf?**	**Board of Trustees**	**Planning Comm.**	**Board of Adjstmnt.**	**Chief Building Official**	**Town Staff**	**Referral Agencies/ Consultants**	**Mailed**	**Published**	**Posted**
Special Review Use	7.13	Yes	D-H	R-H			R	R	X	X	X
Architectural Review w/out Subdivision or Site Plan	7.14		A				D	R			
Building Permit, C/O's, and Performance Requirements	7.15				A-H	D					
Temporary Use Permit	7.16				A-H		D				
Annexation Agreement	7.17		D				R				
Development Agreement	7.18		D				R				
Site Plan Agreement	7.19		D				R				
Improvement Guarantees	7.20						D				
Amendment to Text of this UDC	7.21	Yes	D-H	R			R			X	
Planned Development Zoning	7.23	Yes	D-H	R			R	R	X	X	X
Floodplain Permit	2.7 C.				A-H		D				
Fence Permit	6.4 H.				A-H	D					
Sign Permit	6.12				A-H	D					

10.7.2 COMMON DEVELOPMENT REVIEW PROCEDURES

The common development review procedures in this Section 7.2 shall apply to all types of development applications under this Chapter, unless an exception to the common procedures is expressly called for in the particular development application requirements in subsequent Sections of this Chapter.

A. Step 1: Pre-Application Conference

1. Purpose

The purpose of a Pre-Application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant and the Town staff with the applicable provisions of this UDC, the Town's Comprehensive Master Plan, and other documents as may be appropriate, including the Town's Parks, Recreation, Open Space and Trails Master Plan and the Town's Standards and Specifications for Design and Construction of Public Improvements, infrastructure requirements, and any other issues that may affect the applicant's proposal.

2. Applicability

a. *Required for New Applications*

A Pre-Application conference is required prior to certain types of applications, as listed in Table 7.1-1. Applications for these types of approvals shall not be accepted until after the Pre-Application conference is completed. The conference shall take place prior to any formal development application submittal to the Town.

b. *Exception for Some Changes to Previously Approved Applications*

Pre-Application conferences are not required for changes to previously approved Special Review Uses and subdivision plans if the following conditions are met:

i. For non-residential development, the proposed increase in building square footage is less than 50 percent of the existing building square footage.

ii. For residential development, the proposed increase in the number of dwelling units or lots is not more than 50 percent of the existing number of dwelling units or lots.

Changes to already-approved Special Review Uses and subdivision plans that exceed these thresholds shall require a Pre-Application conference.

c. *Optional for All Other Applications*

A Pre-Application conference is optional prior to submission of any other application under this UDC not listed as requiring a conference in Table 7.1-1.

3. Initiation of Pre-Application Conference

The applicant shall request a Pre-Application conference with the Community Development Director and pay the required fee, if applicable. With the request for a Pre-Application conference, the applicant shall provide to the Community Development Director a description of the character, location, and magnitude of the proposed development and any other supporting documents, such as maps, drawings, models, and the type of application. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal for staff to make the informal recommendations discussed below.

4. Pre-Application Conference Content

The Community Development Director shall schedule a Pre-Application conference after receipt of a proper request. At the conference, the applicant, the Community Development Director or designee, and any other persons the Community Development Director deems appropriate to attend shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this UDC, the parties should discuss in

general the proposed development and the applicable requirements and standards of this UDC.

5. **Informal Evaluation Not Binding**
The informal evaluation of the Community Development Director and staff provided at the conference are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of the formal application of issues which may be presented to the appropriate decision-making body.

6. **Application Required Within 6 Months**
After a Pre-Application conference has been held, an application must be submitted within 6 months or sooner if required by the Community Development Director due to changing conditions. If an application is not filed within such timeframe, a new Pre-Application conference shall be required prior to filing an application, unless waived by the Community Development Director.

7. **Optional Planning Commission Conference**
At the applicant's request, the Planning Commission may grant an application conference, which shall be in addition to the required Pre-Application conference with the Community Development Director.

B. Step 2: Development Application Submittal

1. **Form of Application**
Applications and submission materials required under this Chapter shall be submitted in a form and in such number as required by the Community Development Director and described in the User's Guide's.

2. **UDC User's Guide**
The Community Development Director shall compile the requirements for application contents, forms, fees, and the submission materials and review schedule in a User's Guide, which shall be made available to the public. The Community Development Director may amend and update the User's Guide from time to time.

3. **Consolidated Development Applications and Review**
Multiple development applications for the same development proposal may be consolidated for submittal and review, as required by the Community Development Director and the User's Guide and depending upon the complexity of the proposal. Such consolidated applications shall be reviewed, considered, and decided upon by the highest level decision-maker that would have decided any of the individual review processes under this Chapter had they been submitted, processed, and considered as separate development applications. Decision-makers, from highest level to lowest level for purposes of this Subsection, are the Board of Trustees, the Planning Commission, and the Community Development Director, respectively. Annexation and Zoning Applications cannot be consolidated with Subdivision and Site Plan applications. Site Plan Applications can be submitted and processed concurrently with Preliminary Plat applications; however a Site Plan application can only be given final approval after a Final Plat approval is granted. While the noted types of applications cannot be consolidated into one application, the individual applications can be processed simultaneously.

4. **Authority to File Applications**
   a. Unless otherwise specified in this UDC, applications for review and approval may be initiated by:
      i. The owner of the property that is the subject of the application; or
      ii. The owner's authorized agent; or

iii. The Board of Trustees; or

iv. Other entities that have rights provided by law.

b. When an authorized agent files an application under this UDC on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.

c. When a review or decision-making body initiates action pursuant to this UDC, it does so without influencing the approval or denial of the application.

5. Development Review Fees

a. *Recovery of Costs*

Development review fees are hereby established for the purpose of recovering the costs incurred by the Town in processing, reviewing, and recording applications pertaining to development applications or activity within the Town or its Comprehensive Master Plan area. In addition, an applicant shall pay all costs billed by the Town for costs incurred in review of an application, including attorney fees, review fees from consultants acting as staff or other fees. The applicant shall pay the development review fees imposed pursuant to this Section, at the time of submittal of any development application. The applicant, as required herein, shall pay other costs as the Town incurs them.

b. *Development Review Fee Schedule*

The amount of the Town's development review fees shall be established by the Board of Trustees, and shall be based on the actual expenses incurred by or on behalf of the Town. The schedule of fees are noted in Title 2 of the Municipal Code and on the Land Use Application. The schedule of fees may be reviewed annually by the Community Development Director, on the basis of actual expenses incurred by the Town to reflect the effects of inflation and other changes in costs. If an adjustment to the fee schedule is warranted, the revised schedule shall be referred to the Board of Trustees for approval.

c. *Outstanding Fees and Costs*

All fees and costs shall be paid by the applicant prior to scheduling of hearings or meetings for any development application. No new applications shall be accepted by the Town until all previous fees and costs associated with an applicant, application or property are paid in full.

6. Waivers

The Community Development Director may waive certain submittal requirements when such submittal requirements are unrelated to any project impacts, or to reduce the burden on the applicant by tailoring the requirements to produce only the information necessary to review any particular application. The Community Development Director may waive such requirements when it is determined that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such waiver.

7. Additional Information

Additional application-specific information may be required by the Community Development Director, Public Works Director, Planning Commission, and/or Board of Trustees, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this UDC.

8. Inactive Files

If an applicant fails to submit required information for a period of more than 6 months from the initial request, the application shall become void and the re-submittal of a new application and fees shall be required. The Community Development Director may grant

no more than 2 extensions of time to this provision, of no more than 6 months each, upon a written request by the applicant.

C. Step 3: Determination of Application Completeness

After receipt of the development application, the Community Development Director shall determine whether the application is complete and ready for formal processing.

1. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this UDC. An application shall be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the User's Guide, and is accompanied by the applicable fee or fees. The determination of completeness by the Community Development Director shall not be based upon the perceived merits of the development proposal.
2. If an application is determined to be incomplete, the Community Development Director shall provide notice to the applicant along with an explanation of the application's deficiencies. Further processing of an incomplete application shall not occur until the deficiencies are corrected in a future re-submittal.
3. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed incomplete.

D. Step 4: Neighborhood Meeting

1. **Purpose**
   The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the developer intends to meet the standards contained in this UDC, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.
2. **Applicability**
   A neighborhood meeting shall be required for any development proposal that will be subject to Planning Commission review, unless otherwise indicated in this Chapter. However, the Community Development Director may waive the neighborhood meeting requirement if it is determined that the development proposal would not have significant impacts in any of the areas listed below. The waiver shall be in writing and shall be included as part of the case record.
   - **a.** Traffic;
   - **b.** Natural resources protected under this UDC;
   - **c.** Provision of public services such as safety, schools, or parks;
   - **d.** Compatibility of building design or scale; or
   - **e.** Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.
3. **Notice of Neighborhood Meeting**
   The applicant shall give mailed and posted notice of the neighborhood meeting to property owners, pursuant to the general notice provisions of Subsection 7.2.F. An affidavit shall be submitted to the Town, by the applicant, stating that the notice requirement has been met.
4. **Attendance at Neighborhood Meeting**
   If a neighborhood meeting is required, the applicant or applicant's representative shall attend the meeting. The applicant shall be responsible for scheduling the meeting,

coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Community Development Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting shall be deemed informative of the Towns' development application processing and yet non-determinative.

5. **Summary of Neighborhood Meeting**
   The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

E. Step 5: Application Referral, Review and Staff Report

After determining that a development application is complete, Town staff shall process the development application in the following manner.

1. **Referral Packets**
   Staff shall notify the applicant of the number of copies of the application and submittal information required for distribution to referral agencies. Referral packets shall be provided by the applicant in unsealed Tyvek envelopes, addressed to the appropriate referral agency, containing all submittal information properly folded and compiled. Staff shall mail the referral packets. The applicant shall distribute any revised plans, as required by staff.

2. **Referral Review**
   Staff and referral agencies shall provide comments on the application(s) within 21 days of receiving a complete submittal unless the applicant agrees to an extension of no more than 30 days. The applicant is encouraged to meet with referral agencies prior to the end of the referral period. The applicant is required to pay fees assessed by referral agencies.

3. **Resolution of Issues**
   Staff shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with a written summary of how all outstanding referral and staff comment issues have been resolved. Documentation from the referral agency that the issue has been resolved shall also be submitted to the Town. At the discretion of the Community Development Director, referral comments requiring significant changes to a development application, plan or proposal may require re-referral to any and all referral agencies.

4. **Staff Report**
   After staff has scheduled an application for a review or public hearing, staff shall prepare a Staff Report. The Staff Report shall indicate whether, in the opinion of the staff, the development application complies with all applicable standards of this UDC. Staff may recommend approval, denial or conditions for approval may also be recommended to eliminate any areas of non-compliance or mitigate any adverse effects of the development proposal. The Staff Report shall be made available for inspection and copying by the applicant and the public prior to the scheduled public hearing on the development application.

F. Step 6: Notice

1. **Content of Notices**
   Notice of all public hearings required under this Chapter shall, unless otherwise specified in this UDC: (1) identify the date, time, and place of the public hearing, (2) if applicable, describe the property involved in the application by street address or by legal description and nearest cross street; (3) describe the nature, scope, and purpose of the proposed

action; (4) indicate that interested parties may appear at the hearing and speak on the matter; and (5) indicate where additional information on the matter may be obtained.

2. Summary of Notice Requirements

The following Table 7.2-1 summarizes the notice requirements of the procedures set forth in this Chapter.

3. Published Notice

a. When Table 7.2-1 requires that notice be published, the Community Development Director shall cause a notice to be published in a newspaper having general circulation in the area. The notice shall be published at least 15 days prior to the scheduled hearing date. In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.

b. Subdivision applicants shall also comply with the post-approval requirements for published notice contained in C.R.S. §§31-23-221 and 31-23-222.

4. Mailed Notice

When Table 7.2-1 requires that mailed notice be provided, the applicant shall provide the Community Development Director with a current (prepared within 30 days of the scheduled hearing) list of applicable property owners and organizations as listed below. The noted list shall be prepared by the applicant or their authorized representative, along with stamped and addressed envelopes to each owner. The Community Development Director shall mail such notice via the United States Postal Service using first class mail at least 15 days prior to the scheduled date of the hearing. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted. Mailed notice shall be provided to the following persons or groups:

a. ***Property Owners***

All persons listed on the records of the County Assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the land subject to the application.

b. ***Additional Persons***

Such additional persons or geographic areas as the Community Development Director may designate.

c. ***Subdivision Applicants***

Subdivision applicants shall comply with notice requirements of C.R.S. §31-23-214 *et seq.*

5. Posted Notice

a. When Table 7.2-1 requires that notice be posted, the applicant shall cause a notice to be posted on the property for at least 15 days before the scheduled hearing date. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted.

b. Notice shall be posted along the public street right-of-ways bordering the property, or as otherwise approved by the Community Development Director. Notice of public hearings required under this UDC shall also be posted at the locations specified in the Town of Erie Public Meeting Posting Resolution.

c. Posted notices shall include all the content specified in Subsection 7.2.F.1 above except for the legal description.

d. Before the public hearing, the applicant shall submit to the Community Development Department a notarized affidavit, signed by the person who did the

posting or the person who caused the posting to be done, that notice was posted and maintained as required by this Subsection.

e. The applicant is responsible for ensuring that the posted notices remain in place, in legible condition until the public hearing is concluded, and for removal of said posted notices within 2 days after the public hearing is concluded.

6. Constructive Notice

a. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this UDC.

b. When the records of the Town document the publication, mailing, and posting of notices as required by this Section, it shall be presumed that notice of a public hearing was given as required by this Section.

7. Notice of "Major Activities"

Applicants proposing a subdivision or commercial or industrial activity that will cover 5 or more acres of land shall comply with the notice requirements for "major activities" contained in C.R.S. §31-23-225.

8. Mineral Owner Notice Requirements

All development applicants shall comply with the notice requirements contained in C.R.S. §24-65.5-103, which are designed to protect the interests of mineral owners.

G. Step 7: Public Hearing

A public hearing, if required under this UDC, shall be conducted according to the following procedures:

1. Rights of All Persons

Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name, address and, if appearing on behalf of a person or organization, the name and mailing address of the person or organization being represented.

2. Exclusion of Testimony

The decision-maker conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious.

3. Continuance of Public Hearing

The decision-maker conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place. All continuances shall be granted at the discretion of the body conducting the public hearing. Re-publication and re-noticing of continued public hearings shall be at the discretion of the body conducting the public hearing.

4. Court Reporter

The Community Development Director shall have the discretionary authority to require the presence of a court reporter at any public hearing required by this Chapter and to assess the cost of such reporter to the applicant.

5. Order of Proceedings at Public Hearing

The order of the proceedings at the public hearing shall be as follows:

a. ***Opening of Public Hearing***

The public hearing shall be formally opened by the Town body conducting the public hearing.

b. ***Staff Report Presented***

The Community Development Director or designee shall present a narrative and/or graphic description of the development application. The Community Development Director or designee shall present a Staff Report which includes a written recommendation. The staff presentation may be given before or after the applicant's presentation, at the discretion of the Community Development Director. The staff recommendation shall generally address the standards required to be considered by this UDC prior to approval of the development application.

c. ***Applicant Presentation***

The applicant shall present any relevant information the applicant deems appropriate. Copies of all writings or other exhibits that the applicant wishes the decision maker to consider should be submitted to the Community Development Director before the public hearing.

d. ***Public Testimony***

Relevant public testimony shall be heard.

e. ***Applicant Response***

The applicant may respond to any testimony or evidence presented by the public.

f. ***Staff Response***

The Community Development Director, the Town Attorney, and any other staff member may respond to any statement made or evidence presented by the applicant or the public.

g. ***Close of Hearing***

After consideration of the development application, the Staff Report, any additional written and/or exhibit materials submitted, and the evidence from the public hearing, the decision-maker shall close the public hearing.

H. Step 8: Decision and Findings

1. Decision

After consideration of the development application, the Staff Report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the decision-maker shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria, as described in Step 9 of the Common Development Review Procedures.

2. Findings

All decisions shall include at the least the following elements:

a. A clear statement of approval, approval with conditions, or denial, whichever is appropriate; and

b. A clear statement of the basis upon which the decision was made, including specific, written findings of fact with reference to the relevant standards of this UDC and other Town regulations, plans and documents.

3. Effect of Inaction on Applications

Except for subdivision applications covered under C.R.S. §31-23-215, when a review or decision-making body fails to take action on an application within the time required (which varies by type of application), such inaction shall be deemed a denial of the application, unless the decision-making body agrees to an extension of the time frame.

4. Record of Proceedings

a. ***Recording of Public Hearing***

The decision-maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Town Clerk, and payment of a fee to cover the cost of duplication of the record.

b. ***The Record***

The record shall consist of the following:

i. All exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items entered into the record by the decision maker at the proceedings.

ii. All minutes of the proceedings.

iii. If appealed, a verbatim transcript of the proceedings before the decision maker. The cost of preparing the transcript shall be borne by the applicant.

iv. If available, a videotape recording of the proceedings before the decision maker.

5. Recording of Decisions and Plats

a. ***Filing with Town Clerk***

Once approved the decision and required documents of the decision maker shall be filed with the Town Clerk.

b. ***Final Plats Recorded with County Clerk and Recorder***

Once the Final Plat and associated construction plans are approved, the Development Agreement is executed, the guarantees submitted and approved, required documents, and any other conditions of approval have been met the Final Plat shall be recorded in the Office of the appropriate County Clerk and Recorder and shall be filed with the Town Clerk. All recording fees shall be paid by the applicant.

I. Step 9: Approval Criteria

To approve a development application, the decision-maker must first determine and find that the development application has satisfied and followed the applicable requirements of this Chapter, the general intent of the Towns' Comprehensive Master Plan and other Town plans and documents as applicable, and meets all of the approval criteria required for the applicable development application, which are set forth in subsequent Sections of this Chapter under "Step 9, Approval Criteria."

For denial of an application the decision maker shall determine and find that the development application has not satisfied and followed the applicable requirements of the Unified Development UDC, the Comprehensive Plan and other Town plans and documents, and has not met the approval criteria required for the applicable development application.

J. Step 10: Conditions of Approval

1. The decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and general intent of the Towns' Comprehensive Master Plan and this UDC. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development. No conditions of approval, except for those attached to Variance or Minor Modification approvals shall be less restrictive than the requirements of this UDC.

2. The applicant may be required to pay reimbursements to the Town or to a party paying for public improvements and/or land acquisitions for public improvements that benefit the applicant's property or potentially benefit the applicant's property or development thereon. This requirement shall be reflected in any agreements entered into by the applicant and the Town.

K. Step 11: Amendments

1. **Minor Amendments**
   Minor Amendments to any form of approval issued under this Chapter may be approved, approved with conditions, or denied administratively by the Community Development Director and may be authorized without additional public hearings. Such Minor Amendments may be authorized by the Community Development Director as long as the development approval, as so amended, continues to comply with the standards of this UDC, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this UDC by reason of such amendments). Minor Amendments shall only consist of any or all of the following:

   a. Any change to any form of approval issued under this Chapter that was originally subject only to administrative review and was approved by the Community Development Director, provided such change would not have disqualified the original plan from administrative review had it been requested at that time; and provided that:

   i. The Minor Amendment results in an increase or decrease by 1 percent or less in the approved number of dwelling units; or

   ii. The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or

   iii. The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or

   iv. The Minor Amendment does not result in a change in the character of the development.

   b. Any change to any form of approval issued under this Chapter that was originally subject to review by the Planning Commission and was approved by the Planning Commission, provided that:

   i. The Minor Amendment results in an increase or decrease by 1 percent or less in the approved number of dwelling units; or

ii. The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or

iii. The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or

iv. The Minor Amendment does not result in a change in the character of the development.

c. The Community Development Director may refer any amendment to the Planning Commission and, if so referred, the decision of the Planning Commission shall constitute a final decision, subject only to appeal as provided for in Section 7.22.

2. Major Amendments
Amendments to any approval that are not determined by the Community Development Director to be Minor Amendments under the criteria set forth in Subsection 7.2.K.1 above, shall be deemed Major Amendments. Major Amendments to approvals under this UDC shall be reviewed and processed in the same manner as required for the original application for which amendment is sought. Any Major Amendments shall be recorded as amendments in accordance with the procedures established for the filing and recording of such initial approvals.

L. Step 12: Lapse

1. If applicable, the lapse of approval time frames established by the procedures of this UDC may be extended only when all of the following conditions exist:

a. The provisions of this UDC must expressly allow the extension;

b. An extension request must be filed prior to the applicable lapse-of- approval deadline;

c. The extension request must be in writing and include justification; and

d. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.

2. Approvals of land use applications shall be null and void if not completed within the lapse of approval time frames established by the procedures of this UDC.

10.7.3 ANNEXATIONS

A. Purpose

This Section provides the procedure by which land shall be brought into the municipal limits and jurisdiction of the Town.

B. Procedure

The common development review procedures of Section 7.2 shall apply, with modifications as noted below. Annexation applications should be accompanied by a zoning application that is processed concurrently with the annexation application.

1. Step 1 (Pre-Application Conference)
Applicable.

2. Step 2 (Development Application Submittal)
Applicable, with the following modifications:

The applicant shall submit a formal Annexation application in accordance with the User's Guide. The application shall include at a minimum the proposed zoning for the property and a Concept Plan for the property's development, prepared to the specifications of the subdivision Sketch Plan (see Subsection 7.7.C). The applicant also shall submit an Annexation Agreement, as follows:

a. ***Annexation Agreement***

i. Except for Town-owned property, Town-initiated annexation of enclaves, or when waived by the Board of Trustees, an Annexation Agreement is required before the Annexation may be approved. The Annexation Agreement shall contain inducements by the applicant for favorable consideration of the Annexation, and shall identify the mutual understanding of the commitments and responsibilities of both the Town and the property owner(s) about the Annexation. Such agreement shall address the approval criteria listed in Step 9 below and shall be specifically enforceable by the Town.

ii. The Community Development Director shall coordinate all Annexation Agreement negotiations. The Community Development Director shall prepare the first draft of the agreement in a form approved by the Town Attorney and present such to the applicant. The property owners may either sign the agreement or present an alternative agreement to the Community Development Director for consideration.

(A) If the applicant accepts the agreement as drafted by the Town, the applicant shall submit to the Community Development Director the Annexation Agreement, signed and acknowledged by all owners, at least 7 days before the Board of Trustees meeting at which the first reading of the Annexation Ordinance will be considered.

(B) If the applicant presents an alternative agreement to the Town for consideration, the applicant shall submit to the Community Development Director the Annexation Agreement, signed and acknowledged by all owners, at least 14 days before the Board of Trustees meeting at which the first reading of the Annexation Ordinance will be considered. If the applicant's alternative agreement differs substantially from the Town-prepared agreement, the Town may delay scheduling the Annexation for Board of Trustees consideration in order to review the alternative agreement.

3. Step 3 (Determination of Application Completeness)
Applicable.

4. Step 4 (Neighborhood Meeting)
Not applicable.

5. Step 5 (Application Referral, Review and Staff Report)
Applicable, with the following additional requirement:

a. ***Resolutions Regarding Statutory Compliance***
The Community Development Director shall report to the Board of Trustees an assessment of whether the Petition for Annexation substantially complies with C.R.S. §31-12-107. The Board of Trustees shall review the petition and the Community Development Director's report and shall, by resolution, make a finding that the petition is or is not in substantial compliance with C.R.S. §31-12-107.

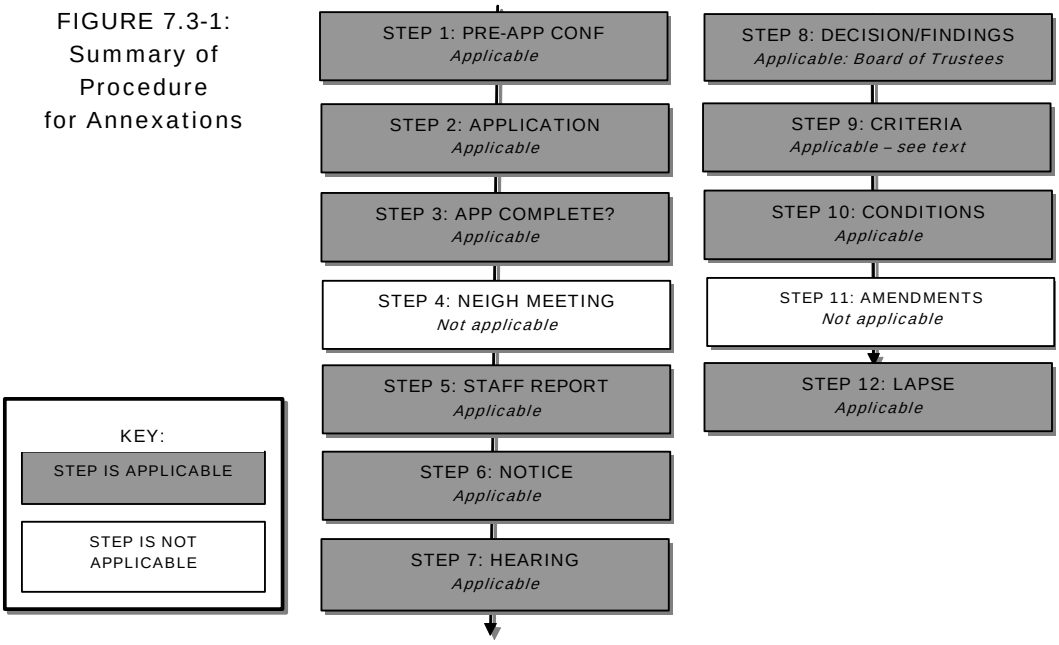
i. If the petition is found to be in substantial compliance with C.R.S. §31-12-107, the procedure outlined in C.R.S. §31-12-108 to §31-12-110 shall be followed.

ii. If the Board of Trustees finds that the petition is not in substantial compliance with C.R.S. §31-12-107, then no further action shall be taken on the application for annexation.

6. Step 6 (Notice)
Applicable, as follows: Published and posted notice of hearings on Annexations shall be provided as required by C.R.S. §31-12-108. If applicable, the Town shall prepare the Annexation Impact Report in accordance with C.R.S. §31-12-108.5.

7. Step 7 (Hearing)
Applicable.

FIGURE 7.3-1: Summary of Procedure for Annexations



8. Step 8 (Decision and Findings)
Applicable. The following additional procedures shall apply:

a. ***Action by Board of Trustees***
The Board of Trustees shall hold a hearing on the proposed Annexation and, based upon the recommendations of the Community Development Director and the applicable approval criteria listed below, approve the Annexation by ordinance, deny the Annexation, or refer the Annexation to the Planning Commission or to a committee of the Board of Trustees for further consideration.

b. ***Annexation Ordinance Required***
After completing a hearing under C.R.S. §31-12-109 and adopting an appropriate resolution under C.R.S. §31-12-110, the Board of Trustees may annex the petitioned area by adopting, with or without conditions, an Annexation Ordinance.

c. ***Hearing***

i. *Annexation Impact Report*

(A) When an annexation agreement is contemplated for a proposed annexation, the Town will not conduct a hearing until all requirements of C.R.S. §31-12-108.5 (annexation impact report) have been fully satisfied.

(B) The Town will include a draft annexation agreement in the annexation impact report required by C.R.S. §31-12-108.5.

9. Step 9 (Approval Criteria)
Applicable, as follows: All annexations shall be reviewed for compliance with the following criteria. However, annexation is a discretionary, legislative act. The Town shall never be compelled to annex, unless otherwise required by State law, even if all these review criteria have been satisfied.

a. The Annexation is in compliance with the Municipal Annexation Act of 1965 (C.R.S. §31-12-101, et seq., as amended).

10. Step 10 (Conditions of Approval)
Applicable, with the following modification: Any terms or conditions of Board of Trustees approval shall be contained in the Annexation Ordinance or an Annexation Agreement.

11. Step 11 (Amendments)
Not applicable.

12. Step 12 (Lapse)
Applicable, as follows:

a. ***Annexation Not Final Until Satisfaction of All Requirements***

i. Town action on the Annexation application shall not become final unless all requirements of the Annexation Ordinance and State statutes have been satisfied, as certified by the Community Development Director. The approved Annexation shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Annexation Map within 60 days from approval.

ii. If the requirements of the Annexation Ordinance and State statutes are not satisfied within the applicable time period, the Annexation approval shall lapse and be of no further force and effect.

iii. When all requirements have been satisfied, the ordinance, the Annexation Agreement, and the Annexation Map shall be recorded with the appropriate County Clerk and Recorder, and the Annexation will then be final.

10.7.4 INITIAL ZONING

A. Purpose

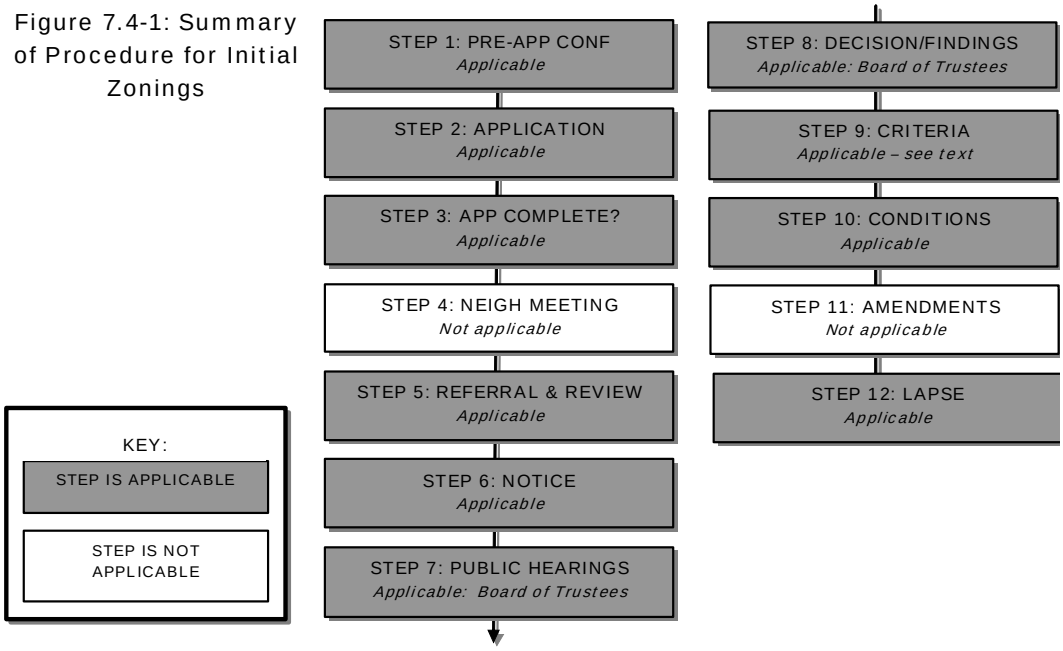
The boundaries of zone districts and the zone classification of a parcel of land shall be identified at the time a property annexes into the Town of Erie, pursuant to this Section.

B. Procedure

1. Step 1 (Pre-Application Conference)
Applicable.

2. **Step 2 (Development Application Submittal)**
   Applicable, see User's Guide for submittal requirements.
3. **Step 3 (Determination of Application Completeness)**
   Applicable.
4. **Step 4 (Neighborhood Meeting)**
   Not Applicable.
5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.
6. **Step 6 (Notice)**
   Applicable.
7. **Step 7 (Public Hearings)**
   Applicable.

Figure 7.4-1: Summary of Procedure for Initial Zonings



8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:
   - **a.** ***Action by Board of Trustees***
     The Board of Trustees shall hold a Public Hearing on the proposed Initial Zoning and approve the Initial Zoning by ordinance, or deny the Initial Zoning.
   - **b.** ***Form of Amending Ordinance***
     An ordinance amending the zoning map shall contain the following:
     - **i.** The name of each use district which the ordinance applies; and
     - **ii.** The legal description of the land within each zoning district applied by the ordinance.

c. ***Successive Applications***
Following denial of an Initial Zoning with Annexation request, no new application for the same or substantially the same Zoning shall be accepted within 1 year of the date of denial, unless denial is made without prejudice.

9. Step 9 (Approval Criteria)
Applicable, as follows: The Board of Trustees may approve Initial Zonings if the Initial Zoning meets all of the following criteria:

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

b. The Initial Zoning is generally consistent with the Town's Comprehensive Master Plan and the purposes of this UDC;

c. The Initial Zoning is generally consistent with the stated purpose of the proposed zoning district;

d. 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;

e. The Initial Zoning 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;

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

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

h. The Initial Zoning is generally consistent with the Towns' economic development goals and objectives in bring positive growth and sustainable revenues to the Town.

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)
Not Applicable.

12. Step 12 (Lapse)
Applicable, in addition:

a. The approved Zoning documents shall be recorded within 60 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Zoning documents within 60 days from approval. Zoning approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

10.7.5 REZONING

A. Purpose

The boundaries of any zone district may be changed, or the zone classification of any parcel of land may be changed, pursuant to this Section. The purpose is to make adjustments to the official zoning map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town. Rezoning shall not be used to relieve

particular hardships, or to convey special privileges on any person or organization. In addition, Rezoning shall not be used as a way to legitimize nonconforming uses or structures, and should not be used when a Special Review Use, Variance, or Minor Modification could be used to achieve the same result.

B. Procedure

1. **Step 1 (Pre-Application Conference)**
   Applicable.

2. **Step 2 (Development Application Submittal)**
   Applicable, see User's Guide for submittal requirements.

3. **Step 3 (Determination of Application Completeness)**
   Applicable.

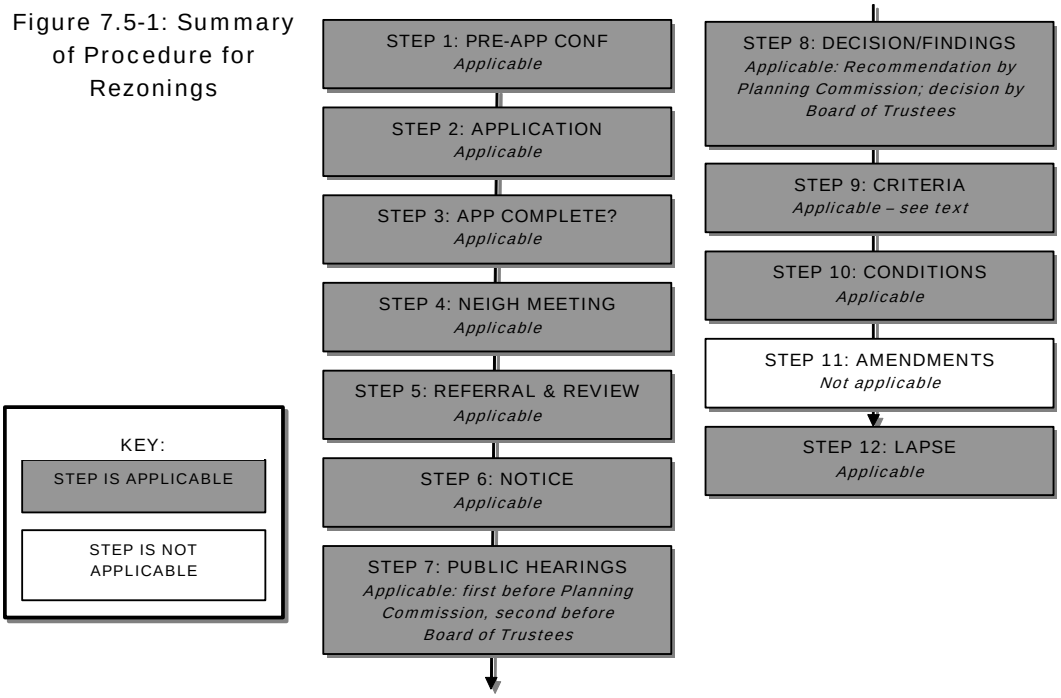
4. **Step 4 (Neighborhood Meeting)**
   Applicable.

5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.

6. **Step 6 (Notice)**
   Applicable, as follows:

   Published, mailed, and posted notice of Public Hearings on Rezonings' shall be provided. In addition, the notice shall list the protest provisions set forth in Subsection 7.5.B.8.c below. Where the Rezoning has been initiated by someone other than the property owner or their designated agent, the Community Development Director also shall mail a notice to all owners of the property to be reclassified, as shown in the current County Assessor's records.

Figure 7.5-1: Summary of Procedure for Rezonings



7. **Step 7 (Public Hearings)**
   Applicable. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.

8. **Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Review and Recommendation by Planning Commission***

   i. The Planning Commission shall hold a Public Hearing on the proposed Rezoning and shall recommend that the Board of Trustees approve, approve with modifications, or deny the Rezoning.

   ii. The Community Development Director shall forward the recommendation, to approve or approve with modifications, to the Board of Trustees with an ordinance to amend the official zoning map in accordance with the recommendation.

   iii. If the Planning Commission recommends that the Board of Trustees deny a Rezoning, that action is final unless, within 20 days of the Planning Commission's action, the applicant files a written statement with the Town Clerk requesting that an ordinance amending the zoning map in accordance with the application be submitted to the Board of Trustees.

   b. ***Action by Board of Trustees***
   The Board of Trustees shall hold a Public Hearing on the proposed Rezoning and approve the Rezoning by ordinance, deny the Rezoning, or refer the proposed Rezoning back to the Planning Commission or to a committee of the Board of Trustees for further consideration.

   c. ***Protests***
   Any owner of property subject to a proposed Rezoning may protest the Rezoning by filing a written protest with the Community Development Director pursuant to this Section.

   i. The protest shall object to the Rezoning, contain a legal description of the property on behalf of which the protest is made, and be signed by the owners of at least 1/3 of the property, excluding right-of-ways, of the land to which the Rezoning applies.

   ii. To be valid, the protest must be received by the Town Clerk after notice of a Public Hearing before the Board of Trustees on a Rezoning and at least 1 business day before the time set for the Board of Trustees Public Hearing on the Rezoning.

   iii. Board of Trustees approval of a Rezoning subject to a valid protest under this Subsection shall require an affirmative vote of 5 Board members.

   d. ***Form of Amending Ordinance***
   An ordinance amending the Zoning Map shall contain the following:

   i. The name of each use district which the ordinance applies; and

   ii. The legal description of the land within each zoning district applied by the ordinance.

   e. ***Successive Applications***
   Following denial of a Rezoning request, no new application for the same or substantially the same Rezoning shall be accepted within 1 year of the date of denial, unless denial is made without prejudice.

9. **Step 9 (Approval Criteria)**
   Applicable, as follows: The Board of Trustees may approve Rezonings, and the Planning Commission may recommend approval, if the Rezoning corrects a technical mistake or the Rezoning meets all of the following criteria:

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

   b. The Rezoning is generally consistent with the Town's Comprehensive Master 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 Rezoning 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 Rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;

   f. Future uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property; and

   g. The Zoning is generally consistent with the Towns' economic development goals and objectives in bring positive growth and sustainable revenues to the Town.

10. **Step 10 (Conditions of Approval)**
    Applicable.

11. **Step 11 (Amendments)**
    Not applicable.

12. **Step 12 (Lapse)**
    Applicable, in addition:

    The approved Rezoning documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Rezoning documents within 60 days from approval. Rezoning approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

10.7.6 REZONING - PLANNED UNIT DEVELOPMENTS

A. Purpose

In order to promote creative design efforts on the part of owners, builders, architects, and developers, and also to produce developments that are in keeping with the overall land use intensity and open space objectives of the Town's Comprehensive Master Plan, this Section makes available a procedure to depart from the requirements of this UDC through a rezoning to a Planned Unit Development ("PUD") overlay district. The intent of the PUD overlay district is to permit flexibility from the requirements of the underlying base zoning districts, in exchange for greater public benefits than would otherwise be achieved through development under this UDC.

B. PUD Development Plans Required

Approval of a PUD development plan is required prior to development in a PUD overlay district. A PUD plan shall be submitted with the request for rezoning to the PUD overlay district. A PUD plan

shall be submitted concurrently with a subdivision application. A PUD development plan is subject to recommendation by the Planning Commission and approval by the Board of Trustees.

C. Coordination with Subdivision Review

1. It is the intent of this UDC that subdivision review required under Section 7.7, if applicable, be carried out concurrently with the review of PUD development plans under this Section. If subdivision approval is required for the subject property, the PUD plans required under this Section shall be submitted in a form that satisfies the requirements for preliminary and final subdivision plat approvals. A PUD typically should be reviewed with the Preliminary Plat and subject to approval, approval with conditions or denial. A PUD that is approved by the Board of Trustees concurrently with a Preliminary Plat approval shall not be recorded and come into effect until a Final Plat is approved and recorded for the property.

2. If any provisions of this Section or the PUD standards of Subsection 2.7.D.2 conflict with the subdivision procedures or standards of this UDC, the more restrictive or detailed requirements shall be met, unless specifically altered by the Board of Trustees through the Minor Modification process.

D. Procedure for Review of PUD Plans

1. Step 1 (Pre-Application Conference)
Applicable.

2. Step 2 (Development Application Submittal)
Applicable, see User's Guide for submittal requirements.

a. ***PUD Development Plan***
The application for PUD rezoning shall include a PUD development plan prepared to the specifications in the User's Guide. The Community Development Director shall require sufficient detail in the PUD development plan to provide an opportunity for the approving bodies to make informed decisions and evaluate compliance with the applicable approval criteria. The application shall include, at a minimum:

i. A quantitative summary of existing conditions on the subject property, as specified in the User's Guide;

ii. A list of uses to be permitted within the PUD by right and a list of uses to be permitted only with a Special Review Use permit;

iii. Intensity or density of uses proposed;

iv. Location of public and private open space, parks and trails;

v. Location of existing and proposed buildings on the site;

vi. Road, street, and pedestrian networks proposed;

vii. Drainage facilities;

viii. Existing or proposed utilities and public services;

ix. If development is to be phased, a description of the phase components and timing;

x. A statement that development on the site will meet applicable standards of the underlying zoning district and this UDC, or a statement specifying the standards of the underlying district and this UDC to which modifications are proposed and the justification for such modifications; and

xi. A statement specifying the public benefit(s) to be contained in or associated with the PUD.

3. **Step 3 (Determination of Application Completeness)**
   Applicable.

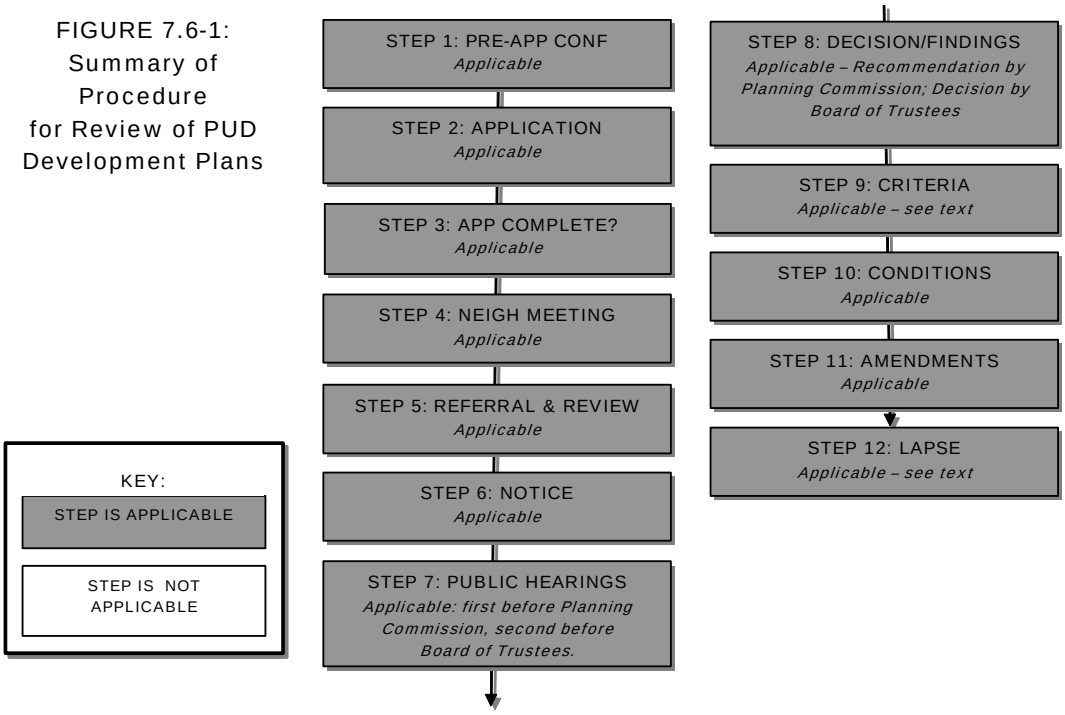
4. **Step 4 (Neighborhood Meeting)**
   Applicable.

5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.

6. **Step 6 (Notice)**
   Applicable, as follows: Published, mailed, and posted notice of public hearings on PUD development plans and Rezoning to the PUD overlay district shall be provided.

7. **Step 7 (Public Hearings)**
   Applicable, as follows: 2 public hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.

FIGURE 7.6-1: Summary of Procedure for Review of PUD Development Plans



8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Planning Commission Review and Recommendation***
   The Planning Commission shall hold a public hearing on the PUD development plan and Rezoning to the PUD overlay district. The Commission shall recommend that the Board of Trustees approve the plan as submitted, approve the plan with modifications, or deny the plan. The Community Development Director shall forward the recommendation to the Board of Trustees.

b. ***Action by Board of Trustees***
The Board of Trustees shall hold a public hearing on the PUD development plan and Rezoning to the PUD overlay District and, at the close of the hearing, may by ordinance, approve, approve with modifications, or deny the PUD development plan.

c. ***Form of Amending Ordinance***
An ordinance amending the zoning map to create or modify a PUD overlay district shall contain the following:

i. The name of each base zoning district to which the ordinance applies;

ii. The legal description of the land within each zoning district applied by the ordinance; and

iii. A copy of the PUD development plan as approved, including all documents in support thereof, subject to such additional conditions and upon such terms as the Board deems necessary or appropriate to effectuate the purposes of this UDC and the general policies of the Town's Comprehensive Master Plan.

d. ***Placement on Official Zoning Map***
All PUDs approved in accordance with the provisions of this Section shall be referenced on the Zoning Map, and a list of such PUDs, together with the category of uses permitted therein, shall be maintained as part of this UDC. Placement of approved PUD rezoning on the Official Zoning Map shall not occur until a Final Plat is approved and recorded for the property.

e. ***Recording***
Following approval of the PUD rezoning and approval of the Final Plat for the property, the PUD rezoning and Final Plat shall be signed by the Mayor or other authorized Town representative. The Town shall record the PUD rezoning concurrently with the Final Plat and other associated documents to the approvals in the office of the appropriate County Clerk and Recorder. The developer shall be responsible for all required recording fees. Amendments to the PUD rezoning shall not be subject to concurrent recordation with a plat.

f. ***Successive Applications***
Following denial of a PUD rezoning request, no new application for the same or substantially the same rezoning shall be accepted within 1 year of the date of denial, unless denial is made without prejudice.

g. ***Protests***
Any owner of property subject to a proposed PUD rezoning may protest the rezoning, by following the protest provisions in Subsection 7.5.B.8.c.

9. Step 9 (Approval Criteria)
Applicable, as follows: The Board of Trustees may approve a PUD development plan and Rezoning to the PUD overlay district, and the Planning Commission may recommend approval, if the Rezoning to the PUD overlay district and the associated PUD development plan meets all of the following criteria:

a. The PUD Rezoning is generally consistent with the purpose of the PUD overlay district in Subsection 2.7.D.1;

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

c. The PUD Rezoning is generally consistent with the Town's Comprehensive Master Plan and the purposes of this UDC;

d. The PUD Rezoning is generally consistent with the PUD standards in Subsection 2.7.D.2;

e. 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;

f. The PUD Rezoning 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;

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

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

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

j. 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

k. The PUD Plan provides public benefit(s).

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)
Applicable, with the following modification:

a. Minor Amendments
A request to change a PUD Development Plan shall require the filing of new application for a PUD, subject to the submittal requirements listed above in Section 7.6.D. If the Community Development Director determines that the requested changes are minor and do not include substantial alterations to the PUD Development Plan or conditions of approval, and are generally consistent with the intent of the original PUD approval, the Community Development Director may approve the changes. If the amendments are determined to be major amendments, they shall follow the process identified in Subsection 7.2.K.2.

12. Step 12 (Lapse)
Applicable, in addition:

The approved PUD/PD documents shall be recorded within 60 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the documents within 60 days from approval. PUD/PD approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

Development in the approved PUD shall commence within 12 months from the recordation of the rezoning. If development has not commenced within 12 months, the Community Development Director shall initiate a Public Hearing process for the purpose of considering whether to rezone the property back to its prior zoning classification, or in light of other conditions, to another zoning classification, and revocation of all permits issued and action taken.

E. Planned Development Districts Adopted Prior to this UDC Shall Continue

The Planned Development (PD) ordinances or parts of ordinances approved prior to the adoption of this UDC shall be carried forth in full force and effect and are the conditions, restrictions, regulations, and requirements that apply to the respective planned development districts shown on the Zoning Map at the date of adoption. Amendments to a PD shall be processed the same as a PUD Amendment (Subsection 7.6.D.11).

10.7.7 SUBDIVISION

A. Purpose

The purpose of the subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in Chapter 6, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive Master Plan.

B. Applicability

1. General
The procedures of this Section, and the standards and requirements set forth in Chapter 6, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the State or Town, unless specifically excluded by State law.

2. Subdivision Approval is Prerequisite to Other Approvals

a. No building permit or Certificate of Occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded, until:

i. A plan for the subdivision has been approved and all required dedications of land have been made, and all required improvements have been installed in accordance with the procedures and requirements of this Section; or

ii. A plan for the subdivision of land has been approved and a Development Agreement has been executed that provides for future improvements pursuant to Section 7.18.

b. The Town shall not accept or maintain any street and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a plat for the subdivision has been approved and recorded in accordance with the requirements set forth in this Section.

3. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat
Any person who transfers or sells any land located within the Town by reference to a plat that has not been approved by the Town and recorded by the appropriate County shall be guilty of a violation of this UDC. The Town also may enjoin such transfer or sale by filing an action for an injunction.

4. Existing Lots of Record
No provision of this Section or Chapter 6 applies to any lot in a subdivision legally created and filed of record before the effective date of this UDC, unless the lot is further subdivided.

C. Procedure for Review of Sketch Plans and Preliminary Plats

1. Step 1 (Pre-Application Conference)
Applicable to Sketch Plan only.

2. Step 2A (Development Application Submittal – Sketch Plan)

Two types of application submittals are required – first, a Sketch Plan, followed by a Preliminary Plat. The Sketch Plan requirements are listed in this Subsection. The Preliminary Plat requirements are listed below as "Step 2B." Applications for Subdivision shall only be accepted for property annexed into the municipality. A Subdivision application cannot be reviewed concurrently with an annexation application.

a. *Purpose*

A Sketch Plan represents a generalized land use plan and layout for the area proposed to be included within a subdivision. Sketch Plan is required to allow early, informal evaluation of a proposed subdivision before detailed planning and engineering work has been undertaken and before substantial expenses have been incurred by the applicant.

b. *Sketch Plan Submittal Requirements*

A Sketch Plan shall be prepared and submitted to the Community Development Director pursuant to the User's Guide. An Alta Survey shall be prepared and submitted to illustrate the existing conditions on the property and, at a minimum, the Sketch Plan shall contain the following:

i. Uses proposed;

ii. Intensity or density of uses proposed;

iii. Location of public and private open space;

iv. Drainage Facilities;

v. Road, street, and pedestrian networks proposed; and

vi. Existing or proposed utilities and public services for the development.

c. *Staff Review*

The Community Development Department shall review the Sketch Plan, focusing on standards and criteria of this UDC that are applicable to the proposed development. The Community Development Department shall summarize the results of the review in writing and provide a copy to the applicant. The summary shall include any special information regarding the proposed project, plus an evaluation of the proposal with respect to the current policies of the Town, identifying areas of potential compatibility or conflict with these policies. All comments made by the Community Development Department shall not be binding on the Town's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project.

d. *Meeting to Discuss Sketch Plan*

At the request of the Community Development Director or applicant, the parties shall meet to discuss the results of the review. The applicant shall be informed of the necessary provisions of this UDC relating to subdivision application, including submittal requirements, required public improvements, design standards, and Development Agreements. The Community Development Director shall inform the applicant whether or not a Planning Commission Review shall be required.

e. *Planning Commission Review*

In addition to the staff review the Community Development Director may require that the Sketch Plan be reviewed by the Planning Commission or the applicant may request this review. The staff review summary shall be submitted to the Planning Commission for consideration. All comments made by the Planning Commission

shall not be binding on the Town's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project.

f. ***Effect of Review***
The Sketch Plan is not part of a formal application for approval of a subdivision and any comments made by the Town in reaction to a Sketch Plan shall not be binding on the Town's consideration of any subsequent Preliminary or Final Plat application, nor result in a vested property right under this UDC or State Statute. Since the Sketch Plan is conceptual only, there are no lapse provisions applicable.

3. Step 2B (Development Application Submittal – Preliminary Plat)
Applicable, see User's Guide for submittal requirements:

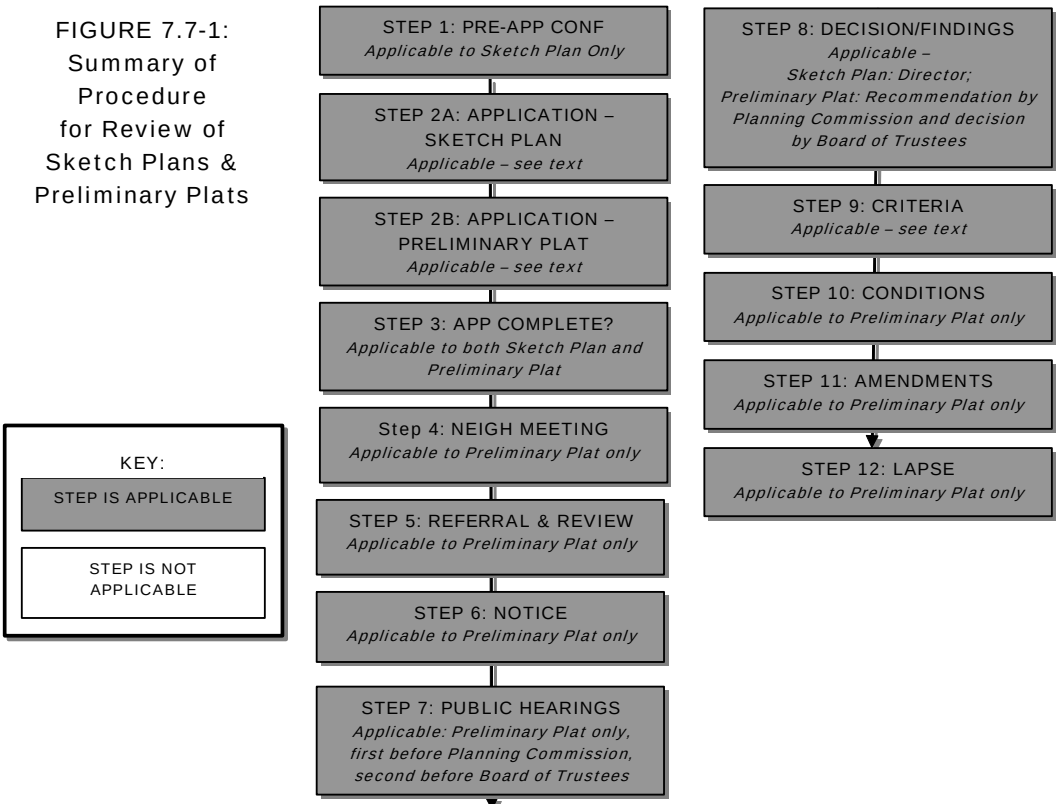
A Preliminary Plat shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Preliminary Plat and Final Plat. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.

4. Step 3 (Determination of Application Completeness)
Applicable to both Sketch Plan and Preliminary Plat.

5. Step 4 (Neighborhood Meeting)
Applicable to Preliminary Plat only.

6. Step 5 (Application Referral, Review and Staff Report)
Applicable to Preliminary Plat only.

FIGURE 7.7-1: Summary of Procedure for Review of Sketch Plans & Preliminary Plats



7. **Step 6 (Notice)**
   Applicable to Preliminary Plat only. Subdivision applicants shall comply with the notice and other requirements contained in C.R.S.§31-23-213 *et seq.*

8. **Step 7 (Public Hearings)**
   Applicable to Preliminary Plat only. Two public hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.

9. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Public Hearing and Recommendation by Planning Commission***

   i. The Planning Commission shall hold a public hearing on the Preliminary Plat. Notice for the public hearing shall be published, posted, and mailed as set forth in Subsection 7.2.F. A copy of the Preliminary Plat filed with the Town shall be available for public viewing during regular business hours. Anyone may submit written comments on the Preliminary Plat, to the Planning Commission on or before the date for the public hearing.

   ii. At the public hearing, the Planning Commission shall consider Staff recommendations and any comments received from the referral agencies, public comments, and based on the applicable approval criteria below, recommend that the Board approve, conditionally approve, or deny the application; table the application for further review; or continue the hearing to a new date. The Planning Commission shall have the authority to recommend changes in the Preliminary Plat which more fully meet the purposes of this UDC.

   iii. The Planning Commission shall notify the Board of Trustees of its recommendation concerning the Preliminary Plat. If denied, the reasons for denial shall be stated upon the records of the Planning Commission.

   b. ***Review and Decision by Board of Trustees***
   The Board of Trustees shall review the Preliminary Plat application at a scheduled and noticed public hearing. The Board of Trustees shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application, or table the application for further review, based on the applicable approval criteria below.

   c. ***Additional Documentation***
   In its review of the Preliminary Plat the Board of Trustees and/or the Planning Commission may determine that additional maps, reports, certifications, or agreements are necessary before making a decision on the proposal. In such cases either decision making body may require that the additional evidence be submitted before a finding is made.

   d. ***Denial of a Preliminary Plat***
   If denied, the reasons for denial shall be stated upon the records of the Board of Trustees.

   e. ***Effect of Approval***
   Approval of a Preliminary Plat shall be deemed an expression of approval to the layouts submitted on the Preliminary Plat to lots, density, and the future installation of streets, water, sewer, and other required improvements and utilities and to the preparation of the Final Plat.

   f. ***Construction Work***

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Final Plat. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Community Development and/or Public Works Departments, at the subdivider's risk.

g. ***New Application Following Denial***
A Final Plat application cannot be filed, after a Preliminary Plat denial, without first submitting and obtaining approval for a new Preliminary Plat application. No new application for the same or substantially the same Preliminary Plat shall be accepted by the Community Development Director within 1 year of denial of the original application. The waiting period required by this Section may be waived in an individual case, based upon new evidence or changed circumstances, by the Community Development Director.

10. Step 9 (Approval Criteria)
Applicable, as follows: A Preliminary Plat may be approved only if the Board of Trustees finds that all of the following criteria have been met:

a. The subdivision is generally consistent with the Town's Comprehensive Master Plan.

b. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.

c. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the Town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this UDC.

d. The subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter or this UDC. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.

e. The subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.

f. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.

g. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.

h. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

11. Step 10 (Conditions of Approval)
Applicable.

12. Step 11 (Amendments)
Applicable.

13. Step 12 (Lapse)
Applicable, as follows:

a. Approval of a Preliminary Plat shall be effective for 1 year unless reviewed by the Board of Trustees in the light of new or significant information that would necessitate the revision of the Preliminary Plat. If no development or change in requirements has occurred that would affect the proposed plat at the end of the year of an effective approval, the Board of Trustees may, at the request of the applicant, extend its approval another year without the submission of a new Preliminary Plat by re-approving the original Preliminary Plat. No filing fee is required for such re-approval. However, no extensions of approval shall be granted more than once.

b. An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phrase of the subdivision has not been submitted within any time-frame specified by the Board of Trustees or, if no time-frame was established by the Board, then within 24 months after the approval date. In the case of partial Final Plat submission, the approval of the remaining portion of the Preliminary Plat shall automatically gain an extension of 1 year.

D. Procedure for Review of Final Plats

1. Step 1 (Pre-Application Conference)
Applicable.

2. Step 2 (Development Application Submittal)
Applicable, see User's Guide for submittal requirements.

The Final Plat shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Final Plat. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.

3. Step 3 (Determination of Application Completeness)
Applicable.

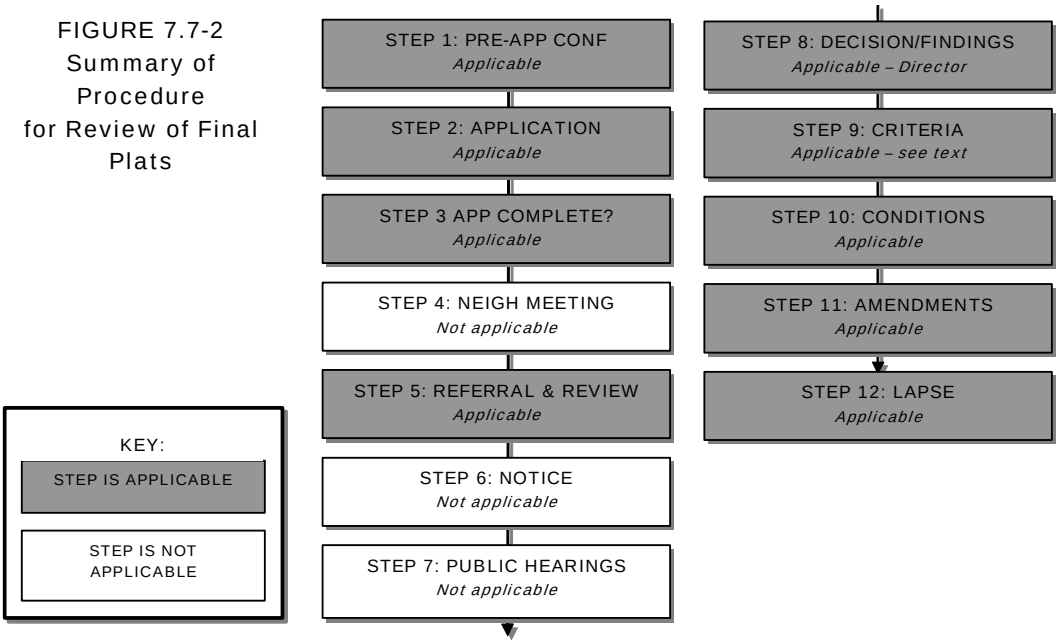
4. Step 4 (Neighborhood Meeting)
Not applicable.

5. Step 5 (Application Referral, Review and Staff Report)
Applicable.

6. Step 6 (Notice)
Not applicable.

7. Step 7 (Public Hearings)
Not applicable.

FIGURE 7.7-2
Summary of Procedure for Review of Final Plats



8. Step 8 (Decision and Findings)
Applicable. The following additional procedures shall apply:

a. ***Community Development Director's Review and Decision***
The Community Development Director shall review each proposed Final Plat application relative to the applicable approval criteria listed below. All construction plans for subdivision-related public improvements shall be referred to the Public Works Director for review and approval. Based on the results of those reviews, the Community Development Director shall act to approve, approve with conditions, or deny the proposed Final Plat. If the Community Development Director finds that the Final Plat materials do not comply with the applicable requirements of this UDC, the Community Development Director may refer it back to the applicant for modification or further study. The Community Development Director shall make a final decision on the Final Plat.

b. ***Final Plats that Differ from Approved Preliminary Plats***
If the Final Plat is found not to be in substantial compliance with the approved Preliminary Plat, the Community Development Director shall refer the application to the Planning Commission, and the Board of Trustees. The Final Plat submittal shall require review and approval in the same manner as the Preliminary Plat (i.e., hearings before the Planning Commission and the Board of Trustees).

c. ***Effect of Approval***

i. *Recording*
Following the approval of a Final Plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the Final Plat shall be signed by the Mayor or other authorized Town representative. The Town shall then record the Final Plat and any signed subdivision improvements Development Agreement in the office of the appropriate

County Clerk and Recorder. The applicant shall pay all required recording fees.

ii. *Lapse of Approval*
The approved Final Plat documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Final Plat documents within 60 days from approval. Final Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

d. ***Acceptance of Dedications***
Recordation of the approved Final Plat shall constitute the Town's preliminary acceptance of any public dedication, subject to an improvements guarantee.

e. ***Improvements Guarantees***
The subdivider shall provide any required guarantees to the Town Clerk prior to the recording of the Final Plat, unless otherwise authorized by the Board of Trustees. For a period of 2 years after receipt of an acceptance letter from the Town, the applicant shall guarantee the conditions of all public facilities and be responsible for the structural maintenance and the repair of any defects that may emerge during that period. Maintenance of those areas not formally accepted shall be the responsibility of the applicant. At the end of 2 years, the applicant shall petition the Town for formal final release from the responsibility for the improvements. The Town shall then inspect the improvements and determine whether the applicant has met the conditions specified in the preliminary acceptance. If conditions have been met, the Town shall release the applicant from responsibility for the improvements. Upon final acceptance, it shall be the Town's responsibility to maintain and repair all such improvements.

f. ***Development Agreements***
The Mayor or other authorized Town representative shall sign any related development agreement.

9. Step 9 (Approval Criteria)
Applicable, as follows: The Community Development Director shall approve a Final Plat if it meets the following criteria:

a. The Final Plat is found to be in substantial compliance with all respects of the approved Preliminary Plat and incorporates all recommended changes, modifications, and conditions attached to approval of the Preliminary Plat;

b. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in Chapter 6 of this UDC, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been expressly permitted by the terms of the Preliminary Plat approval. All construction plans for improvements shall be approved by the Public Works Director prior to the Community Development Director's action on the Final Plat;

c. The applicant has either installed all required improvements or has executed a Development Agreement pursuant to Section 7.18; and

d. The applicant has paid or satisfied all applicable fees and charges;

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)

a. A Minor Amendment, by affidavit, to remove lot lines in Old Town shall be required when a building permit is requested for the following structures that would cross existing lot lines:

i. New principal building construction;

ii. Additions greater than 400 gross square feet; and

iii. New accessory building construction over 400 gross square feet.

b. Applicable, with the additional provisions:

Minor Amendments
The Community Development Director may approve Minor Amendments to approved plats, which shall be recorded and shall control over the preceding or Final Plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

i. Correct an error in a course or distance shown on the preceding plat;

ii. Add a course or distance that was omitted on the preceding plat;

iii. Correct an error in a real property description shown on the preceding plat;

iv. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

v. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

vi. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

vii. Correct an error in courses and distances of lot lines between 2 adjacent lots if:

(A) Both lot owners join in the application for amending the plat;

(B) Neither lot is abolished;

(C) The amendment does not attempt to remove recorded covenants or restrictions; and

(D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;

viii. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or

ix. Relocate or remove 1 or more lot lines between 1 or more adjacent lots if all of the following have been met:

(A) The owners of all those lots join in the application for amending the plat;

(B) The amendment does not attempt to remove recorded covenants or restrictions; and

(C) The amendment does not increase the number of lots.

x. Vacate lot lines within Old Town by affidavit if the following 2 requirements have been met:

(A) All contiguous lots with the same ownership are being vacated.

(B) Lots must be combined so that no lot in the same ownership is created as a non-conforming lot, and no existing non-conforming lot remains.

Notice, a public hearing, and the approval of other lot owners shall not be required for the approval and issuance of a Minor Amendment plat. Minor Amendments shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land surveyor licensed with the State of Colorado, and shall be filed with the appropriate County Clerk and Recorder.

12. Step 12 (Lapse)
Applicable, in addition: The approved Final Plat documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Final Plat documents within 60 days from approval. Final Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

E. Procedure for Review of Minor Subdivisions

1. Applicability
The procedure set forth in this Section shall apply to subdivisions that create 4 or fewer lots. Parcels are eligible for Minor Subdivision only once, and further subdivisions or newly created parcels shall follow Preliminary and Final Plat procedures.

2. Step 1 (Pre-Application Conference)
Applicable.

3. Step 2 (Development Application Submittal)
Applicable, see User's Guide for submittal requirements.

A Minor Subdivision shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Minor Subdivision. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.

a. *Purpose*
A Minor Subdivision represents a detailed land use plan and layout for the area proposed to be included within a subdivision. The process requires detailed planning and engineering work.

b. *Minor Subdivision Submittal Requirements*
A Minor Subdivision shall be prepared and submitted to the Community Development Department in accordance with the User's Guide.

4. Step 3 (Determination of Application Completeness)
Applicable.

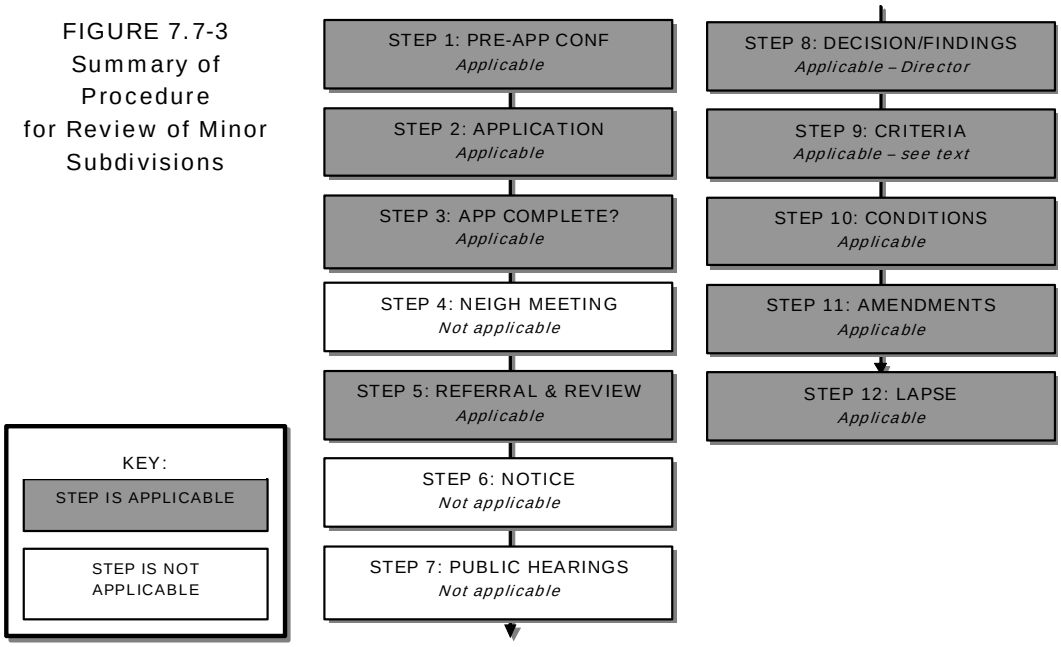
5. Step 4 (Neighborhood Meeting)
Not applicable.

6. Step 5 (Application Referral, Review and Staff Report)
Applicable.

7. **Step 6 (Notice)**
   Not applicable.

8. **Step 7 (Public Hearings)**
   Not applicable.

FIGURE 7.7-3
Summary of Procedure for Review of Minor Subdivisions



9. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Community Development Director's Review and Decision***
      The Community Development Director shall review each proposed Minor Subdivision relative to the applicable approval criteria listed below. All construction plans for subdivision-related public improvements shall be referred to the Public Works Director for review and approval. Based on the results of those reviews, the Community Development Director shall act to approve, approve with conditions, or deny the proposed Minor Subdivision. The Community Development Director shall make a final decision on the Minor Subdivision.

   b. ***Effect of Approval***
      i. *Recording*
         The approved Minor Subdivision documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

10. **Step 9 (Approval Criteria)**
    Applicable, as follows: The Community Development Director shall approve a Minor Subdivision application if it meets the following criteria:

a. The Minor Subdivision is generally consistent with the Town's Comprehensive Master Plan;

b. The Minor Subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located;

c. As applicable, the Minor Subdivision is generally consistent with the terms and conditions of any previously approved development plan;

d. The Minor Subdivision complies with all applicable use, development, and design standards set forth in this UDC; and

e. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

11. Step 10 (Conditions of Approval)
Applicable.

12. Step 11 (Amendments)
Applicable.

13. Step 12 (Lapse)
Applicable, in addition:

a. ***Time Extension***
Minor Subdivisions shall be recorded within 60 days of approval by the Community Development Director. Upon written request by the applicant or Staff, the Community Development Director, for good cause, may extend the period, 1 time, for a period not to exceed 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

F. Procedure for Review of Minor Subdivisions – Non-Residential and Mixed-Use Parcels

1. Applicability
The procedure set forth in this Section may apply to non-residential and mixed-use subdivisions at the discretion of the Community Development Director. To determine whether or not a parcel is eligible for this review process, the Community Development Director shall consider the: scale/size, design and timing of the proposal; impact to public facilities, public services and streets; and overall impacts on the community.

If the Community Development Director determines that an application is not eligible for utilizing the Minor Subdivision process, the application shall be processed in accordance with the Sketch Plan, Preliminary Plat and Final Plat subdivision procedures.

2. Step 1 (Pre-Application Conference)
Applicable.

3. Step 2 (Development Application Submittal)
Applicable, see User's Guide for submittal requirements.

A Minor Subdivision shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Minor Subdivision. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.

a. ***Purpose***

A Minor Subdivision represents a detailed land use plan and layout for the area proposed to be included within a subdivision. The process requires detailed planning and engineering work.

b. ***Minor Subdivision Submittal Requirements***
A Minor Subdivision shall be prepared and submitted to the Community Development Department in accordance with the User's Guide.

4. Step 3 (Determination of Application Completeness)
Applicable.

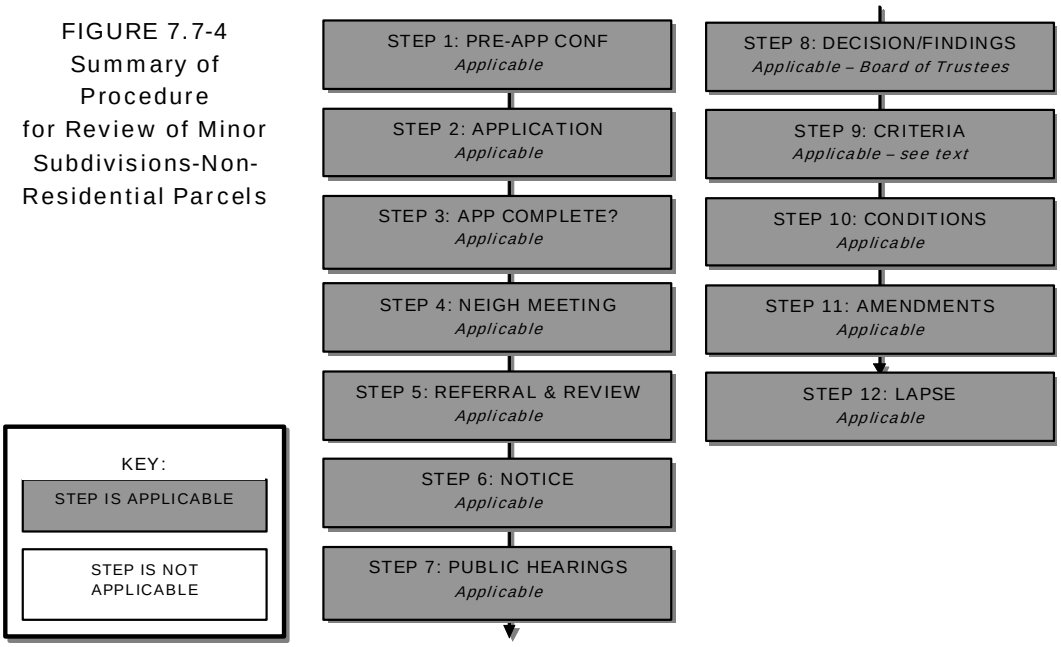
5. Step 4 (Neighborhood Meeting)
Applicable.

6. Step 5 (Application Referral, Review and Staff Report)
Applicable.

7. Step 6 (Notice)
Applicable. Subdivision applicants shall comply with the notice and other requirements contained in C.R.S.§31-23-213 *et seq.*

8. Step 7 (Public Hearings)
Applicable. Two public hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.

FIGURE 7.7-4
Summary of Procedure for Review of Minor Subdivisions-Non-Residential Parcels



9. Step 8 (Decision and Findings)
Applicable. The following additional procedures shall apply:

a. ***Public Hearing and Recommendation by Planning Commission***

i. The Planning Commission shall hold a public hearing on the Minor Subdivision. Notice for the public hearing shall be published, posted, and mailed as set forth in Subsection 7.2.F. A copy of the Minor Subdivision filed with the Town shall be available for public viewing during regular business hours. Anyone may submit written comments on the Minor

Subdivision, to the Planning Commission on or before the date for the public hearing.

ii. At the public hearing, the Planning Commission shall consider Staff recommendations and any comments received from the referral agencies, public comments, and based on the applicable approval criteria below, recommend that the Board of Trustees approve, conditionally approve, or deny the application; table the application for further review; or continue the hearing to a new date. The Planning Commission shall have the authority to recommend changes in the Minor Subdivision which more fully meet the purposes of this UDC.

iii. The Planning Commission shall notify the Board of Trustees of its recommendation concerning the Minor Subdivision. If denied, the reasons for denial shall be stated upon the records of the Planning Commission.

b. ***Review and Decision by Board of Trustees***
The Board of Trustees shall review the Minor Subdivision application at a scheduled and noticed public hearing. The Board of Trustees shall consider Staff and the Planning Commission's recommendations and approve, conditionally approve, or deny the application, or table the application for further review, based on the applicable approval criteria below.

c. ***Additional Documentation***
In its review of the Minor Subdivision the Board of Trustees and/or the Planning Commission may determine that additional maps, reports, certifications, or agreements are necessary before making a decision on the proposal. In such cases either decision making body may require that the additional evidence be submitted before a finding is made.

d. ***Denial of a Minor Subdivision***
If denied, the reasons for denial shall be stated upon the records of the Board of Trustees.

e. ***New Application Following Denial***
No new application for the same or substantially the same Minor Subdivision shall be accepted by the Community Development Department within 1 year of denial of the original application. The waiting period required by this Section may be waived in an individual case, based upon new evidence or changed circumstances, by the Community Development Director

f. ***Effect of Approval***

i. *Recording*
The approved Minor Subdivision documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval.

g. ***Acceptance of Dedications***
Recordation of the approved Minor Subdivision shall constitute the Town's preliminary acceptance of any public dedication, subject to an improvements guarantee.

h. ***Improvement Guarantees***
The subdivider shall provide any required guarantees to the Town Clerk prior to the recording of the Minor Subdivision.

i. ***Development Agreements***
The Mayor or other authorized Town representative shall sign any related development agreement.

j. ***Construction Work***
No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Minor Subdivision. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Public Works Department, at the subdivider's risk.

10. Step 9 (Approval Criteria)
Applicable, as follows: The Minor Subdivision may be approved only if the Board of Trustees finds that all of the following criteria have been met:

a. The Minor Subdivision is generally consistent with the Town's Comprehensive Master Plan;

b. The Minor Subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located;

c. As applicable, the Minor Subdivision is generally consistent with the terms and conditions of any previously approved development plan;

d. The Minor Subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible;

e. The Minor Subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations;

f. The Minor Subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

g. The Minor Subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features;

h. The Minor Subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated;

i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development; and

j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

11. Step 10 (Conditions of Approval)
Applicable.

12. Step 11 (Amendments)
Applicable.

13. **Step 12 (Lapse)**
Applicable, in addition, Minor Subdivisions shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director, for good cause, may extend the period, 1 time, for a period not to exceed 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

10.7.8 MINOR MODIFICATIONS

A. Purpose and Scope

This Section sets forth the required review and approval procedures for "Minor Modifications," which are minor deviations from otherwise applicable standards that may be approved by the Community Development Director, the Board of Trustees, or the Planning Commission. Minor Modifications are to be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process.

B. Applicability

1. **Minor Modifications to General Development and Zoning District Standards**
As part of the review and approval of any procedure set forth in this Chapter, the Board of Trustees, the Planning Commission, or the Community Development Director may approve Minor Modifications of up to a maximum of 10 percent from the following general development and zoning district standards, including Planned Development (PD) District standards, provided that the applicable approval criteria listed below are met.

    a. Minimum lot area requirements;

    b. Setback requirements;

    c. Subdivision design and improvement standards set forth in Chapter 5*;* and

    d. Quantitative development standards set forth in Chapter 6 (e.g., number of parking spaces);

2. **Exceptions to Authority to Grant Minor Modifications**
Notwithstanding Subsection 7.8.B.1 above, in no circumstance shall any decision-making body approve a Minor Modification that results 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, set forth in Section 3.2.; or

    e. A change in conditions attached to the approval of any Plat, Site Plan, or Special Review Use.

C. Procedure

1. **Minor Modifications Approved by Community Development Director**
The Community Development Director may initiate or approve a Minor Modification permitted under this Section at any time prior to submittal of the staff report on an application to another decision-making body, or prior to final decision if the Community Development Director is the final decision-maker.

2. **Minor Modifications Approved by Board of Trustees or Planning Commission**
   The Board of Trustees or Planning Commission may initiate or approve a Minor Modification permitted under this Section at any time before it takes action on a development application under its respective jurisdiction.

3. **Noted on Pending Application**
   Staff shall specify any approved Minor Modifications and the justifications for such modifications on the pending development application for which the modifications were sought.

D. Approval Criteria

The decision-making body may approve the Minor Modification only if it finds that the modification meets all of the criteria below:

1. The requested modification is generally consistent with the Town's Comprehensive Master Plan and the stated purpose of this UDC;
2. The requested modification meets all other applicable building and safety codes;
3. The requested modification does not encroach into a recorded easement;
4. The requested modification will have no significant adverse impact 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 requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if "practical difficulty" exists, the approval criteria for Variances in Section 7.9, shall be considered.

10.7.9 VARIANCES

A. Purpose and Scope

The Variance process is intended to provide limited relief from the requirements of this UDC in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this UDC. It is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of this UDC may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this UDC render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the Variance is requested. State and/or Federal laws or requirements may not be varied by the Town.

B. Procedure

1. **Step 1 (Pre-Application Conference)**
   Applicable.

2. **Step 2 (Development Application Submittal)**
   Applicable, see User's Guide for submittal requirements.

3. **Step 3 (Determination of Application Completeness)**
   Applicable, with the following modification: A request for Variance may be initiated only by the property owner or his authorized representative. The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application meets the approval criteria listed below.

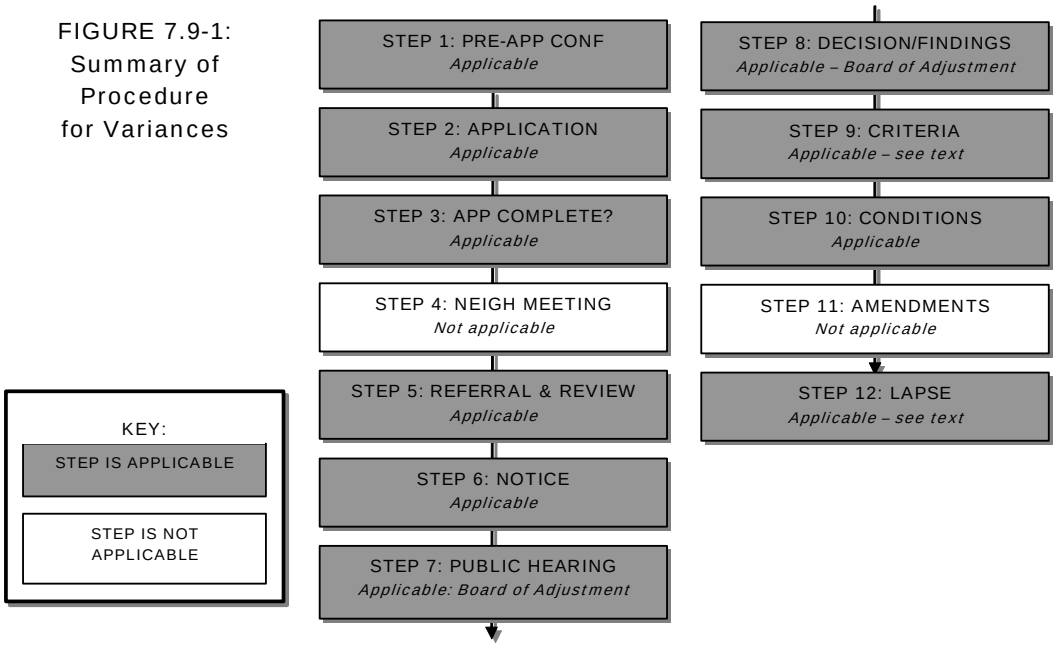
4. **Step 4 (Neighborhood Meeting)**
   Not applicable.

5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.

6. **Step 6 (Notice)**
   Applicable.

7. **Step 7 (Public Hearing)**
   Applicable. One public hearing is required before the Board of Adjustment.

FIGURE 7.9-1: Summary of Procedure for Variances



8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Board of Adjustment Review and Decision***

      i. Upon receiving the application materials from the Community Development Director, the Board of Adjustment shall hold a public hearing on the proposed Variance. Written, published, and posted notice of the hearing shall be provided pursuant to Subsection 7.2.F.

      ii. In considering the application, the Board of Adjustment shall review the application materials, the applicable approval criteria below, and all testimony and evidence received at the public hearing.

      iii. After conducting the public hearing, the Board of Adjustment may: deny; conduct an additional public hearing; or grant the requested Variance. Any approval or denial of the request shall be by resolution, accompanied by written findings of fact that the Variance meets or does not meet each of the criteria set forth in below, stating the reasons for such findings. A concurring vote of a majority of the fully constituted membership of the Board shall be required to grant a Variance.

iv. In granting any Variance, the Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this UDC.

b. ***Recording***
Variances granted by the Board of Adjustment shall be recorded with the appropriate County Clerk and Recorder.

9. Step 9 (Approval Criteria)
Applicable, as follows:

a. The Board of Adjustment may approve a Variance only if it finds that all of the criteria below have been met:

i. There are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;

ii. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;

iii. Such physical circumstances or conditions were not created by the applicant;

iv. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this UDC;

v. The Variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and

vi. The Variance, if granted, is the minimum Variance that will afford relief and is the least modification possible of the provisions of this UDC which are in question.

b. No Variance shall be granted that violates the intent of this UDC or its amendments.

c. No Variance shall be granted from any written conditions attached by another decision-making body to the approval of a Special Review Use, Plat or Site Plan.

d. No Variance shall be granted if the conditions or circumstances affecting the applicant's property are of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.

e. No Variance may authorize a use other than those permitted in the district for which the Variance is sought; also, an application or request for a Variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which zoning request for any parcel of property or portion thereof has not been finally acted upon by both the Planning Commission and by the Board of Trustees.

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)
Not applicable.

12. Step 12 (Lapse)
Applicable, as follows: Any Variance granted shall become null and void:

a. If the Variance is not exercised within 180 days of the date it is granted, or

b. If any building, structure, or characteristic of use permitted by the Variance is moved or altered so as to enlarge the Variance or discontinue it.

10.7.10 VACATIONS

A. Purpose and Scope

This Section sets forth the required review and approval procedures for street, easement and subdivision plat vacations. The Board of Trustees has the authority to:

1. Vacate roads, which include any public street, alley, lane, parkway, avenue, road, trail or other public right-of-way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.

2. Vacate easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement.

B. Procedure

1. Step 1 (Pre-Application Conference)
Applicable.

2. Step 2 (Development Application Submittal)
Applicable, see User's Guide for submittal requirements.

3. Step 3 (Determination of Application Completeness)
Applicable.

4. Step 4 (Neighborhood Meeting)
Applicable, at the discretion of the Community Development Director.

5. Step 5 (Application Referral, Review and Staff Report)
Applicable.

6. Step 6 (Notice)
Not applicable.

7. Step 7 (Public Hearings)
Not applicable.

8. Step 8 (Decision and Findings)
Applicable. The following additional procedures shall apply:

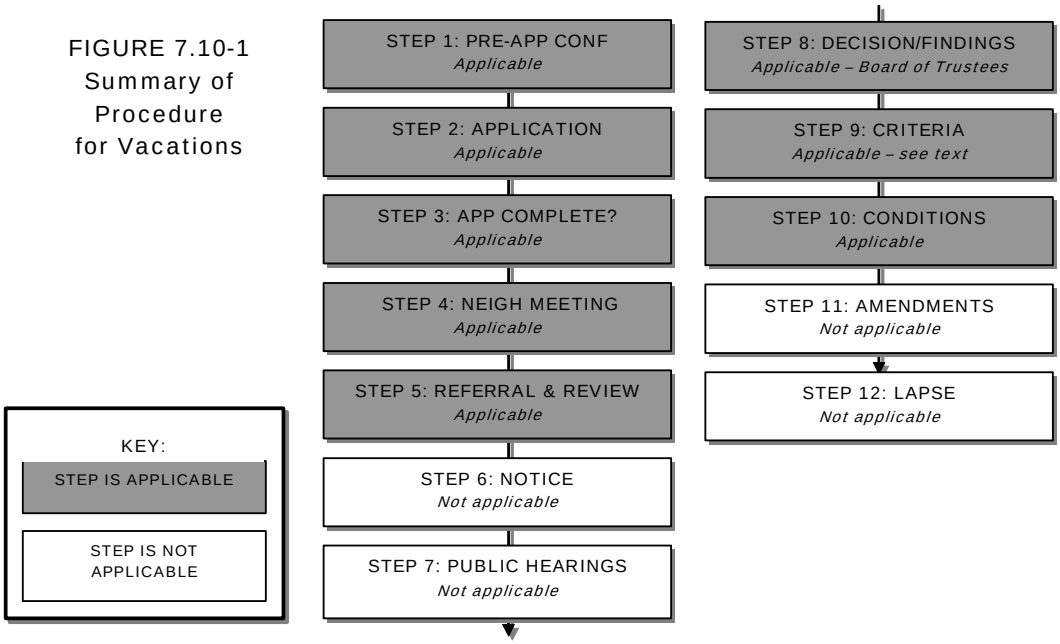
a. ***Planning Commission Review and Recommendation***
After submission of the application, the Community Development Director shall determine whether consideration of the Vacation request by the Planning Commission is necessary. If there are no unresolved issues regarding the Vacation and the proposal has no material adverse impact on adjacent property owners, the Community Development Director may waive Planning Commission review and recommendation. If Planning Commission review is waived, the Community Development Director shall schedule the application for Board of Trustees consideration.

If consideration before the Planning Commission is necessary, the Planning Commission shall review the proposed Vacation and shall recommend that the Board of Trustees approve, approve with modifications and/or conditions, or deny the application based on the applicable approval criteria listed below.

b. ***Board of Trustees Review and Decision***

The Board of Trustees shall review each Vacation application relative to the applicable approval criteria listed below and shall approve, approve with modifications and/or conditions, or deny the application.

FIGURE 7.10-1
Summary of Procedure for Vacations



9. **Step 9 (Approval Criteria)**
   Applicable, as follows: Applications for Vacation requests shall comply with the following review criteria, as applicable:

   a. The Vacation is generally consistent with the Town's Comprehensive Master Plan, as amended;

   b. The right-of-way or easement will not be utilized in the short or long term or the Town receives conveyance or dedication of substituted easements or right-of-ways appropriate to satisfy the continuing municipal need;

   c. The Vacation does not create an irregular right-of-way or easement configuration which could create difficulty in the provision of services or installation of public improvements;

   d. The Vacation serves the interest of the Town by removing maintenance or liability risks;

   e. The public benefits and utility of the Vacation request outweigh any adverse impacts of the Vacation; and

   f. The applicant will relocate, if necessary, any public facilities or utilities located within the right-of-way or easement, and grant and/or obtain an easement for relocation of said public facilities or utilities.

10. **Step 10 (Conditions of Approval)**
    Applicable.

11. **Step 11 (Amendments)**
    Not applicable.

12. **Step 12 (Lapse)**
    Not applicable.

C. Standards for Compensation

The following standards shall be applied to determine compensation to the Town for any Vacation:

1. If the Town purchased the easement or right-of-way, the value paid by the Town plus a reasonable inflation factor related to real estate or interest rates shall be required as consideration;
2. If the Town must purchase additional right-of-way or easements to satisfy the continuing municipal need, all costs incurred in acquiring/developing an alternate easement or right-of-way shall be required as consideration;
3. The willingness of the applicant to re-convey such easement/right-of-way to the public, if such need should occur;
4. If the party requesting the Vacation dedicated the right-of-way or easement without cost to the Town, no compensation will generally be required; and
5. If the Town incurred substantial costs in constructing/maintaining the easement or right-of-way, reimbursement for such costs may be required.

10.7.11 EASEMENTS AND LAND DEDICATIONS

A. Purpose

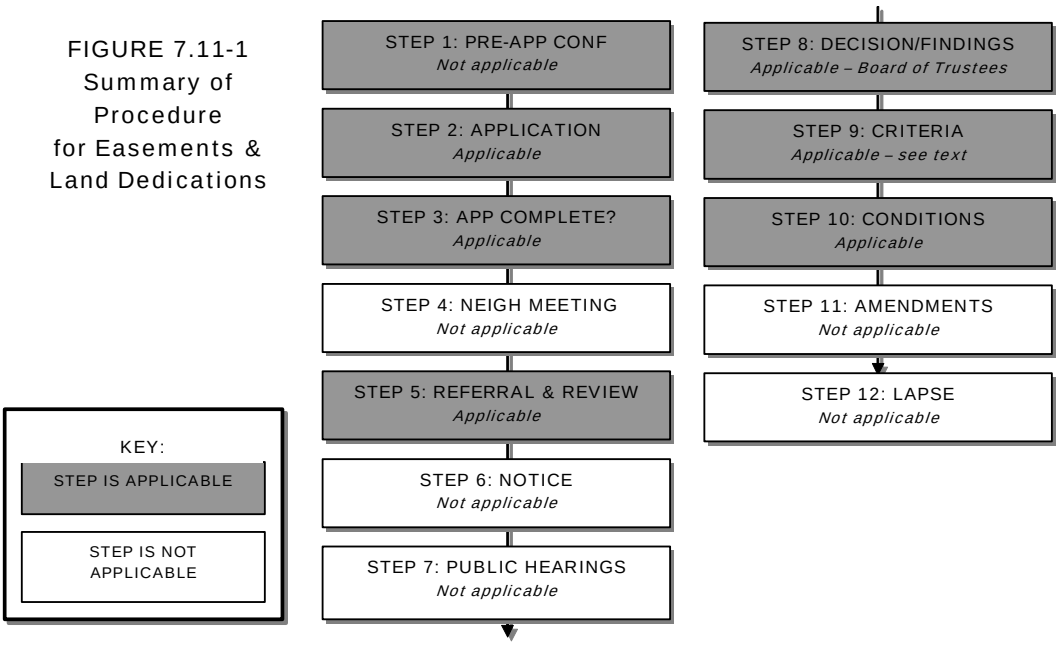
This Section provides the process by which the Town of Erie can accept easements and land dedications outside of the subdivision platting process.

B. Procedure

1. **Step 1 (Pre-Application Conference)**
   Not Applicable.
2. **Step 2 (Development Application Submittal)**
   Applicable.
3. **Step 3 (Determination of Application Completeness)**
   Applicable.
4. **Step 4 (Neighborhood Meeting)**
   Not Applicable.
5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable, as follows:
   - **a.** Staff review only is required to ensure that the appropriate easement document or deed has been provided that is acceptable to the Town. Additionally, the applicant shall provide the Town with a title insurance policy for land being dedicated.
   - **b.** A staff report shall be prepared.
6. **Step 6 (Notice)**
   Not Applicable.
7. **Step 7 (Public Hearing)**
   Not Applicable.
8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

a. The Board of Trustees shall review the Easement or Land Dedication application relative to the applicable approval criteria listed below and shall approve, approve with modifications or conditions, or deny the application.

FIGURE 7.11-1
Summary of Procedure for Easements & Land Dedications



9. **Step 9 (Approval Criteria)**
   Applicable, as follows. Applications for Easement or Land Dedication shall comply with the following review criteria, as applicable:

   a. The Easement or Land Dedication is generally consistent with the Town's Comprehensive Master Plan;

   b. The Easement or Land Dedication public benefit outweighs any adverse impacts of the Easement or Land Dedication; and

   c. The Easement or Land Dedication serves the interest of the Town.

10. **Step 10 (Conditions of Approval)**
    Applicable.

11. **Step 11 (Amendments)**
    Not Applicable.

12. **Step 12 (Lapse)**
    Not Applicable.

10.7.12 SITE PLAN

A. Purpose

The purpose of the Site Plan review process is to ensure compliance with the development and design standards and provisions of this UDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Master Plan. For land uses requiring a Site Plan review, such uses may be established in the Town, and building or land use

permits may be issued, only after a Site Plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section.

B. Applicability

A Site Plan application can only be submitted for property that is annexed and has a legal platted lot. A Site Plan can be reviewed concurrently with a Final Plat application or other applications as may be necessary.

1. Site Plan review shall be required for:

a. All new development (not including additions);

b. Any change of use from 1 primary use classification to another (for example, residential use to commercial use);

c. An increase of the number of stories for a building on a lot;

d. An increase of the combined gross floor area of a building of more than 10 percent or 5,000 square feet, whichever is less; and

e. An increase in the non-permeable lot coverage by more than 2,000 square feet; and

f. Any single-family home on a lot that is 5,000 square feet or less, in an approved subdivision that has already met the requirements for subdivision approval, unless waived by the Community Development Director.

2. Site Plan review shall not be required for:

a. A single-family home on an approved single-family lot that is larger than 5,000 square feet, except for a change of use as noted above;

b. A single-family home on a lot that is larger than 5,000 square feet, in an approved subdivision that has already met the requirements for subdivision approval; and

c. Public parks and open space. Public parks and open space shall meet Town requirements found in this UDC and the Standards and Specifications for Design and Construction of Public Improvements.

C. Types of Site Plan Review

1. Administrative Site Plan Review

The following types of projects may be approved by the Community Development Director using the administrative Site Plan approval process:

a. A single use proposed in a structure that is less than 25,000 square feet in building size for that use, not including a single-family detached dwelling unit;

b. A combination of uses proposed in a single structure, such as a shopping center, that is less than 25,000 square feet in building size, not including a single-family detached dwelling unit; and

c. Multiple buildings proposed where the combined total of all structures will not exceed 25,000 square feet in building size, not including single-family detached dwelling units on lots larger than 5,000 square feet.

2. Planning Commission Site Plan Review

The following types of projects shall require Site Plan review by the Planning Commission:

a. Any development, with the exception of single-family detached dwelling units on lots larger than 5,000 square feet, that exceeds the size threshold for administrative Site Plan approval;

b. Development in any PUD, except for exclusively single-family residential planned unit developments on lots larger than 5,000 square feet; and

c. Any administrative Site Plan referred to the Planning Commission by the Community Development Director.

3. Review of Site Plan with Subdivision
The following projects shall require a Subdivision application be submitted and finalized with the Town concurrent with a Site Plan application:

a. Property in Old Town in which the Site Plan includes more than 1 legal lot;

b. A Site Plan on property that does not have a legal building lot platted within the Town of Erie; and

c. A Site Plan on property that is identified by the Town as needing to dedicate easements, right-of-way, or property dedication.

D. Coordination with Special Review Uses

If review of a Special Review Use is required pursuant to Section 7.13, then the applicant shall file a Special Review Use application concurrent with the Site Plan application. In such cases, the Board of Trustees shall be the final decision-maker for both the Site Plan and the Special Review Use, and shall render separate decisions on both applications based on the applicable approval criteria in Section 7.13 (for the Special Review Use) and this Section 7.12 (for the Site Plan).

E. Procedure for Administrative Site Plan Review

1. Step 1 (Pre-Application Conference)
Applicable.

2. Step 2 (Development Application Submittal)
Applicable, see User's Guide for submittal requirements.

3. Step 3 (Determination of Application Completeness)
Applicable.

4. Step 4 (Neighborhood Meeting)
Not applicable.

5. Step 5 (Application Referral and Review)
Applicable.

6. Step 6 (Notice)
Not applicable.

7. Step 7 (Public Hearings)
Not applicable.

8. Step 8 (Decision and Findings)
Applicable. The following additional procedures shall apply:

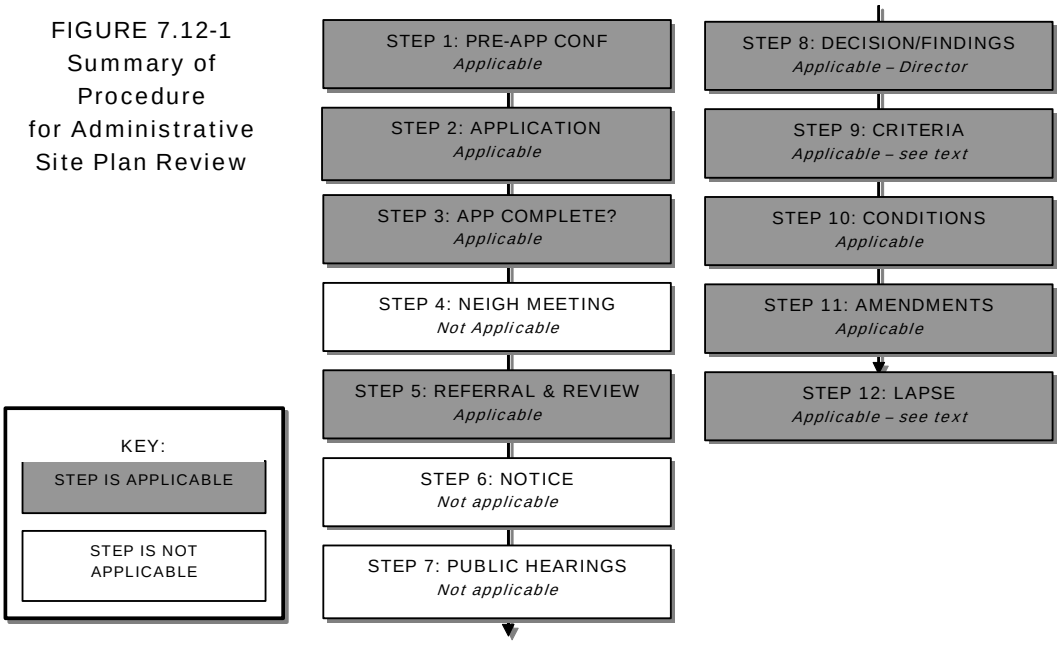
a. ***Community Development Director's Review and Decision***
The Community Development Director shall review each administrative Site Plan relative to the approval criteria listed below and shall act to approve, approve with conditions, deny, or defer the decision to the Planning Commission.

b. ***Referral to Planning Commission***
The Community Development Director may refer any application involving any requested deviation, modification, or exception from the requirements of this UDC, and/or any application that in the Community Development Director's discretion presents issues that require Planning Commission attention, to the Planning

Commission. Such plans shall state all reasons for requesting any deviation, modification, or exception from the rules, requirements, and regulations of this UDC.

c. ***Appeal to the Board of Trustees***
Appeals of decisions made by the Community Development Director under this

FIGURE 7.12-1
Summary of Procedure for Administrative Site Plan Review



Section shall be made to the Board of Trustees.

9. Step 9 (Approval Criteria)
Applicable, as follows: An administrative Site Plan may be approved upon a finding that the application meets all of the following criteria:

a. The Site Plan is generally consistent with the Town's Comprehensive Master Plan;

b. The Site Plan is generally consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;

c. The Site Plan complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 2, Chapter 3, Chapter 4, and Chapter 6;

d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and

e. The development proposed on the Site Plan and its general location is or will be compatible with the character of surrounding land uses.

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)

Applicable, as follows: Proposed changes to an approved Site Plan that meet the Applicability requirements in Subsection 7.12.B.1 shall be submitted as a new Site Plan application and shall not qualify as an Amendment application.

Any proposed changes to an approved Site Plan shall require a new Site Plan application approval or an Amendment to the Site Plan application approval before construction.

Applicable, with the following addition:

a. ***Examples of Minor Amendments***

The following amendments are offered as examples of amendments to approved Site Plans that the Community Development Director may reasonably determine to be "minor":

i. Insubstantial changes to the text to add clarity or correct conflicting provisions.

ii. Changes in street alignment (subject to plat approval), drives, and parking if such changes further the intent of the Site Plan and this UDC, and are acceptable to the Public Works Director.

iii. Changes in building height, setback, and similar provisions of 10 percent or less, provided that the underlying zone district dimensional standards are met.

iv. Minor changes in building materials, landscaping, sign placement, lighting fixtures, etc. to further the intent of the Site Plan and this UDC.

12. Step 12 (Lapse)

Applicable, in addition: The approved Site Plan documents shall be to the Town within 60 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to submit the Site Plan documents within 60 days from approval. Site Plan approval shall be null and void and shall automatically lapse if submittal does not occur within the time specified.

a. ***Special Conditions: Phasing and Expiration of Approval***

i. The Site Plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. Building permits shall not be issued based on Site Plans that have an approval date more than 3 years old. For multi-phased Site Plans, building permits shall not be issued based on an approval date more than 3 years from the date of Phase I approval.

ii. The Community Development Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Site Plan. Failure by the applicant to request a time extension prior to the expiration of the Site Plan shall render the un-built portion of the Site Plan null and void. The submittal of a revised Site Plan and fees shall be required to obtain a building permit for further site improvements.

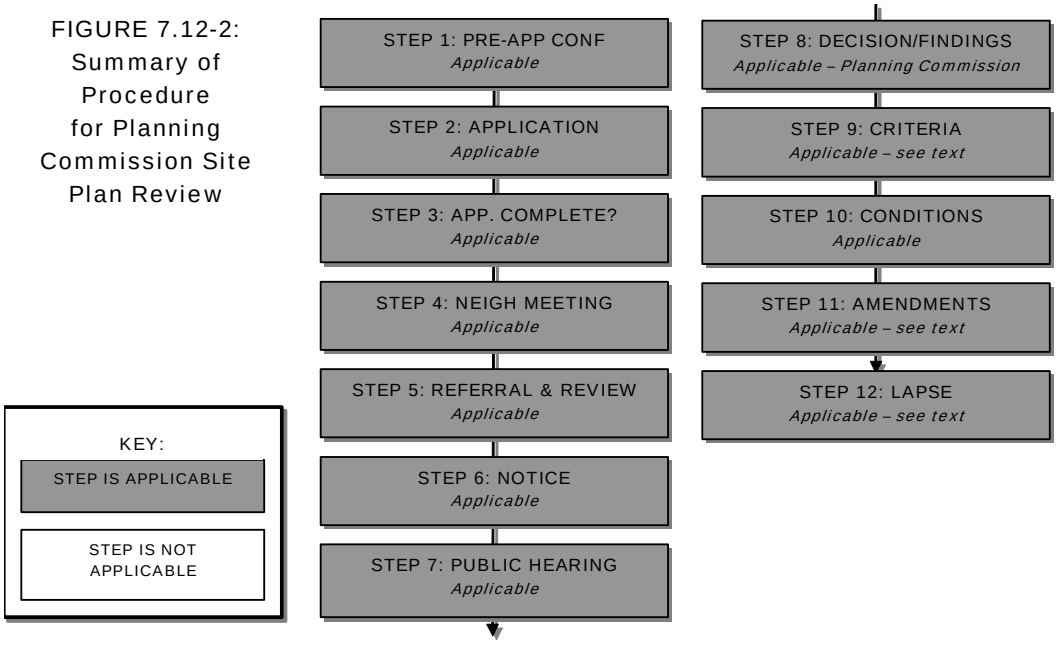
F. Procedure for Planning Commission Site Plan Review

1. Step 1 (Pre-Application Conference)

Applicable.

2. **Step 2 (Development Application Submittal)**
   Applicable, see User's Guide for submittal requirements.
3. **Step 3 (Determination of Application Completeness)**
   Applicable.
4. **Step 4 (Neighborhood Meeting)**
   Applicable.
5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.

FIGURE 7.12-2: Summary of Procedure for Planning Commission Site Plan Review



6. **Step 6 (Notice)**
   Applicable.
7. **Step 7 (Public Hearing)**
   Applicable.
8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Planning Commission Review, Hearing, and Decision***
   The Planning Commission shall hold a public hearing on the proposed Site Plan application and approve, approve with conditions, or deny the proposed Site Plan, based on the applicable approval criteria below.

   In cases where Site Plan approval includes provisions that must be approved by the Board of Trustees, Planning Commission approval of the Site Plan shall be referred to the Board of Trustees for this action.

   b. ***Appeals to Board of Trustees***
      i. The decision of the Planning Commission to approve, approve with conditions, or deny a Site Plan may be appealed to the Board of Trustees.

An appeal shall be filed in writing with the Community Development Director not more than 7 days after the action taken by the Planning Commission. The Community Development Director shall notify the Town Clerk that such appeal request has been made. The appeal shall state all reasons for dissatisfaction with the action of the Planning Commission.

ii. If the Board of Trustees at a hearing, by majority vote, deems the appeal to be without merit, it may refuse to accept the appeal, and the action of the Planning Commission shall stand. If the Board, by majority vote, accepts the appeal, the Board shall hold a noticed public hearing on the appeal. The decision by the Board to approve or deny a Site Plan shall be final and binding. The accepted appeal will be placed on the first possible public hearing agenda, to be determined and coordinated by the Town Clerk's office.

iii. In cases where Site Plan approval includes provisions that must be approved by the Board of Trustees, Planning Commission approval of the Site Plan shall be referred to the Board of Trustees for this action.

c. Board of Trustees Review, Hearing and Decision
In cases where the Planning Commission approval of the Site Plan is referred to the Board of Trustees because the Site Plan approval includes provisions that must be approved by the Board of Trustees, the Board of Trustees shall hold a public hearing on the proposed Site Plan application and approve, approve with conditions, or deny the proposed Site Plan, based on the applicable approval criteria below.

9. Step 9 (Approval Criteria)
Applicable, as follows: A Site Plan may be approved upon a finding that the application meets all of the following criteria:

a. The Site Plan is generally consistent with the Town's Comprehensive Master Plan;

b. The Site Plan is generally consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;

c. The Site Plan complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 2, Chapter 3, Chapter 4, and Chapter 6;

d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and

e. The development proposed on the Site Plan and its general location is or will be compatible with the character of surrounding land uses.

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)
Applicable, with the following modification:

a. *Examples of Minor Amendments*
The following amendments are offered as examples of amendments to approved Site Plans that the Community Development Director may reasonably determine to be "minor", and approve:

i. Insubstantial changes to the text to add clarity or correct conflicting provisions.

ii. Changes in street alignment (subject to plat approval) if such changes further the intent of the Site Plan and this UDC, and are acceptable to the Public Works Director.

iii. Changes in building envelope, setback, and similar provisions of 10 percent or less, provided that the underlying zone district dimensional standards are met.

iv. Changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the Site Plan and this UDC.

12. Step 12 (Lapse)

Applicable, in addition:

The approved Site Plan documents shall be to the Town within 60 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to submit the Site Plan documents within 60 days from approval. Site Plan approval shall be null and void and shall automatically lapse if submittal does not occur within the time specified.

a. ***Special Conditions: Phasing and Expiration of Approval***

i. The Site Plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. Building permits shall not be issued based on Site Plans that have an approval date more than 3 years old. For multi-phased Site Plans, building permits shall not be issued based on an approval date more than 3 years from the date of Phase I approval.

ii. The Community Development Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Site Plan. Failure by the applicant to request a time extension prior to the expiration of the Site Plan shall render the un-built portion of the Site Plan null and void. The submittal of a revised Site Plan and fees shall be required to obtain a building permit for further site improvements.

10.7.13 SPECIAL REVIEW USE

A. Purpose

This Section provides a discretionary approval process for Special Review Uses, which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Review Uses will not have a significant adverse impact on surrounding uses or on the community-at-large. This review process is intended to provide assurance to the community that such uses will be compatible with their locations and surrounding land uses and will further the purposes of this UDC.

B. Relationship to Site Plan Requirements

1. Coordination with Review of Site Plans

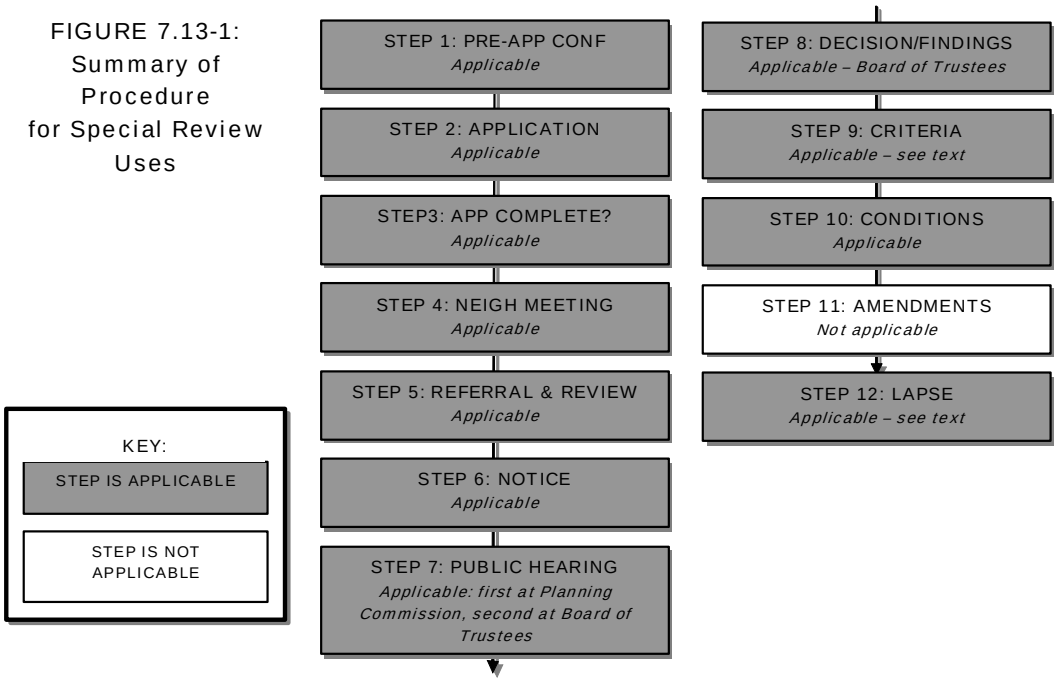
If a Site Plan is necessary for the proposed Special Review Use, then the Site Plan and the Special Review Use applications shall be processed concurrently. In such cases, the Board of Trustees shall be the final decision-making entity for both the Site Plan and the

Special Review Use. The Board shall render separate decisions on the applications based on the applicable approval criteria in this Section 7.13 (for the Special Review Use) and Section 7.12 (for the Site Plan).

C. Procedure

1. **Step 1 (Pre-Application Conference)**
   Applicable.
2. **Step 2 (Development Application Submittal)**
   Applicable, see User's Guide for submittal requirements.
3. **Step 3 (Determination of Application Completeness)**
   Applicable.
4. **Step 4 (Neighborhood Meeting)**
   Applicable.
5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.
6. **Step 6 (Notice)**

FIGURE 7.13-1: Summary of Procedure for Special Review Uses



Applicable.

7. **Step 7 (Public Hearing)**
   Applicable.
8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Planning Commission's Review and Recommendation***
   The Planning Commission shall hold a public hearing on the proposed Special Review Use, and shall recommend that the Board of Trustees approve, approve

with modifications or conditions, or deny the application, based on the applicable approval criteria below.

b. ***Board of Trustees Review and Action***
The Board of Trustees shall review the Special Review Use application at a scheduled and noticed public hearing. The Board shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application, request that the application be further reviewed by the Planning Commission, or table the application for further review, based on the applicable approval criteria below.

c. ***Indication on Zoning Map***
A zoning change to the zoning map is not required for Special Review Uses.

d. ***Alterations of Approved Uses***
No approved Special Review Use may be modified, physically expanded, hours of operation extended, or otherwise altered unless amended in accordance with the procedures applicable to initial approval of a Special Review Use as set out in this UDC.

9. Step 9 (Approval Criteria)
Applicable, as follows: A Special Review Use may be approved only if the Board of Trustees finds that all of the following criteria have been met:

a. The proposed use is generally consistent with the Town's Comprehensive Master Plan and all applicable provisions of this UDC and applicable State and Federal regulations;

b. The proposed use is generally consistent with the purpose and intent of the zoning district in which it is located;

c. The proposed use is generally consistent with any applicable use-specific standards set forth in Section 3.2;

d. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable;

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

g. Adequate assurances of continuing maintenance have been provided; and

h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent reasonably practicable.

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)
Not applicable.

12. Step 12 (Lapse)
Applicable, as follows:

a. ***Lapse of Special Review Use Approval Upon Site Plan Expiration***

i. If a Site Plan is necessary for the proposed Special Review Use, the approval of the Special Review Use shall be conditioned on the approval of the Site Plan. Accordingly, the approval of any Special Review Use shall lapse and become null and void upon the expiration of the approved Site Plan, unless otherwise restricted by the Town.

ii. If a Special Review Use is not in operation within 1 year after a building permit is issued or within the timeframe established as a Condition of Approval of the Special Review Use, the Special Review Use Approval shall be revoked by the Community Development Director. The owner shall be notified of any revocation in writing.

b. ***Lapse of Special Review Use Approval without Site Plan***
If a Special Review Use is not in operation within 1 year after the date of its approval or within the timeframe established as a Condition of Approval of the Special Review Use, its approval shall be revoked by the Community Development Director. The owner shall be notified of any revocation in writing.

D. Non-Compliance of Special Review Uses after Approval

In the event of noncompliance by the applicant with the approved Special Review Use plan, written agreement, development schedule, or any conditions of approval, the Planning Commission may initiate proceedings to review the Special Review Use. Such review shall occur in the same manner as for original approval as provided herein, and upon completion of such review, the Board of Trustees may revoke the Special Review Use or amend the original approval.

E. Approved Special Review Uses Existing Prior to Effective Date of this UDC

Any approved Special Review Use that existed prior to the effective date of this UDC shall continue to be an approved Special Review Use, subject to the provisions of this Section.

10.7.14 ARCHITECTURAL REVIEW WITHOUT SUBDIVISION OR SITE PLAN

A. Purpose

The purpose of the Architectural review process is to ensure compliance with the development and design standards and provisions of this UDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Master Plan. Single family residential structures and accessory structures requiring and Architectural review may only be issued a building permit after Architectural Plans have been approved either during the Subdivision or Site Plan process or in accordance with the procedures and requirements of this Section.

B. Applicability

Architectural review and approval of single family residential structures and accessory structures requiring Architectural review will typically be conducted concurrently with a Subdivision or Site Plan application. However, if additional dwelling units are desired to be added to the Subdivision or Site Plan or changes are requested to the approved Subdivision or Site Plan Architecture then the process in this Section shall apply.

C. Types of Architectural Review

1. Coordination with Subdivision Review
Architectural review shall typically occur during the Subdivision or Site Plan Review process. The review and approval agencies shall be those that review and approve the Subdivision or Site Plan application.

2. Administrative Architectural Review

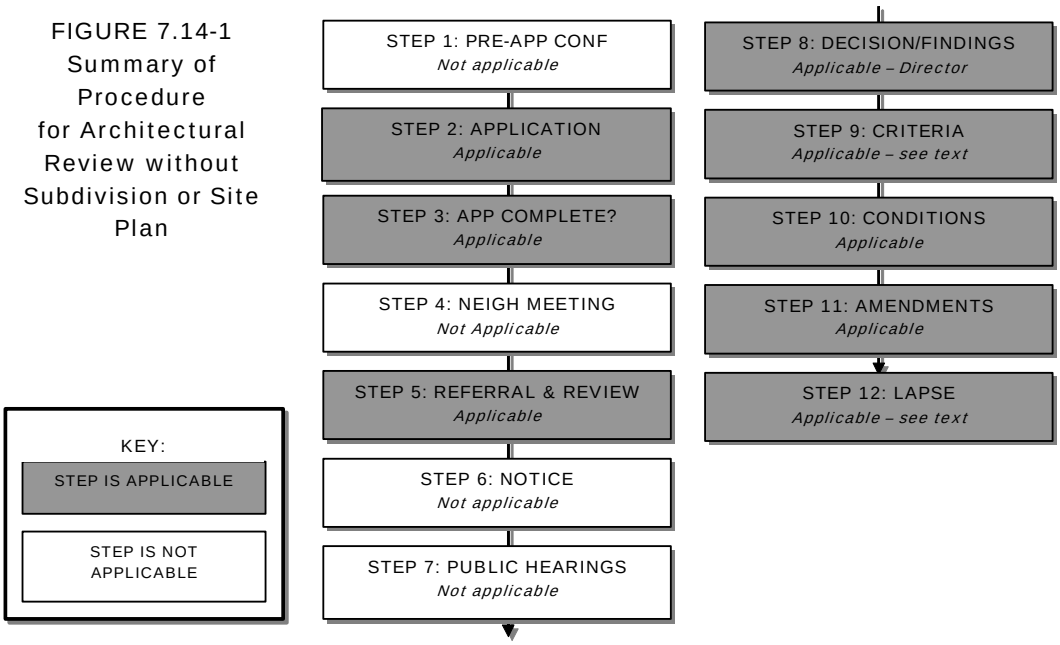
Single family residential structures and accessory structures requiring Architectural review, which were not reviewed during the Subdivision or Site Plan application process, may be approved by the Community Development Director using the administrative Architectural review approval process.

D. Procedure for Administrative Architectural Review

1. **Step 1 (Pre-Application Conference)**
   Not Applicable.

2. **Step 2 (Development Application Submittal)**
   Applicable.

FIGURE 7.14-1
Summary of Procedure for Architectural Review without Subdivision or Site Plan



3. **Step 3 (Determination of Application Completeness)**
   Applicable.

4. **Step 4 (Neighborhood Meeting)**
   Not Applicable.

5. **Step 5 (Application Referral and Review)**
   Applicable.

6. **Step 6 (Notice)**
   Not Applicable.

7. **Step 7 (Public Hearings)**
   Not Applicable.

8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Community Development Director's Review and Decision***
   The Community Development Director shall review each administrative Architectural review application relative to the approval criteria listed below and

shall act to approve, approve with conditions, deny, or defer the decision to the Planning Commission.

b. ***Referral to Planning Commission***
The Community Development Director may refer any application involving any requested deviation, modification, or exception from the requirements of this UDC, or any application that in the Community Development Director's discretion presents issues that require Planning Commission attention, to the Planning Commission. The applicant shall state all reasons for requesting any deviation, modification, or exception from the rules, requirements, and regulations of this UDC.

c. ***Appeal to the Board of Trustees***
Appeals of decisions made by the Community Development Director or Planning Commission under this Section shall be made to the Board of Trustees.

9. Step 9 (Approval Criteria)
Applicable, as follows: An Architectural review may be approved upon a finding that the application meets all of the following criteria:

a. The Architecture is generally consistent with the Town's Comprehensive Master Plan;

b. The Architecture is generally consistent with any previously approved Architecture during the subdivision plat, Site Plan, or any other precedent plan or approval as applicable;

c. The Architecture complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 6;

d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and

e. The Architecture proposed will be compatible with the character of surrounding land uses.

10. Step 10 (Conditions of Approval)
Applicable.

11. Step 11 (Amendments)
Applicable.

12. Step 12 (Lapse)
Applicable, with the following modification:

a. ***Special Conditions: Expiration of Approval***

i. The Architectural approval shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. This is for all Architectural approvals whether approved as part of a Subdivision or as a separate review and approval process. Building permits shall not be issued based on Architectural Plans that have an approval date more than 3 years old.

ii. The Community Development Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Architectural Plans. Failure by the applicant to request a time extension prior to the expiration of the Architectural Plans shall render the Architectural Plans null and void. The submittal of revised Architectural

Plans and fees shall be required to obtain a building permit after the Plans have lapsed. The revised plans shall meet the current Town standards.

10.7.15 BUILDING PERMITS, CERTIFICATES OF OCCUPANCY, AND PERFORMANCE REQUIREMENTS

A. Building Permits

A building permit in a development that requires a Site Plan, shall be issued only when a Site Plan has been approved. However, with the approval of the Community Development Director, an applicant may submit a building permit application to the Building Official concurrent with the Site Plan application, which permit may be issued upon Site Plan approval by the Town. Building permits shall not be issued for any development that is not in conformance with the approved Site Plan. Approval of construction drawings by the Public Works Director shall be required prior to issuance of building permits.

B. Certificates of Occupancy

1. When building construction and all site development is completed in accordance with the approved Site Plan and building permit, a Certificate of Occupancy may be issued.

2. When a Certificate of Occupancy is not required, such as for a change of use where no new building construction is proposed, site development in accordance with the approved Site Plan shall be completed within 6 months of Site Plan approval. The Community Development Director may grant no more than 1 time extension of not more than 6 months, upon a written request by the applicant, prior to the expiration of the 6-month period for good cause shown.

3. If adverse weather prevents the installation of minor Site Plan elements that do not affect the function and access of the occupancy use, a Certificate of Occupancy may be issued upon the applicant providing 1 of the following forms of security: (1) irrevocable Letter of Credit; or (2) cashier's check. This security shall be in an amount equal to the cost of the unfinished work, plus 15percent and shall be submitted prior to the issuance of a Certificate of Occupancy. The security will be held by the Town and released when the work is deemed complete by the Community Development Director or the Public Works Director.

a. In order to quantify the required amount of the security, the Town may require up to 3 bids for the required improvements by qualified professionals, at no cost to the Town. Based on these bids, the Community Development Director or Public Works Director shall determine the amount of security required.

b. When a Certificate of Occupancy is issued, based on security, prior to the completion of all site improvements, the time for the completion of site improvements shall not exceed 6 months from the date the Certificate of Occupancy is issued.

c. Failure by the applicant to complete the work or to request a time extension within the specified time period shall result in a forfeiture of the security and shall cause the Town to initiate the construction of such improvements. The Community Development Director may grant no more than 1 time extension of not more than 6 months upon receipt of a written request, accompanied by an extension of the financial security, prior to the date the construction was to have been completed.

4. Prior to the issuance of the Certificate of Occupancy, the applicant shall submit a completed application for "Request for Release of Certificate of Occupancy."

10.7.16 TEMPORARY USE PERMIT

A. Applicability

No use that is classified as a Temporary Use in the zoning district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit, unless excepted from the permit requirements by Subsection 3.4.C.2.

B. Procedure

1. **Step 1 (Pre-Application Conference)**
   Not applicable.

2. **Step 2 (Development Application Submittal)**
   Applicable, with the following modification:

   a. ***Filing Deadline***
   All applications for Temporary Use permits shall be filed at least 2 weeks prior to the date the Temporary Use will commence, or at least 4 weeks prior to the date the Temporary Use will commence if public safety support is requested from the Town. The Community Development Director may waive this filing deadline requirement in an individual case, for good cause shown.

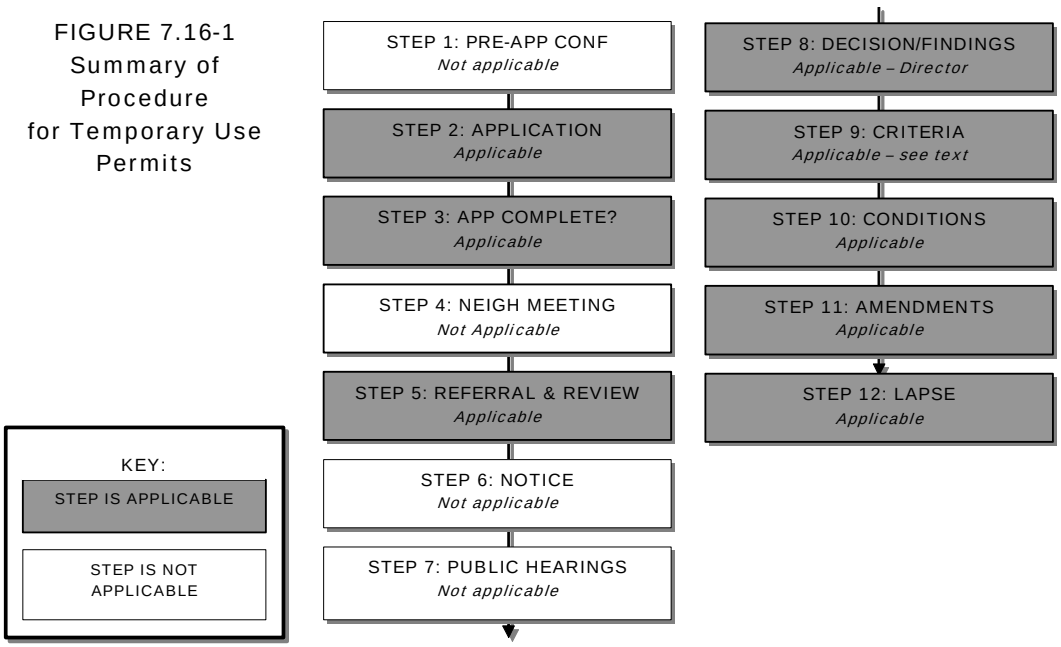
3. **Step 3 (Determination of Application Completeness)**
   Applicable.

4. **Step 4 (Neighborhood Meeting)**
   Not applicable.

5. **Step 5 (Application Referral and Review)**
   Applicable.

6. **Step 6 (Notice)**
   Not applicable.

FIGURE 7.16-1
Summary of Procedure for Temporary Use Permits



7. **Step 7 (Public Hearings)**
   Not applicable.

8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

   a. ***Community Development Director's Review and Decision***
      The Community Development Director shall review each Temporary Use application relative to the approval criteria listed below and shall act to approve, approve with conditions, or deny, the application.

   b. ***Duration of Permit***
      A Temporary Use permit shall be valid only for the time period stated on the permit, unless otherwise authorized in this UDC.

9. **Step 9 (Approval Criteria)**
   Applicable, as follows: The Community Development Director shall issue a Temporary Use permit only upon finding that the proposed Temporary Use satisfies the requirements set forth in Section 3.4.

10. **Step 10 (Conditions of Approval)**
    Applicable.

11. **Step 11 (Amendments)**
    Applicable.

12. **Step 12 (Lapse)**
    Applicable, as follows: The Temporary Use permit shall lapse and be null and void upon expiration of the time limit specified in the permit.

10.7.17 ANNEXATION AGREEMENT

A. Purpose

Annexation Agreements are contracts between the applicant and the Town. Annexation Agreements are typically required with an annexation application.

B. Contents

The Town has a standard Annexation Agreement format that is to be used in the drafting of an Annexation Agreement for an application. The standard form is to be used in drafting the Annexation Agreement with modifications only occurring in the special provisions section and related exhibits section. An applicant may not change the standard form language outside the special provisions section and exhibits without approval by the Town. This UDC and other Town laws may not be altered by the Annexation Agreement.

The Annexation Agreement represents the applicant's proposed performance to induce the Board of Trustees to act favorably on the proposed Annexation. The accompanying Initial Zoning application and if applicable, a Concept Plan for the Annexation application are part of the applicant's proposal and shall be an integral part of the Annexation Agreement. The special provisions section of the Annexation Agreement is based on the general development information submitted at the time of Annexation and Initial Zoning. As future applications for subdivision and Site Plan are submitted to the Town and more detailed development information is submitted for review, additional agreements, such as a Development and Site Plan Agreement may be required to contractually bind the owner and Town to improvements identified during those review processes. The Annexation Agreement shall detail the mutual understanding about the Annexation. The Annexation Agreement may possibly include the following matters or other development related items:

1. Density or intensity of development and land use mix, including designation of the density distribution within the parcel to be annexed;

2. Phasing of the development in general terms;

3. Drainage, detailing major improvements required, participation in the storm drainage utility, participation in existing improvements, and how drainage requirements will be satisfied;

4. Street and bikeways, detailing participation in existing and proposed improvements, dedication of perimeter right-of-ways and timing of such, major street improvements required and designation of responsibility for construction, treatment of local, interior street and right-of-ways, responsibility for construction or participation in traffic signals and other traffic-control devices, payment for any transportation or site access studies or any addenda;

5. Utilities, detailing participation in existing systems, major improvements to be constructed, dedication of necessary easements and timing of such, and utilities required;

6. Landscaping, detailing responsibility and scheduling of arterial and collector street landscaping and primary greenway development, and maintenance of such facilities;

7. Fire protection, detailing responsibility for fire protection measures;

8. Land dedication or reservation, designating land for public purposes including but not limited to streets, utilities, parks, open space, trails, schools, greenways, or cash-in-lieu agreements. Land reserved for future park, open space or trail purchase will be paid at fair market value with the appraisal value determined by pre-annexation raw land value;

9. Reimbursements to the Town or to the party paying for the public improvements or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;

10. Exclusion from special districts and acknowledgement of the property owner's responsibility in securing exclusion;

11. Special districts, all agreements concerning special districts projected to be created within the Town limits, including, but not limited to, applicant's agreement to use any district for installation, construction warranty, and repair of public improvements;

12. Vested rights and growth management:

- **a.** Specifying that the Town's action in annexing the property and approving the Concept Plan and Initial Zoning do not create a vested right as defined in the Colorado Revised Statutes or other Town regulation or ordinance;
- **b.** Specifying that, unless otherwise agreed to by the Town, the landowner requesting annexation shall waive any pre-existing vested property rights as a condition of such annexation; and
- **c.** Specifying that the annexed property will be subject to any future phasing or growth management regulations that may be adopted by the Town;

13. Enforcement, specifying that the agreement is binding on heirs, successors and assigns;

14. Non-contestability clause detailing reliance by all on the agreement and providing for disconnection of the Annexation, at the option of the Town, upon noncompliance or nonperformance by the applicant;

15. Other issues as may be unique to the property including, but not limited to, necessary off-site improvements, railroad and river crossing improvements, relocation or maintenance of

irrigation ditches and laterals, and purchase of existing electric facilities or electric service territory; and

16. Other issues as may be necessary to evidence compliance with this Section and UDC.

C. Procedure & Review Criteria

1. Decision-Making Body
The Board of Trustees shall be the decision-making body on all Annexation Agreements and any amendments to the Annexation Agreement.

2. Procedure for Review
A proposed Annexation Agreement shall be reviewed by the Board of Trustees at the same time that the related annexation application is reviewed. The Board shall have the power to make recommendations regarding the proposed Annexation Agreement.

D. Amendment Procedure
Any party to the Annexation Agreement may request, through a formal application to the Town, that the Town amend the agreement.

E. Enforcement
Unless amended or terminated pursuant to this Section, an Annexation Agreement shall be enforceable by any party thereto.

10.7.18 DEVELOPMENT AGREEMENT

A. Purpose

Development Agreements are contracts between an applicant and the Town. Development Agreements are typically required with a subdivision application when public improvements and private improvements of public interest are identified during review of the application.

B. Contents

The Town has a standard Development Agreement format that is to be used in the drafting of a Development Agreement for an application. The standard form is to be used in drafting the Development Agreement with modifications generally occurring only in the special provisions section and related exhibits section. This UDC and other Town laws may not be altered by the Development Agreement. Development agreements may contain the following:

1. Descriptions of the acceptable and prohibited uses on the property;

2. The density of proposed uses, including maximum floor area and height of buildings;

3. Provisions for the reservation or dedication of land for public purposes;

4. Provisions for the timing, location, and maintenance of on-site improvements, including parks, trails, landscaping and open space;

5. Proposed timing and phasing of the development project;

6. Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;

7. Provisions for public benefits or improvements in excess of what is required by current Town policy or law;

8. Reimbursements to the Town or to the party paying for the public improvements and/or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;

9. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
10. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;
11. Provisions for the vesting of property rights;
12. Termination date for the Development Agreement; and
13. Any other provisions appropriate to guide the completion of the development as proposed.

C. Procedure & Review Criteria

1. **Decision-Making Body**
   The Board of Trustees shall be the decision-making body on all development agreements, and shall approve a development agreement and any amendments to the Development Agreement.
2. **Procedure for Review**
   A proposed Development Agreement shall be reviewed by the Board of Trustees at the same time that the related development application is reviewed. The Board shall have the same power to make recommendations regarding the proposed Development Agreement or amendment as they do for the related development approval. Procedures for review and approval of development agreements, by the Board of trustees, shall be as follows:
   a. For subdivision applications requiring a Preliminary Plat, a preliminary draft of the Development Agreement (with completed draft exhibits) may be reviewed by the Board of Trustees at the same time as the public hearing for the Preliminary Plat. The Board of Trustees shall be the decision-making body on all Development Agreements and amendments thereto.
   b. At Final Plat, the Board of trustees shall review a final Development Agreement. The Board of Trustees shall be the decision-making body on all Development Agreements and amendments thereto.
   c. Development Agreements that are processed with a Minor Subdivision or Subdivision Amendment shall be reviewed by the Board of Trustees. The Board of Trustees shall be the decision-making body on all Development Agreements and amendments thereto.
3. **Review Criteria**
   In reviewing and acting upon proposed Development Agreements and amendments, the Board of Trustees shall consider the review criteria for the development application and the following additional review criteria:
   a. Whether the benefits of the Development Agreement provisions to the Town outweighs its costs; and
   b. Whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.

D. Amendment Procedure

1. Any party to the Development Agreement may request, through a formal application to the Town, that the Town amend the agreement.
2. The Procedure and Review Criteria in Section H.3 above shall be used for the amendment request.

E. Enforcement

Unless amended or terminated pursuant to this Section, a Development Agreement shall be enforceable by any party thereto.

10.7.19 SITE PLAN AGREEMENT

A. Purpose

Site Plan Agreements are contracts between an applicant and the Town. Site Plan Agreements are typically required with a Site Plan application when public improvements and private improvements of public interest are identified during review of the application.

B. Contents

The Town has a standard Site Plan agreement format that is to be used in the drafting of a Site Plan Agreement for an application. The standard form is to be used in drafting the Site Plan Agreement with modifications generally occurring only in the special provisions section and related exhibits section. This UDC and other Town laws may not be altered by the Site Plan Agreement. Site Plan agreements may contain the following:

1. Descriptions of the permitted and prohibited uses on the property;
2. The density of proposed uses, including maximum floor area and height of buildings;
3. Provisions for the reservation or dedication of land for public purposes;
4. Provisions for the timing, location, and maintenance of on-site improvements;
5. Proposed timing and phasing of the development project;
6. Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;
7. Provisions for public benefits or improvements in excess of what is required by current Town policy or law;
8. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
9. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;
10. Reimbursements to the Town or to the party paying for the public improvements or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;
11. Provisions for the vesting of property rights;
12. Termination date for the Site Plan Agreement; and
13. Any other provisions appropriate to guide the completion of the development as proposed.

C. Procedure and Review Criteria

1. **Decision-Making Body**
   The Board of Trustees shall be the decision-making body on all Site Plan Agreements and any amendments to the Site Plan Agreement.
2. **Procedure for Review**
   A proposed Site Plan Agreement shall be reviewed by the Board of Trustees before the related Site Plan application is approved. The Board shall have the power to make recommendations regarding the proposed Site Plan Agreement or amendment.

3. Review Criteria

In reviewing and acting upon proposed Site Plan Agreements, the Board of Trustees shall consider the review criteria for the Site Plan application and the following additional review criteria:

a. Whether the benefits of the Site Plan Agreement provisions to the Town outweighs its costs; and

b. Whether the Site Plan Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.

D. Amendment Procedure

1. Any party to the Development Agreement may request, through a formal application to the Town, that the Town amend the agreement.

2. The procedure and Review Criteria in Subsection 7.19.C above shall be used for the amendment request.

E. Enforcement

Unless amended or terminated pursuant to this Section, a development agreement shall be enforceable by any party thereto.

10.7.20 IMPROVEMENT GUARANTEES

A. Guarantee Required

To ensure the installation of required public improvements, at the time the Final Plat or Site Plan is filed, a Development Agreement shall require the Developer to guarantee the completion of all such improvements by 1 or more of the methods specified in this Section. The means of a guarantee may be changed during the guarantee period through a written modification of the agreement only with the Community Development Director's approval. The amount of the guarantee shall be determined on the basis of the Developer's cost estimate as accepted by the Town. The guarantee shall remain in effect until final acceptance of improvements.

B. Cost Estimate; Overrun Allowance

The engineer's cost estimate shall state the estimated cost of completion for each required public improvement. Cost estimates for each required public improvement must be approved by the Town. The guarantee of completion of public improvements shall include a 15 percent overrun allowance.

C. Methods

The Development Agreement shall include 1 or more of the following methods to guarantee the construction of required public improvements:

1. Deposit in Escrow

The Developer may elect to deposit a cash sum equal to the guarantee as required herein. In the case of an escrow account, the Developer shall file with the Town an escrow agreement that includes the following terms:

a. Funds of the escrow account shall be held in trust until released by the Town and may not be used or pledged by the Developer as security in any matter during that period other than payment for the improvements.

b. In the case of a failure on the part of the Developer to complete any improvement within the required time period, the funds in such account shall be used by the Town for the completion of those improvements.

2. Letter of Credit

The Developer may elect to provide from a bank or other responsible financial institution authorized to do such business in the state an irrevocable letter of credit in a form acceptable to the Town. Such letter shall be filed with the Town and shall certify the following:

a. That the creditor irrevocably guarantees funds in an amount equal to the estimated cost of all required public improvements plus overrun allowances as provided herein for the completion of all such improvements.

b. That in the case of failure on the part of the Developer to complete any specified improvements within the required time period the Town may immediately and without further action use funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter.

D. Improvement Warranty

1. Time Period

The Developer shall warrant and guarantee that required public improvements constructed under the agreement will remain in good condition and meet operating specifications for 2 years, commencing with construction acceptance of each public improvement when it is completed. Such warranty includes defects in design, workmanship, materials, and any damage to improvements caused by the Developer, his agents or others engaged in work to be performed under the subdivision agreement.

2. To secure the warranty

a. The guarantee of performance provided for in this Section shall remain in effect until the end of the warranty period.

b. The guarantee of performance shall be reduced to 25 percent of the original Development Agreement for the warranty period.

E. Correction of Deficiencies under Guarantee

Within 30 days, or a reasonable extension at the sole discretion of the applicable department director, of notification by the Town of the need for repair or reconstruction, the Developer shall correct the deficiencies to the Town's satisfaction. Such notification shall be made by certified mail. If the Developer fails to repair or reconstruct the deficiency within the time specified in this Section, the Town will make the repair at the Developer's sole expense. The Town may then bill the Developer for the cost of the repair, or declare the guarantee forfeited.

F. Release of Guarantee

An inspection will be made by the Town at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the guarantee.

G. Default

If the Developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the Town may demand immediate payment on the performance guarantee. In the case of deposits in escrow or letters of credit, the Town may demand immediate payment of a portion or all of all sums obligated for the performance or warranty of any improvement. All funds received by the Town shall be used to complete the improvements necessary to ensure that:

1. All required public improvements are built to specifications necessary to receive final acceptance; and

2. The improvements remain in good condition for the completion of the warranty period. The Town may use guarantee funds for the completion of required public improvements from the date of initial default until 3 years after the funds have become available to the Town for such use. The Town shall pay to the developer all guarantee funds which were not used or obligated for the completion of the improvements by:

a. The final acceptance of all public improvements; or

b. The 2 year period provided for in this Section.

H. Standards May Not be Altered; Enforcement of Chapter

All provisions of this Chapter are mandatory and may not be altered by the Development Agreement. The obligations contained in this Chapter shall be enforceable by methods of enforcement of ordinance as well as contract.

10.7.21 AMENDMENTS TO THE TEXT OF THIS UDC

A. Purpose

The purpose of this Section is to provide standards and requirements for amending the text of this UDC. The purpose of text amendments is to make adjustments to the text of this UDC that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town. Amendments will not be granted to relieve particular hardships or to confer special privileges or rights on any person or organization.

B. Applicability

Any amendments to the text of this UDC shall be processed in accordance with Section 1-1-10 of the Municipal Code, as well as the requirements set forth in this Section 10.7.21. Only the Board of Trustees may, after recommendation of the Planning Commission, adopt an ordinance amending the text of this UDC in accordance with the requirements of this Section.

C. Procedure

1. **Step 1 (Pre-Application Conference)**
   Not Applicable.
2. **Step 2 (Development Application Submittal)**
   Not Applicable.
3. **Step 3 (Determination of Application Completeness)**
   Not Applicable.
4. **Step 4 (Neighborhood Meeting)**
   Not Applicable.
5. **Step 5 (Application Referral, Review and Staff Report)**
   Applicable.
6. **Step 6 (Notice)**
   Applicable. Published notice only.
7. **Step 7 (Public Hearing)**
   Applicable, before the Board of Trustees only.
8. **Step 8 (Decision and Findings)**
   Applicable. The following additional procedures shall apply:

a. ***Planning Commission Review and Recommendation***

i. The Planning Commission shall make a recommendation to the Board of Trustees to approve or deny the text amendment, based on the applicable standards of this Section.

ii. If no recommendation is made within 60 days, then the Planning Commission may request an extension of time from the Board of Trustees. If no recommendation is made and no extension is granted, then the Board of Trustees may act on the proposed amendment without a recommendation from the Planning Commission.

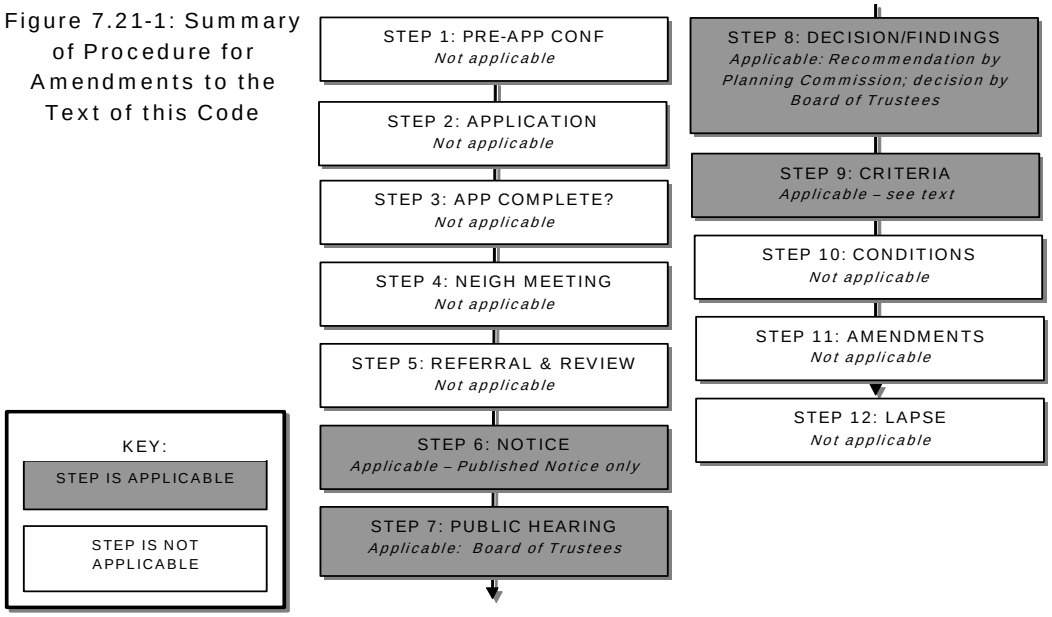
b. ***Board of Trustees Action***

After reviewing the reports and recommendations of the Community Development Director and the Planning Commission, and following a public hearing, the Board of Trustees shall vote to approve, approve with amendments, or deny the proposed amendment, based on the applicable standards of this Section. The Board of Trustees also may refer the proposed amendment back to the Planning Commission for further consideration. Amendments to the text of this UDC shall be approved in the form of ordinances.

c. ***Records of Amendments***

A record of amendments to the text of this UDC in a form convenient for the use of the public shall be maintained in the office of the Town Clerk.

Figure 7.21-1: Summary of Procedure for Amendments to the Text of this Code



9. Step 9 (Approval Criteria)

Applicable, as follows: Recommendations and decisions on text amendments may be approved if the Board of Trustees finds that all of the following approval criteria have been met:

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

b. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and

c. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

10. Step 10 (Conditions of Approval)
Not applicable.

11. Step 11 (Amendments)
Not applicable.

12. Step 12 (Lapse)
Not applicable.

10.7.22 APPEALS

A. Appeals of Administrative Decisions

1. Purpose and Scope
Appeals to the Board of Adjustment from the decisions of the Town's staff are permitted under this UDC. It is the intention of this Section that all questions arising in connection with the interpretation and enforcement of this UDC shall be presented first to the appropriate Department, that such questions shall be presented to the Board of Adjustment only on appeal from the decisions of that Department, and that recourse from the decision of the Board of Adjustment shall be to the courts. It is further the intention of this Section that the duties of the Board of Trustees in connection with this UDC shall not include the hearing or passing upon disputed questions that may arise in connection with the enforcement thereof.

2. Decisions That May Be Appealed
An asserted error in any order, requirement, permit, decision, determination, refusal, or interpretation made by any Town staff in interpreting and/or enforcing the provisions of this UDC may be appealed to the Board of Adjustment, unless otherwise provided in this UDC.

3. Filing of Appeal; Effect of Filing

a. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by the order, requirement, permit, decision, or determination that is the subject of the appeal, or by the Community Development Director on behalf of the Town.

b. An application for an appeal shall be filed with the Community Development Director. Once the application is determined to be complete, the Community Development Director shall schedule the appeal for consideration at a public hearing before the Board of Adjustment. The Community Development Director and the Staff from whom the appeal is taken shall transmit to the Board of Adjustment all applications and other records pertaining to such appeal. The application shall be filed no later than 30 days after the date of the contested action.

c. The filing of an appeal shall stay all proceedings in furtherance of the contested action, unless the Community Development Director certifies to the Board of Adjustment that, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order granted by the Board of Adjustment or by a court of law on notice to the Community Development Director or from whom the appeal is taken, with due cause shown.

4. Action by the Board of Adjustment

a. Upon receiving the application materials from the Community Development Director, the Board of Adjustment shall hold a public hearing on the appeal.

b. At the hearing, the Board of Adjustment shall adopt a resolution reversing, affirming, or modifying the contested action. In reversing, affirming, or modifying the contested action, the Board of Adjustment shall have all relevant powers of the Town staff from whom the appeal is taken.

c. The Board of Adjustment shall not reverse or modify the contested action unless it finds that Town staff erred in the application or interpretation of the terms of this UDC or related policies adopted by the Town.

d. The Board of Adjustment shall not reverse or modify the contested action unless there is a concurring vote of at least 4 members.

5. Effect of Reversal or Modification

In the event that the Board of Adjustment reverses or modifies the contested action, all subsequent actions taken by Town staff with regard to the subject matter shall be in accordance with the reversal or modification granted by the Board of Adjustment.

B. Appeals from Planning Commission

1. Appeals from decisions by the Planning Commission based upon this UDC shall be to the Board of Trustees, unless otherwise provided in this UDC.

C. Appeal from Board of Adjustment or Board of Trustees

1. Appeals from decisions made by the Board of Adjustment or the Board of Trustees based upon this UDC shall be to the courts.

10.7.23 PLANNED DEVELOPMENT (PD) ZONING

A. Purpose

1. 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:

a. Chapter 3: Use Regulations;

b. Chapter 4: Dimensional Standards;

c. Chapter 5, Section 5.4: Layout and Design of Subdivisions; and,

d. Chapter 6: Development and Design Standards.

2. The PD zone district may be used when:

a. There is a special public benefit that does not coincide with standard zoning district requirements; or,

b. A development proposal is unable to meet the standard zoning district requirements due to physical constraints of the property; or,

c. A development proposal is unable to meet the standard zoning district requirements due to unique development design; or,

d. A development proposal is unable to meet the standard zoning 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 district modifications to the UDC regulations are to be based on creative and innovative design and amenities incorporated in the PD zone district 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).

4. 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.

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.

B. Applicability

1. General

a. The procedures of this Section, shall apply to all PD zone district applications at initial zoning for annexation or as a rezoning of a property from another district.

b. There shall be no minimum or maximum size required for a PD zone district application.

c. The PD zoning district specific regulations are required to be outlined in a Planned Development–Development Plan ("PD-DP"). The PD-DP shall comprehensively detail the layout and design of the entire PD zoning district in order to show conformance with the purpose of the PD zoning district; to illustrate where and how modification of specific UDC regulations will occur; and to delineate where and how a greater public benefit has been provided. The PD-DP is required to be approved before development may occur.

d. The PD zoning district application may propose modifications to:

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.

e. The provisions of the PD-DP shall govern the development within the PD zone district provided, however, that where the provisions of the PD-DP do not address a particular subject, the relevant provisions of the UDC, as amended, or any other applicable ordinance or regulation of the Town shall be applicable.

C. Procedure for Review

1. Step 1: (Pre-Application Conference)

Applicable. The Pre-Application conference content should additionally include a list, provided by the applicant, of all the proposed modifications of the UDC. Staff will review the applicant's proposed modifications and recommend whether or not the PD zoning district application is the most appropriate and efficient land use application for the applicant's need. Other UDC modification options available to an applicant, which may be recommended by staff, include the Alternative Equivalent Compliance process in Subsection 6.1.C. or the Planned Unit Development (PUD) Overlay district in Subsection 2.7.D.

2. Step 2: (Development Application Submittal)

Applicable, the following additional development application submittal requirements shall also apply.

The PD zoning district application submittal shall include a PD-DP of maps and drawings with a written statement of intent for the district, development reports and other supporting submittal information as may be referenced in the User's Guide. The following submittal materials, insofar as applicable, shall be required and shall contain the minimum information specified in this Section. Applications for the PD zoning district shall provide application materials similar to what is submitted for a preliminary plat application. Applications that include residential (other than single-family), public and institutional, commercial or manufacturing and light industrial land uses shall additionally provide application materials similar to what is submitted for a site plan application. The Community Development Director may waive submittal information below if the anticipated impact of the proposed development is minimal or the submittal information is not relevant to the specific application.

a. An ALTA land title survey of existing conditions.

b. A native tree and vegetation survey.

c. Copies of Special Agreements (oil/gas surface use agreements, conveyances, restrictions, or covenants).

d. A written statement that contains information regarding:

i. The character and development concept for the PD.

ii. A comparative chart that lists the UDC regulation that is requested to be modified and the proposed modified PD regulation that will replace it.

iii. Justification statement for each requested modification to the UDC regulations.

iv. Identification of the greater public benefit provided within the PD zone district.

v. A development schedule that identifies timing and phasing of development.

vi. General consistency of the development with the Town of Erie Comprehensive Master Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.

vii. General compatibility with, and effect on, surrounding properties.

viii. Provision for adequate, police, fire, and school services.

e. A PD-DP that contains:

i. The requested modifications to the UDC regulations.

ii. A land use summary chart that identifies, by each land use type, the:

(A) area and percent of total area;

(B) number of lots;

(C) number of dwelling units;

(D) dwelling units per gross acreage;

(E) square footage of non-residential;

(F) minimum lot sizes;

(G) minimum setbacks;

(H) maximum building height;

(I) principal and accessory uses permitted by right and by special review use;

(J) parks and open space dedication total;

(K) private parks and open space total; and,

(L) parking requirements.

iii. Lot, block and tract layout.

iv. Existing and proposed easements.

v. Existing and proposed street right-of-ways.

vi. Utility plan.

vii. Grading and drainage plan.

viii. Oil/gas plan for plugged and abandoned, existing, and proposed facilities, easements, and setbacks.

ix. Natural and scenic resource protection plan.

x. Landscape plan.

xi. Park, open space and trails plan.

xii. General location and size of all existing and proposed structures.

xiii. Building floor plans and architectural elevations.

xiv. Parking, loading, and vehicular and pedestrian circulation.

xv. Signage.

xvi. Photometric plan (single-family residential excepted).

f. Development Reports:

i. Drainage report.

ii. Traffic impact report.

iii. Geological/soils report.

iv. Endangered species report.

v. Cultural resources report.

g. Additional Provisions:

i. The Town may require additional reasonable provisions as appear necessary or desirable for the protection of adjoining or nearby properties and to fully evaluate the proposed modifications to the UDC regulations.

3. **Step 3: (Determination of Application Completeness)**
   Applicable.

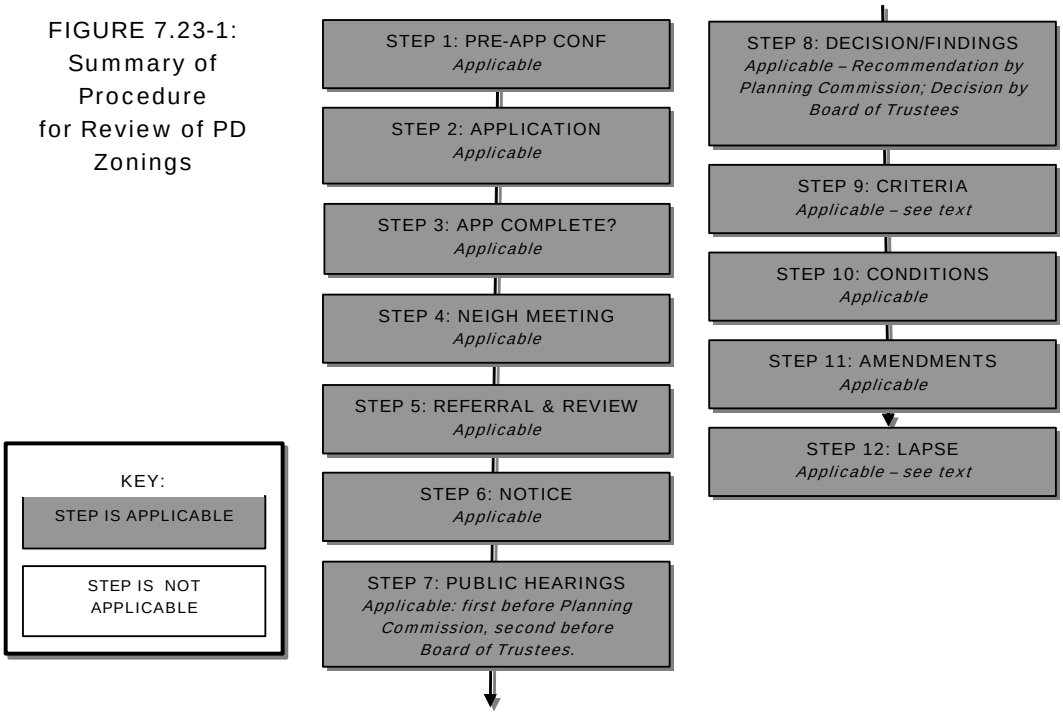
4. **Step 4: (Neighborhood Meeting)**
   Applicable.

5. **Step 5: (Application Referral, Review and Staff Report)**
   Applicable.

6. **Step 6: (Notice)**
   Applicable.

7. **Step 7: (Public Hearing)**
   Applicable. Two Public Hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.

FIGURE 7.23-1: Summary of Procedure for Review of PD Zonings



8. **Step 8: (Decision and Findings)**
   Applicable, the following additional procedures shall apply:

   a. ***Planning Commission Review and Recommendation***
      The Planning Commission shall hold a Public Hearing on the PD zone district application. The Planning Commission shall recommend to the Board of Trustees approval of the PD zone district application, approval with conditions, or denial. The Community Development Director shall forward the recommendation to the Board of Trustees.

   b. ***Board of Trustees Action***
      The Board of Trustees shall hold a Public Hearing on the PD zone district application and shall approve, approve with conditions, of deny the PD zone district application.

c. ***Official Zoning Map***
PDs approved in accordance with the provisions of this Section shall be referenced on the Official Zoning Map.

d. ***Recording of Decision***
Following approval of the PD zone district application, the Town shall record the PD-DP, and other appropriate associated documents, in the office of the appropriate County Clerk and Recorder. The applicant shall be responsible for all required recording fees.

e. ***Successive Applications***
Following denial of a PD zone district application, no new application for the same or substantially the same PD zone district application shall be accepted within 1 year of the date of denial.

9. Step 9: (Approval Criteria)

Applicable, the Planning Commission and Board of Trustees shall review the PD zone district application and will base their recommendation or decision based on their findings related to the following approval criteria:

a. The PD district zoning is generally consistent with the purpose of the PD zone district as set forth in UDC Sections 2.5 and 7.6.

b. The modification to the UDC regulations is based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zoning districts or through another modification processes such as Alternative Equivalent Compliance in UDC Subsection 6.1.C or the PUD Overlay District in UDC Subsection 2.7.D.

c. The PD zoning district will promote the public health, safety, and general welfare.

d. The PD zoning district is generally consistent with the Town of Erie Comprehensive Master Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.

e. Adequate and sufficient public safety, utility facilities and services, recreation facilities, parks, open space, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.

f. The PD zone district provides adequate vehicular circulation and parking facilities in terms of traffic volumes, convenience, safety, access, screening and noise.

g. A pedestrian and bicycle circulation system that provides connections to adjacent properties, existing and future trails, parks, open space, recreational facilities, schools, and other places of public gathering.

h. The PD zone district is not likely to result in significant adverse impacts to the natural environment, and significant scenic and historic features.

i. The PD zone district will not result in significant adverse impacts on properties in the vicinity of the PD zone district, or such impacts will be substantially mitigated.

j. Proposed uses will be compatible in scale with uses on properties in the vicinity of the PD zone district.

k. The residential areas of a PD zone district allocate a variety of housing types and densities appropriate to the size of the residential development area.

l. Visual relief is provided through building placement, shortened or interrupted street vistas, visual access to open space, parks, and other design methods.

m. The modifications permitted in the PD zone district have been made in exchange for greater public benefits that would not have otherwise be achieved through development under another zone district.

10. Step 10: (Conditions of Approval)

Applicable.

11. Step 11: (Amendments)

Applicable, as follows: Amendments shall be reviewed and processed in the same manner as required for the original application for which amendment is sought. Amendments shall be recorded in accordance with the procedures established for the initial approval.

12. Step 12: (Lapse)

Applicable, as follows:

a. The PD-DP and other appropriate associated documents to the approved PD zone district shall be recorded within 120 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 2 extensions for a maximum of 60 days each due to unique circumstances that make it impracticable to file the documents.

b. Development in an approved PD zone district shall commence within 5 years from the date of recordation of the PD-DP, unless such time is extended by an ordinance adopted by the Board of Trustees. If development does not commence within 5 years, the Town shall initiate proceedings to revoke the PD-DP from the PD zone district. The revocation of the PD-DP shall be heard before the Planning Commission, wherein the Planning commission shall make a recommendation to the Board of Trustees. The revocation of the PD-DP shall then be heard by the Board of Trustees at a Public Hearing where a final determination shall be made. The Public Hearings shall be subject to the Published Notice (Subsection 7.2 F.3.) and Posted Notice (Subsection 7.2 F.5.) requirements as well as the Public Hearing requirements of Subsection 7.2 G. The sole purpose of the Public Hearings is to determine whether or not development activity has commenced on the property. If development has not commenced, the Board of Trustees shall revoke the PD-DP by ordinance. For the purposes of this Step 12 process, “development” shall mean the issuance of a building permit for construction of a walled and roofed building intended as shelter for a use or occupancy permitted within the PD zone district. If a PD-DP has been revoked by the Board of Trustees, the property will remain zoned as a PD zone district without a PD-DP. Development of the property, as a PD zone district, will require a new PD-DP that shall be reviewed and processed in the same manner as required for the original application.

CHAPTER 8: REVIEW AND DECISION-MAKING ENTITIES

10.8.1 PURPOSE

This Chapter identifies the roles, duties, and responsibilities of the Board of Adjustment and Town staff in the administration of this UDC.

10.8.2 BOARD OF ADJUSTMENT

A. Established

The Board of Adjustment is hereby established.

B. Review and Decision-Making Responsibilities

The Board of Adjustment shall have the review and decision-making responsibilities set forth in Table 7.1-1.

C. Appointments, Membership, and Rules

1. **Members and Appointment of Members**
   - **a.** The Board of Adjustment shall consist of 5 regular members who shall be appointed by the Board of Trustees.
   - **b.** In addition to the regular members of the board, the Board of Trustees may appoint 2 alternate members. In the event that any regular member is temporarily unable to act owing to absence from the Town, illness, interest in a case before the Board or any other cause, his place may be taken during such temporary disability by an alternate member who shall then enjoy full voting privileges.
2. **Terms**
   - **a.** Appointments to the Board of Adjustment shall be for staggered 3 year terms, except that, when vacancies occur prior to the expiration of a regular term, they shall be filled in the same manner as regular appointments but shall serve only until the expiration of the term in which the vacancy occurred.
   - **b.** Alternate members, if appointed, shall be for staggered 3-year terms.
3. **Chairman and Vice-Chairman**
   Members of the Board of Adjustment shall elect from among their members by a majority vote a chairman and vice-chairman, each to serve for a term of 1 year.
4. **Removal from Office**
   The Board of Trustees shall have the power to remove any member from the Board of Adjustment for just cause after a public hearing.
5. **Number of Votes Required for Case Approvals**
   The concurring vote of 4 members of the Board of Adjustment shall be required to approve variances and to overturn decisions made by the Community Development Director or other Town staff presented to the Board. Any other matters shall require a majority vote of the members present at the time of the vote.
6. **Rules of Conduct**
   The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this UDC. Hearings shall be held at the call of the chairman, vice-chairman, or Community Development Director and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses. All hearings shall be open to the public.

7. Records
The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision; or, if absent or failing to vote, indicating that. It shall keep records of its examinations and other official actions, all of which shall be a public record maintained in the office of the Town Clerk.

10.8.3 BOARD OF ADJUSTMENT PROCEDURES

A. Appointment and Confirmation

Appointments to Board of Adjustment within the scope of this UDC shall be made and confirmed by the Board of Trustees in accordance with the rules adopted by the Board of Trustees.

B. Conduct

This Section sets forth procedures that are common to the Board of Adjustment.

1. Absence of Member
Any member of the board under this Chapter anticipating an absence from a meeting of the board shall so advise the chair or secretary prior to the hearing.

2. Agenda
The agenda for each regular hearing of the appointed board under this Chapter shall be prepared by the secretary and shall be distributed to each member at least 24 hours prior to the hearing, except for special hearings.

3. Quorum – Official Action

a. A majority of the full membership of the board shall constitute a quorum for the transaction of business.

b. Action by the board shall require the favorable vote of a majority of the fully constituted board. The fully constituted board shall include all appointed members not excused for conflict of interest in the board action.

4. Meetings Open to Public

a. All hearings of the appointed board under this Chapter shall be open to the public except as otherwise provided in paragraph b. below. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This Section does not apply to any votes required to be taken to organize a board.

b. A board may at any time go into executive session from which the general public may be excluded by a vote of the majority of the members taken at a public hearing. No subjects may be considered at the executive session except for those mentioned in the motion calling for an executive session unless auxiliary to the main question. No action may be taken at the executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations. Only the following subjects may be discussed at an executive session:

i. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

ii. Subjects that tend to prejudice the reputation and the character of any person, provided the person may request a public discussion;

iii. Matters that by law are required to be confidential; and

iv. Matters involving consideration of government records that by law are not subject to public disclosure.

5. **Reconsideration or Rehearing of Decisions**
   Decisions of any appointed board under this Chapter may be brought up for reconsideration or rehearing only if:

   a. There was substantial procedural error in the original proceeding;

   b. The board acted without jurisdiction in the original proceeding; or

   c. The original decision was based upon fraud or misrepresentation.

   Any person seeking reconsideration or a rehearing must file a request with the Town Clerk, together with materials supporting 1 or more of the grounds stated in this Subsection, within 15 days of the original decision. The board, by majority vote, may schedule a rehearing only if it finds the allegations to be correct. A rehearing shall be conducted in the same manner as the original proceedings before the board.

6. **Removal of Member**
   A member of any appointed board under this Chapter may be removed from office in the following circumstances:

   a. If the member is found to have participated in any matter with a conflict of interest therein;

   b. If the member fails to meet the attendance requirements set forth in the adopted rules and regulations for the applicable body; If the office becomes vacant; or

   c. If the Board of Trustees finds that a member's conduct is contrary to the intent or duty of that position; a member's conduct and/or action is contrary to goals and objectives of the Board; or a member's conduct may jeopardize the finances of the Town.

7. **Representatives**
   Persons appearing before the board may appear in person or through a representative, agent, or attorney. The representative shall provide satisfactory proof of his or her authority upon the request of the board.

8. **Secretary**
   A secretary shall be appointed for the board in this Chapter. The secretary shall have a record kept of all meetings of the board and shall keep such files as may be required.

9. **Applicability of Other Provisions**
   The provisions of this Chapter shall not be a limitation on more restrictive rules regarding the conduct of the board set forth elsewhere in the Town Municipal Code.

10.8.4 TOWN STAFF

A. Review and Decision-Making Responsibilities

Town departments shall have the review and decision-making responsibilities set forth in Table 7.1-1, to be carried out in accordance with the terms of this UDC.

B. Other Powers and Duties

The departments also shall have such additional powers and duties as may be set forth elsewhere in this UDC and other ordinances of the Town. The following departments have the general responsibilities set forth below.

1. **Community Development Department**
   The Community Development Department consists of the Planning Division and the Building Division. Both Divisions serve under the Community Development Director. The staff of the Community Development Department shall act in an advisory and support

capacity to the Board of Trustees and the boards and commissions listed in this Chapter and within the Town's Municipal Code.

a. ***Planning Division – Community Development Director***
The Community Development Director shall have the following specific responsibilities under this UDC:

i. Review of all applications under this UDC in coordination with Town staff and departments.

ii. Interpretation and enforcement of this UDC. Appeals from a decision of the Community Development Director shall be presented in writing by the Appellant to the Community Development Director who shall forward such appeal with all pertinent information to the Board of Adjustment for hearing.

iii. The Community Development Director is not permitted to make changes, vary, or grant an exception to the actual meaning of any clause, order or regulation contained in this UDC to any person making application to construct, move, alter or use a building, a structure, or land, unless specifically authorized under Section 7.8.

b. ***Building Division – Chief Building Official***
The Chief Building Official shall have the following specific responsibilities under this UDC:

i. The power to make inspections of buildings and premises to carry out the duties of the enforcement of this UDC, subject to special provisions where stipulated in this UDC.

ii. The issuance of building permits and certificates of occupancy.

2. Public Works Department
The Public Works Department consists of the 5 major divisions; Engineering & Inspection Division, Operations and Maintenance Division, Water Division, Wastewater Division, and Airport Division. All Divisions serve under the Director of Public Works. The Staff of Public Works shall act in an advisory and support capacity to the Board of Trustees.

a. ***Public Works Director***
The Public Works Director or designee shall have the following specific responsibilities under this UDC:

i. Review of all applications under this UDC in coordination with Town staff and departments.

ii. Review and coordination of all application under Town of Erie Standards and Specification for Design and Construction of Public Improvements; Flood Plain Regulations; and Airport Standards and Specifications.

iii. Review and coordination of all applications for Water Acquisition, the Water Treatment Plant, the Wastewater Plant, and the Re-Use Plant.

iv. The power to inspect public improvements and carry out the duties of the UDC.

CHAPTER 9: NONCONFORMITIES

10.9.1 GENERAL PROVISIONS

A. Purpose

The purpose of this Chapter is to regulate and limit the development and continued existence of zoned legal uses, structures, lots, signs, and use characteristics such as parking and landscaping, established prior to the effective date of this UDC, or the effective date of future amendments to this UDC, that no longer conform to the requirements of this UDC. All such situations are collectively referred to in this Chapter as "nonconformities." While nonconformities may continue, the provisions of this Chapter are designed to curtail substantial investment in nonconformities to bring about their eventual elimination in order to preserve the integrity of this UDC and the character of the Town.

B. Authority to Continue

1. Generally

Any nonconformity that lawfully existed as of the effective date of this UDC and that remains nonconforming, and any nonconformity that is created as a result of any subsequent rezoning or amendment to the text of this UDC, may be continued or maintained as a nonconformity only in accordance with the terms of this Chapter.

2. Exception Due to Variances or Minor Modifications

Notwithstanding Subsection 9.1.B.1 above, this Chapter shall not apply to any development standard or feature that is the subject of a variance or minor modification granted under this UDC. Where a Variance or Minor Modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this UDC, that development standard or feature shall be deemed conforming.

3. Special Review Uses

a. A permitted use existing prior to the effective date of this UDC that is permitted as a Special Review Use in the district in which it is located under this UDC, but which lacks an approved Special Review Use permit, shall be considered to exist as a conforming Special Review Use.

b. A Special Review Use existing prior to the effective date of this UDC that is permitted in its entirety as a principal use in the district in which it is located under this UDC shall be deemed a permitted principal use and the Special Review Use permit shall be null and void.

C. Determination of Nonconformity Status

In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the Town.

D. Nonconformities Created Through Government Action

If a structure, use of land, use of structure, or characteristic of use does not comply with the requirements of this UDC solely as a result of an acquisition of land or other action by a government agency for a public purpose, then such structure, use of land, use of structure, or characteristic of use on land not acquired by the government shall be deemed conforming. For purposes of this Section the word "land" means fee simple interest in real estate.

E. Change of Ownership or Tenancy

Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this Chapter.

F. Damage or Destruction

1. If a nonconformity is damaged or destroyed by any means to an extent greater than 50 percent of its replacement cost at the time of damage or destruction, then such nonconformity shall not be re-established unless it is made to conform to the requirements of this UDC.
2. Where a nonconforming building is damaged less than 50 percent of the cost of reconstructing the entire structure, it may be repaired or restored, provided any such repair or restoration is started within 12 months and is completed within 18 months from the date of partial destruction.
3. The Chief Building Official shall determine the above reconstruction costs. The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any building or activity devoted to a nonconforming use.
4. These requirements shall not apply in the Downtown, Neighborhood Mixed-Use (Old Town) and Old Town Residential Districts.

G. Maintenance and Minor Repair

1. Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent of nonconformity. For purposes of this Section, “maintenance or minor repair” shall mean:
2. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
3. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses;
4. Repairs that are required to remedy unsafe conditions that cause a threat to public safety; and
5. Repairs and maintenance of nonconforming signs as set forth in Section 9.5.

10.9.2 NONCONFORMING USES OF LAND

A. Limitations on Continuation of Nonconforming Uses of Land

Nonconforming uses of land or structures may continue, subject to the general provisions of Section 9.1 and the following limitations:

1. No nonconforming use of land shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the regulations that make the use nonconforming. Any nonconforming use on a lot or portion thereof may be altered to decrease its nonconformity.
2. No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the regulations that make the use nonconforming.
3. No existing structure devoted to a use not permitted by this UDC in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
4. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the

applicable regulations, but no such use shall be extended to occupy any land outside such buildings.

5. No additional structure not conforming to the requirements of this UDC shall be erected in connection with the nonconforming use of land or structure.

B. Change of Use

1. If no structural alterations are made, any nonconforming use may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards.

2. Any structure or premises, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the use regulations for the district, and the nonconforming use may not thereafter be resumed.

C. Abandonment or Cessation of Use

1. If a nonconforming use ceases for any reason, except when government action impedes access to the premises, on a lot or any portion of a lot for a period of more than 12 consecutive months, the nonconforming use shall be considered abandoned. Once abandoned, the prior legal nonconforming status of the use shall be considered terminated and reestablishment of the use shall be prohibited. Any subsequent use of the property shall comply with all applicable provisions of this Title.

2. Where nonconforming use status applies to a structure and premises, removal, or destruction of the structure shall eliminate the nonconforming status of the land. The term "destruction," for the purpose of this Subsection, is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction.

10.9.3 NONCONFORMING STRUCTURES

A. Continuation of Nonconforming Structures Generally

Nonconforming structures may continue, subject to the general provisions of Section 9.1 and the following limitations:

1. No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. This Subsection shall not be construed to allow the expansion of a nonconforming use of structure.

2. Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

3. Any structure in which a nonconforming use is superseded by a permitted use shall thereafter conform to the use regulations for the district, and the nonconforming use may not thereafter be resumed.

10.9.4 NONCONFORMING LOTS OF RECORD

A. Unless otherwise provided in this UDC, single-family residences and customary accessory buildings may be erected on any legally created single lot of record existing at the time of adoption of this UDC. Such lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, width or both area and width; provided

however, that the minimum setback requirements of the district shall be met unless a variance to said requirements has been granted as provided herein.

B. If 2 or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this UDC, and part or all of said lots do not meet the requirements of the district in which they are located as to minimum area or width, or both minimum area and width, for the purpose of this Chapter, the lands shall be considered to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with the lot area and width requirements established in this UDC.

10.9.5 NONCONFORMING SIGNS

A. Termination

A nonconforming sign shall immediately lose its legal nonconforming status, and therefore shall be brought into conformance with this UDC or removed, when any of the following occur:

1. The size or shape of the sign is changed;

a. The sign structure is altered. Alteration does not include repairs and/or maintenance; or

b. The nonconforming sign is accessory to a nonconforming use that has lost its nonconforming status; or

c. The primary structure on the property to which the sign is located is the subject of an application for a building permit for reconstruction, remodeling, expansion, or other improvements to the primary structure on such property, and the value of the proposed improvements total more than 25 percent of its replacement cost of such primary structure.

B. Maintenance of Nonconforming Signs

Nonconforming signs shall continue to be maintained in safe condition pursuant to the building regulations of the Town.

C. Alteration, Relocation, or Replacement of Nonconforming Signs

A nonconforming sign shall not be structurally altered, relocated, or replaced unless it is brought into compliance with the provisions of this Section.

D. Reconstruction of Damaged Sign

If a sign and/or its support are damaged to the extent where the repair costs exceed 50 percent of the replacement cost of the sign, the sign shall be removed or brought into compliance.

10.9.6 NONCONFORMING USE CHARACTERISTICS

A. Existing Nonconforming Characteristics

If the characteristics of a use, lot, or structure such as off-street parking, off-street loading, lighting, landscaping, or other features regulated by this UDC, are not in accord with the requirements of this UDC, no change shall be made in such characteristics that increase the amount of nonconformity with such requirements. Change shall be permitted in the direction of conformity to the requirements of this UDC.

B. Improvements Triggering Upgrades in Nonconforming Characteristics

If (a) an application is filed for a building permit or for reconstruction, remodeling, expansion, or other improvements of a multi-family, commercial, industrial, or mixed-use structure, and (b) the value of the proposed improvements total more than 25 percent of its replacement cost of the

primary structure(s) on the property, the applicant shall be required to address the following nonconformities prior to, or as part of the improvements authorized by, such land use permit or building permit, unless the Community Development Director determines in writing that such nonconformities have no significant adverse impact on surrounding properties:

1. Screening of mechanical equipment;
2. Screening walls or fences (for parking areas or storage areas);
3. Driveway surfacing;
4. Landscaping;
5. Parking; and
6. Lighting.

CHAPTER 10: ENFORCEMENT

10.10.1 GENERAL PROVISIONS

A. Purpose

This Chapter establishes procedures through which the Town seeks to ensure compliance with the provisions of this UDC and obtain corrections for violations of this UDC. The Chapter also sets forth the remedies and penalties that apply to violations of this UDC. The provisions of this Chapter are intended to encourage the voluntary correction of violations, where possible.

B. Compliance Required

No person shall develop or use any land, building, or structure within the Town in violation of this UDC, regulations authorized under this UDC, or the terms and conditions of permits or other approvals entitlements issued under this UDC.

C. Permits and Approvals

No permit or approval may be issued under this UDC unless all structures and uses of land and structures permitted under the entitlement conform to this UDC, the regulations promulgated under this UDC, and the terms and conditions of the other permits and approvals issued under this UDC that apply to the use or structure. A permit or approval issued in violation of this Section is void.

D. Continuation of Prior Enforcement Actions

Nothing in this UDC shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

E. Continuing Violations

Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this UDC.

10.10.2 RESPONSIBILITIES FOR ENFORCEMENT

The provisions of this UDC shall be administered and enforced by the Community Development Director or such other person as may be designated by the Community Development Director.

10.10.3 VIOLATIONS

Each of the following activities shall constitute a violation of this UDC:

A. Activity Inconsistent with this UDC

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any building, structure, or sign, or development or subdivision of any land, in contravention of any provision of this UDC or any regulation promulgated under this UDC.

B. Activity Inconsistent with Permit or Approval

Any development, use, construction, remodeling, or other activity in any way generally inconsistent with the terms or conditions of any permit or approval required to engage in such activity, whether issued under or required by this UDC.

C. Illustrative Examples

Examples of activities generally inconsistent with this UDC or with permit or approval issued under this UDC include, but are not limited to, the following:

1. Use of any land, structure, or improvement except in accordance with the requirements of this UDC;

2. Increasing the density or intensity of any use of any land or structure except in accordance with the requirements of this UDC;
3. Filing or recording of a subdivision plat in any public office without approval for recording pursuant to this UDC;
4. Storage or maintenance of goods, materials, products, or other items outside and in plain view including, but not limited to operable vehicles or equipment, abandoned vehicles, or snow, except in compliance with this UDC;
5. Reduction or diminishment of lot area, setbacks, vegetative buffers, or open space below the minimum requirements set forth in this UDC;
6. Damage to or removal of vegetation generally inconsistent with this UDC;
7. Creation, expansion, replacement, or change of a nonconformity generally inconsistent with this UDC and all other applicable regulations;
8. Failure to remove any sign installed, created, erected, or maintained in violation of this UDC, or for which the sign permit has lapsed;
9. Failure to remove a temporary use once authorization for the temporary use under this UDC and all other applicable regulations has lapsed; and
10. Failure of a Homeowner's Association to construct, improve, or maintain any amenity, landscaping, buffers, fencing, or other improvements required by the terms of any permit or approval.

10.10.4 REMEDIES AND PENALTIES

The Community Development Director shall have the following remedies and powers to enforce this UDC:

A. Civil Remedies and Enforcement Powers

1. **Deny/Withhold Entitlements**
   The Community Development Director may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

2. **Revoke Entitlements**
   Any entitlement or other form of authorization required under this UDC may be revoked when the Community Development Director determines that:

   a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
   b. The entitlement was procured by false representation;
   c. The entitlement was issued in error; or
   d. There is a violation of any provision of this UDC.

   Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after

service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.

3. Stop-Work Orders

a. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any State or local building law, or in a manner that endangers life or property, the Community Development Director has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.

b. With or without revoking permits, the Community Development Director may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this UDC or a provision of an entitlement or other form of authorization issued under this UDC.

c. The stop-work order shall be in writing and posted at the site of the work, and shall specify the provisions of this Title or other law allegedly in violation. After any such order has been posted, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.

d. Once conditions for resumption of the work have been met, the Community Development Director shall rescind the stop-work order.

4. Civil Penalties

Violation of this UDC may be punishable through imposition of a civil penalty as set forth in the Town's Municipal Code.

5. Injunctive Relief

The Community Development Director may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this UDC or any requirement or condition imposed pursuant to this UDC. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this UDC is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject UDC violation.

6. Abatement

The Town may abate the violation pursuant to this Subsection.

a. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt required to the owner of record of the property.

b. Unless this notice is appealed, pursuant to Section 7.22, to the Board of Adjustment within 10 days of the posting of the final warning, the Community Development Director shall proceed to abate the violation.

c. The Community Development Director shall keep an account of the cost, including incidental expenses, incurred by the Town in the abatement of any violation. The Community Development Director shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this Section, the term "incidental expenses" shall

include but not be limited to the actual expenses and costs to the Town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.

d. The responsibility for payment of the charges for abatement as set forth in this Section shall rest solely upon the owners of the property upon which the abatement occurred. Such charges become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after 30 days from billing, the Community Development Director shall record a claim of lien at the district recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

B. Criminal Remedies and Enforcement Powers

1. Misdemeanor

A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this UDC exists, where notice of violation, including any stop-work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice stop-work, enforcement, or compliance order.

2. Penalty

Persons found guilty of a misdemeanor pursuant to this Section shall be punishable by a fine of not more than $1,000.00 or by imprisonment for not more than 10 days, or by both such fine or imprisonment, for each violation.

C. Remedies Cumulative

The remedies provided for violations of this UDC, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

CHAPTER 11: DEFINITIONS

10.11.1 GENERAL RULES OF CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this UDC.

A. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this UDC shall be construed according to the general purposes set forth in Section 1.3 and the specific purpose statements set forth throughout this UDC. When, in a specific Section of this UDC, a different meaning is given for a term defined for general purposes in this Chapter, the specific Section's meaning and application of the term shall control.

B. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this UDC and any heading, caption, figure, illustration, table, or map, the text shall control.

C. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

D. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town. References to days are calendar days unless otherwise stated.

E. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

F. Delegation of Authority

Any act authorized by this UDC to be carried out by a specific official of the Town may be carried out by a designee of such official.

G. Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

H. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the Town, unless otherwise indicated.

I. Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

J. Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions or events apply;
2. "Or" indicates that 1 or more of the connected items, conditions, provisions or events apply.

K. Tenses, Plurals, and Gender

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

10.11.2 INTERPRETATIONS

The Community Development Director has final authority to determine the interpretation or usage of terms used in this UDC. Any person may request an interpretation of any term by submitting a written request to the Community Development Director who shall respond in writing within 30 days.

10.11.3 TERMS DEFINED

The following words, terms and phrases, when used in this UDC, shall have the meanings ascribed to them in this Section:

Abut or Abutting
Touching. An abutting condition shall not be affected by the parcelization or division of land that results in an incidental, non-buildable, remnant lot, tract or parcel.

Accessory Use
A structure or use that: (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot or on a contiguous lot in the same ownership and in the same zone district as the principal use.

Adequate Public Facilities ("APF")
Public facilities and services necessary to maintain the adopted level of service standards.

Adjacent
Nearby, but not necessarily touching. The determination of "nearby" shall be made on a case-by-case basis, taking into consideration the context in which the term is used and the variables (such as but not limited to size, mass, scale, bulk, visibility, nature of use, intensity of use) that may be relevant to deciding what is "nearby" in that particular context. Adjacency shall not be affected by the existence of a platted street or alley, a public or private right-of-way, or a public or private transportation right-of-way or area.

Administrative Review/Decision
Review or decision by the Community Development Director.

Adult Bookstore
An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals and goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or sections devoted to the sale or display of such material.

Adult Cabaret, Restaurant or Place of Business

A cabaret, restaurant or place of business which features waitresses, waiters, dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers attired in such manner as to display "specified anatomical areas."

Adult Hotel or Motel
Any hotel or motel in which the presentation of adult material is the primary or principal attraction.

Adult Material
Any material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written materials, video tapes, video disks, computer software and/or other items or devices which are distinguished or characterized by their emphasis on depicting, describing or relating to "specified anatomical areas" or "specified sexual activities."

Adult Mini-motion Picture Theater
Any theater or establishment with a capacity of less than 50 persons in which the presentation of adult material is the primary or principal attraction.

Adult Novelty Store or Adult Retail Store
Any establishment that has adult material as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues from such material, or devotes a significant or substantial portion of its interior business or interior advertising to such material, or maintains a substantial or significant portion of its gross floor area or display space for the sale or rental, for any form of consideration, of such material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written material, video tapes, video disks, computer software and/or other items or devices. For the purpose of this definition, "significant or substantial" shall mean more than 20 percent.

Adult-oriented
A use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental or display of adult material, or is an offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises.

Adult Photo Studio
An establishment that, upon payment of a fee, provides on-premises photographic equipment, services and/or models for the purpose of photographing specified anatomical areas.

Adult Theater
A theater used for the presentation of material distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities.

Agricultural
The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry; excluding the raising of hogs, pigs or other livestock fed from garbage or offal. Accessory uses may include dwelling units for proprietors and employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site. Specific use types include, but are not limited to: **Agricultural Cultivation**; **Agricultural Grazing**; **or Produce Stand**.

Agricultural Cultivation
The raising of agricultural products for consumption, commercial sale or development of agritainment uses such as corn mazes and orchid houses. Products may include, but are not limited to, vegetables, grains, fruits, plants, and other similar products.

Agricultural Grazing
The practice of keeping cattle, sheep, horses, or other similar animals on fields for the purpose of grazing and feeding.

Airport and Related Uses
Any area that is used, or is intended to be used, primarily for the takeoff and landing of aircraft and any appurtenant areas that are used, or intended to be used, for airport buildings or facilities, including open spaces, taxiways, and tie down areas, hangars, and other accessory buildings.

Airport Influence Area
The area in which current or future airport-related noise, over flight, safety, or air space protection factors may significantly affect land uses or necessitate restrictions on those uses.

Alley
A public or private way permanently reserved as a secondary means of access to abutting property.

Alteration
Any change, addition or modification in construction, occupancy or use.

Amusement Park
An outdoor enterprise whose main purpose is to provide the general public with entertaining activity, where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, outdoor arcades, ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.

Animal Boarding
The operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained or sold. This term shall not include the operation of a kennel.

Animal Day Care
A facility providing such services for domesticated pets for all or part of a day, obedience classes, training, grooming and/or behavior counseling.

Animal Hospital, Large Animals
An animal hospital or rehabilitation center for large animals is a veterinary establishment whose purpose is to provide inpatient and outpatient services to animals such as cows, horses, buffalo, pigs, sheep, goats, donkeys, mules, and other animals of similar size. Such facilities may be indoor only, or may have both indoor and outdoor facilities, depending on the zoning district in which they are located; see Table 3-1.

Animal Hospital, Small Animals
An animal hospital for small animals is a veterinary establishment whose purpose is to provide inpatient and outpatient services to animals such as cats, dogs, fowl, reptiles and other small domestic animals. Such facilities may be indoor only, or may have both indoor and outdoor facilities, depending on the zoning district in which they are located; see Table 3-1.

Animal Sales and Care
Animal Sales and Care uses involve the selling, boarding, or care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas. Specific use types include, but are not limited to: **Animal Hospital, Large Animals; Animal Hospital, Small Animals; Horse Stables; or Kennel or Animal Day Care.**

Antenna Collocation on Existing Tower
Any structure or device used to collect, receive, transmit, or radiate electromagnetic waves, including both directional antennas (such as panels, microwave dishes, satellite earth station antennas over 2 meters in diameter) and omni-directional antennas (such as whips) that is placed upon an existing telecommunications tower or projection. This term does not include antennas 2 meters or less in diameter.

Apartment

A part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family.

Appeal
A request for a review of the administrative official's interpretation of any provision of this chapter or a request for a variance.

Applicant
The legal owners of a lot or of any land included in a proposed development; the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

Approach Surface
A surface defined by FAR Part 77 “Objects Affecting Navigable Air Space,” which is longitudinally centered on the runway centerline and extends outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based on the type of approach available or planned for that runway end.

Architectural Projection
Any projection that is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including arcades, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters, fasciae and the like, but not including signs.

Area of Shallow Flooding
A designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a 1 percent chance or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard
The land in the floodplain subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

Assembly
Assembly uses include facilities owned or operated by associations, corporations, or other persons for social, educational, or recreational purposes primarily for members and their guests. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities. This use includes assembly of fraternal organizations (Elks, Lions Club, etc.).

Assembly Building or Place of Assembly
As related to oil and gas well facility regulations, assembly building shall mean any building or portion of building or structure used for the regular gathering of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining or awaiting transport.

Athletic Fields and Courts
Land, often requiring equipment, designed for outdoor games and sports such as baseball, football, tennis and soccer.

Automated Teller Machine
A device that dispenses cash and conducts limited banking transactions for customers using a credit card, bank card, or other similar personal banking card. These devices, known as automatic teller machines (ATMs), may be part of a bank office, a drive-up banking center, or may be freestanding units in retail centers or within other buildings.

Auto Wrecking and Salvage Yard

Any lot upon which 2 or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license or registration, have been placed for the purpose of obtaining parts for recycling or resale.

Aviation
Aviation uses include improved or unimproved facilities for the landing and takeoff of flying vehicles, including loading and unloading areas and passenger terminals for aircraft. Accessory uses include freight handling areas, concessions, offices, parking and maintenance, and fueling facilities. Specific use types include, but are not limited to: **Airport and Related Uses; Heliport; Helistop.**

Awning
A shelter supported entirely from the exterior wall of a building.

Balcony, Exterior
A projecting platform that is enclosed only by a parapet or railing, and is roofless, and which is suspended or cantilevered from, or supported solely by, the principal structure.

Bank
A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities. Banks may or may not have a drive-through facility, depending on the zoning district in which they are located; see Table 3-1.

Bar/Tavern
An area or structure primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Operations may or may not include outdoor seating areas or outdoor service, depending on the zoning district in which they are located; see Table 3-1.

Base Flood
A flood, having a 1 percent chance of being equaled or exceeded in any given year. This term is used interchangeably with a 100-year flood.

Base Flood Elevation
The water surface elevation of the base flood in relation to mean sea level.

Basement
That portion of a building that is partly or completely below grade.

Bed and Breakfast
An establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.

Bicycle Parking
An area that includes a bicycle rack and is free of obstructions to allow the convenient and accessible parking of a bicycle.

Blank Wall
An exterior building wall with no openings and a single material and uniform texture on a single plane.

Block
Land or a group of lots, surrounded by streets or other right-of-ways other than an alley, or land which is designated as a block on any recorded subdivision tract.

Board
The Board of Trustees of the Town of Erie, Colorado.

Boarding and Rooming House
A building other than a hotel, motel or bed and breakfast where, for compensation and by prearrangement for definite periods lasting 1 week or longer, meals or rooming units are provided for 3 or more persons, but not exceeding 20 persons, provided such persons are not members of the owner's or operators immediate family.

Botanical Garden
A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables or ornamental plants.

Building
Any structure constructed in compliance with the Building Code, used or intended for supporting or sheltering any use or occupancy, and any walled or roofed structure, including a gas or liquid storage tank and manufactured homes that are principally aboveground.

Building Coverage
Any area of a portion of a lot which is covered by all buildings on that lot.

Building Frontage
The horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall, or other circulation area open to the public and has either a main window display or a public entrance to the building. In industrial districts a building side with an entrance open to industrial employees shall also qualify as a building frontage. Where more than 1 use occupies a building, each such use having a public entrance or main window display for its exclusive use shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use.

Building Height
Building height shall be measured as the vertical distance above a reference datum to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following; whichever yields a greater height of building:

a. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.

b. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described above is more than 10 feet above lowest grade.

Building Mass
The 3-dimensional bulk of a building: height, width and depth.

Building Materials and Lumber Sales
An establishment for the sale of materials, hardware and lumber customarily used in the construction of buildings and other structures, which includes facilities for storage.

Building Official
The Chief Building Official of the Town of Erie, Colorado.

Buffer
Open spaces, landscaped areas, fences, walls, berms, or any combination thereof, used to visually cushion and provide a physical separation between adjacent structures or uses.

Bus Lot/Maintenance Facility
Any lot, tract or land area used for the storage, layover or maintenance of passenger buses, motor coaches or school buses.

Caliper

The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at 6 inches above the ground for trees up to and including 4-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

Campground
An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including tents and recreational vehicle equipment.

Car Wash
A facility for the cleaning of automobiles, providing either self-serve facilities or employees to perform washing operations.

Cemetery
Land used or dedicated to the interment of human or animal remains, including columbarium, mausoleums, mortuaries and associated maintenance facilities when operated in conjunction with, and within the boundaries of, such cemetery.

Change of Use
The act of changing the occupancy of a building or land from a use that is specifically listed as a "Permitted Use" including:

a. The occupancy of a single-tenant building or of a parcel of land changes from the most recent previously existing use to a different use;

b. The occupancy of a tenant space in a multi-tenant building changes to a use that is not currently existing in another tenant space of the building or that did not previously exist in any tenant space of the building within the last 12 months; or

c. The most recent previously existing use of a building or land has been abandoned, by cessation of active and continuous operations during a period of 12 consecutive months, and either the same type of use is proposed to be reestablished or a different use that did not exist on the property is proposed to be established.

Channel
A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct periodically or continuously flowing water. Channel flow, this, is that water which is flowing within the limits of the defined channel.

Check-cashing Facility
An establishment that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. Further, this classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business.

Child Care
Child Care uses include facilities that provide care for children on a regular basis away from their primary residence. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Accessory uses include offices, recreation areas, and parking.

Child Care Center, Large
A facility that is maintained for the whole or part of the day for the care of 16 or more children who are 18 years of age or younger and who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery

schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities that give 24 hour care for children and includes those facilities for children under the age of 6 years with stated educational purposes operated in conjunction with a public, private or parochial elementary school system of at least 6 grades or operated a s a component of a school district's preschool program operated pursuant to Article 28 of Title 22, C.R.S. The term shall not include any facility licensed as a family care home (defined below in the accessory use definitions) or foster care home.

Child Care Center, Small
The same type of facility defined as Large Child Care Center above, except that the facility cares for more than 5, but less than 16 children.

College or University
A permanent facility for the purpose of undergraduate and graduate instruction. The institution may be privately or publicly funded and may also include on-campus dormitories for enrolled students.

Commercial Amusement
A commercial establishment designed and equipped for the conduct of sports, exercise, or leisure-time activities within a fully enclosed building. Typical uses include, but are not limited to: billiards, bingo, bowling, gymnasiums and health clubs, pools, skating rinks, motion picture theaters, and related amusements. Accessory uses may include the preparation and serving of food or sale of equipment related to the enclosed uses.

Commercial Development
Any land development activity except development activity intended solely for residential, industrial or light industrial use.

Commercial School
An establishment, other than public or parochial schools, private primary or secondary schools, or colleges and universities, offering training or instruction in a trade, art, or occupation, including, but not limited to, beauty schools, dance schools, and trade or vocational schools.

Commission
The Town of Erie Planning Commission.

Common Open Area
Areas held in private ownership and designated for shared use by common owners, their guests and invitees, or members of an owner's association.

Community Center (public)
A place, structure, area, or other facility used for and providing fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community, including senior centers and teen centers.

Community Facility
Community Facility uses includes buildings, structures, or facilities owned, operated, or occupied by a non-profit or governmental agency to provide a service to the public. Specific use types include, but are not limited to: **Community Center (public); Correctional Facility; Governmental Office; Neighborhood Recreations Center (Indoor/Outdoor); Public Utility Services; Public Safety Station; or Transit Center.**

Community Garden
A public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than 1 person or family.

Compatibility
The characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale,

mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

Comprehensive Plan
The Comprehensive Master Plan for the Town which has been officially adopted to provide long-range development policies for the Town and which includes, among other things, the plan for land use, land subdivision, circulation and public facilities.

Concealed Antennae and Towers
Any man-made trees, clock towers, bell steeples, light poles, water towers and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

Condominium
A single dwelling unit in a multiple dwelling unit structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

Container (cargo container, shipping container, or truck trailer body)
A standardized, reusable vessel that is or appears to be: (1) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, or (2) designed for or capable of being mounted or moved on a rail car, or (3) designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

Contractor's Shop or Storage Yard
A building or part of a building or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

Convenience Store
A retail establishment with a floor area of less than 5,000 square feet, which sells a limited line of groceries and household items, gasoline, or beer and wine generally intended for the convenience of the neighborhood, but not including an automobile service station.

Correctional Facility
A facility for the purpose of incarcerating and rehabilitating offenders.

County Clerk and Recorder
Weld County Clerk and Recorder or Boulder County Clerk and Recorder.

Court Yards
Open, unoccupied spaces that are wholly or partially enclosed.

Crosswalk or Walkway
A right-of-way dedicated to public use and designed to facilitate pedestrian traffic.

Cultural Facility
A cultural facility displays or preserves objects of interest or provides facilities for 1 or more of the arts or sciences. Accessory uses may include parking, offices, storage areas, and gift shops. Specific use types include, but are not limited to: **Botanical Garden; Library; Museum; or Zoo**.

Deck
An uncovered platform constructed of wood or similar synthetic material.

Dedication
A grant of land or the right to use land, by the owner of that land, to the public, involving a transfer of property right s and an acceptance of the dedicated property by the Town.

Density, Gross

The total number of dwelling units theoretically permitted on a particular parcel based upon its size and zoning designation while not taking into account the portions of unbuildable land.

Dental or Medical Office, Clinic, or Laboratory
A facility for a group of 1 or more dentists or physicians for the examination and treatment of human outpatients, provided that patients are not kept overnight except under emergency conditions.

Development
Any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Diameter-at-Breast-Height (DBH)
A tree trunk diameter as measured in inches at a height of 4 1/2 feet above the ground or, in the case of a tree that is divided into multiple trunks below 4 and 1/2 feet, as measured at the most narrow point beneath the point of division.

Director
The Director of Community Development of the Town of Erie, Colorado or designated representative.

Dormitory
A building or buildings occupied by and maintained exclusively for students affiliated with an academic or vocational institution, including, but not limited to, fraternities, sororities, and dormitories.

Drip Line
A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drive Aisles
The lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term drive aisle does not include lanes used only or primarily for drive-in customer service.

Drive-In Use
An establishment which by design, physical facilities, service or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Drive-Through or Up Service
Business designed to permit customers to remain in their motor vehicles while being accommodated by the business.

Driveway
A constructed access serving a property and abutting a public or private street.

Dwelling, Duplex
A building having accommodations for and occupied exclusively by 2 families living independently of each other.

Dwelling, Live/Work
A building or space within a building combining a residential living space with an integrated workspace used regularly by 1 or more of the residents of the dwelling unit. Examples of a live-work dwelling unit include, without limitation, a limited business operating on the first floor of a primary residence, or a loft space within a building originally designed for commercial or industrial occupancy that has been remodeled to include a dwelling unit space integrated with work space.

Dwelling, Mobile Home

A transportable, factory-built home, designed to be used as a year-round residential dwelling unit and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974.

Dwelling, Multi-Family
A building or portion thereof used for occupancy by 3 or more families living independently of each other and containing 3 or more dwelling units, including what is commonly known as an apartment building, but not including group, row, or townhouses.

Dwelling, Single-Family Attached
A single-family dwelling unit attached to 1 or more dwelling units or buildings, with each dwelling unit located on its own separate lot.

Dwelling, Single-Family Detached
A residential building containing not more than 1 dwelling unit entirely surrounded by open space on the same lot. This shall include housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974 known as manufactured housing.

Dwelling Unit
One room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or for rental or lease on a monthly or longer basis, physically separated from any other rooms or dwelling units which may be in the same structure. The term shall not include hotels, motels or other structures used primarily for temporary occupancy.

Easement
A grant of 1 or more of the property rights by the owner to, or for the use by the public, a corporation, or persons, of any designated part of his property for specific purposes.

Education
Education uses are public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, which provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Specific use types include, but are not limited to: **College or University; Commercial School; or School (public or private)**.

Employees
The total number of persons reasonably anticipated to be employed in a building or on land during normal periods of use.

Existing Manufactured Home Park or Subdivision
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the Town.

Expansion to Existing Manufactured Home Park or Subdivision
The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Extended-Stay Lodgings
A hotel or motel typically rented or hired out for periods of 1 week or more that also provides kitchen facilities with refrigerators, stoves, and ovens for food preparation in individual rooms.

Extent Reasonably Feasible or Practicable
That, under the circumstances, reasonable efforts have been undertaken to comply with the regulation, that the costs of compliance clearly outweigh the potential benefits to the public or

would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

Facade, Primary
Those portions of a building which are habitable residential space that faces and are most closely parallel to the front lot line. The entire area of a building face that extends from the roof to the ground and from 1 corner of the building to another. The front facade shall not include:

- **a.** Non-habitable spaces such as garages;
- **b.** Protrusions such as bay windows, chimney chases; and
- **c.** Porches, architectural entry features and entry stairs.

Family
One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit; provided that a group of 4 or more persons who are not within the second degree of kinship shall not be deemed to constitute a family. **(See Group Home)**

Notwithstanding the definition in the preceding paragraph, not more than 8 developmentally disabled persons and appropriate staff occupying a dwelling unit and living as a single, nonprofit housekeeping unit shall be deemed to constitute a family.

Family Care Home
A facility for child care in a place of residence of a family or person for the purpose of providing family care and training for a child under the age of 16 years who is not related to the head of such home. The term includes any family foster home receiving a child for regular 24 hour care and any home receiving a child from any state operated institution for child care or from any child placement agency, or any family child care home receiving a child for less than 24 hour care.

Farm Market
An area that is used by 1 or more operators of bona fide farms for the direct sale to consumers of agricultural products that are not grown or raised on the same premises as the market.

Financial Institution
Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking. Specific use types include, but are not limited to: **Automated Teller Machine; Bank; or Check-cashing Facility**.

Fitness and Recreational Sports Center
A facility primarily featuring equipment for exercise and other active physical fitness conditioning or recreational sports activities, such as swimming, skating, racquet sports, aerobic dance, gymnasium facilities, yoga, and other kinds of sports and fitness facilities.

Fleet Vehicle
A group of vehicles with a single owner, typically a company or corporation, rather than an individual or family. Examples are vehicles owned by a car rental company, construction company, or security company.

Flood or Flooding
A general and temporary condition of partial or complete inundation of normally dry land areas from:

- **a.** The overflow of inland or tidal waters; or
- **b.** The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM)

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town.

Flood Insurance Study (FIS)
The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studies flooding sources that can be used to determine Base Flood Elevations for some areas.

Floodplain
The relatively flat or lowland area adjoining a river, stream, watercourse, ocean, lake, or other body of standing water which has been or may be covered temporarily by floodwater. For the purpose of this chapter, the "floodplain" is defined as the area that would be inundated by the base flood.

Floodplain Management
The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodproofing
Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood Protection System
Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodway Fringe
That area of the floodplain, outside of the floodway, that would be inundated by the base flood.

Floodway (Regulatory Floodway)
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.5 foot in height.

Floor Area
The total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding carports, garages, breezeways, porches, verandas, and balconies.

Food and Beverage Service
Food and Beverage Service businesses serve prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking. Specific use types include: **Bar/Tavern; Nightclub; Restaurant; Restaurant, with Drive-Through or Up Service; or Restaurant with Outdoor Seating**.

Foot-candle
A unit of measurement referring to illumination incident to a single point. 1 foot-candle is equal to 1 lumen uniformly distributed over an area of 1 square foot.

Freight or Truck Yard
An area or building where cargo is stored and where trucks, including tractors and trailer units, load and unload cargo on a regular basis. The use may include facilities for the temporary storage of loads prior to shipment. The use shall also include truck stops or fueling stations where diesel fuel is primarily sold.

Frontage
That portion of a lot, parcel, tract or block abutting upon a street or other right-of-way.

Fugitive Dust
Solid airborne particulate matter emitted from any source other than an opening which channels the flow of air contaminants and then exhausts the contaminants directly into the atmosphere. Fugitive dust also includes solid particles released into the atmosphere by natural forces or by mechanical processes, such as crushing, grinding, milling, drilling, demolishing, pulverizing, shoveling, conveying, covering, bagging or sweeping.

Fully Shielded
Shielded or constructed so that no light rays are emitted by the installed outdoor light fixtures at angles above the horizontal plane, as certified by a photometric test report.

Funeral Parlor or Mortuary
A place for the storage of deceased human bodies prior to burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Garage, Private
A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

Garage, Tandem
A parking space within a group of 2 or more parking spaces arranged 1 behind the other.

Gas Station
See Service Station.

Gazebo
An accessory structure no larger than 150 square feet which may be covered by a roof and enclosed with screening intended to be used for outdoor living activities.

General Outdoor Recreation, Commercial
Intensely developed recreational uses such as amusement parks, miniature golf courses, batting cages, skateboard or skate parks or courses, bicycle motocross courses, water parks or slides, drive-in movie theaters, courses for paramilitary games, and archery facilities.

General Retail
A commercial enterprise that provides goods, products, or materials directly to the consumer. This includes uses such as art galleries, appliance stores, bakeries, bookstores, clothing stores, food stores, grocers, caterers, pharmacies, florists, furniture stores, hardware stores, liquor stores, pet stores, toy stores, and variety stores. This use type shall not include restaurants, personal service establishments, convenience stores, or amusement establishments.

Geologic Hazards
Unstable or potentially unstable slopes, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

Golf Course
A tract of land laid out with a course having 9 or more holes for playing the game of golf, including any accessory clubhouse, driving range, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges that are not accessory to a golf course.

Golf Driving Range or Putting Course

A sports facility equipped with tee areas, distance markers, and related features for practicing golf and which may include a pro shop, snack bar, but excludes miniature golf courses.

Governmental Office
A building occupied by a governmental agency that provides direct services to the public such as employment, public assistance, motor vehicle licensing and registration, and similar activities.

Grade
The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

Greenhouse
A building or structure used for the growing of plants.

Group Home, Large
A group home (including halfway houses) for 9 or more persons.

Group Home, Residential
A group home that qualifies as 1 of 3 types of group homes declared to be residential uses and regulated by C.R.S. §30-28-115. Residential Group Homes include: **Community Residential Homes; Group Homes for the Aged; or Group Homes for the Mentally Ill**.

Group Home, Small
A group home (including halfway houses) for 8 or less persons that does not meet the definition of "Residential Group Home." Retirement Home, Nursing Home, or Assisted Living Facility.

Group Homes for the Aged
These homes accommodate not more than 8 persons over the age of 60 who do not need nursing facilities.

Group Homes for the Mentally Ill
These group homes are state licensed. They must accommodate not more than 8 persons and are for the exclusive use of persons with a mental illness as that term is defined in C.R.S. §27-10-102. Group Homes for the Mentally Ill do not include persons determined to be "not guilty" by reason of insanity to a violent offence nor persons convicted of a felony involving a violent offense.

Group Living
This category is characterized by residential occupancy of a structure by a group of people who do not meet the definition of "Household Living." Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Generally, Group Living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff. Specific use types include, but are not limited to: **Dormitory; Group Home, Residential; Group Home, Large; or Group Home, Small**.

Hazardous Materials
Those chemicals or substances which are physical or health hazards as defined and classified in the Fire and Building Codes. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards. Each category is defined separately in the Fire and Building Codes in accordance with the Code of Federal Regulations Title 29 and other nationally recognized standards.

Hazardous Materials Handling and Transfer Facility

A facility for the treatment, storage, transfer or disposal of hazardous materials.

Heavy Equipment Sales, Service, and Rental
A facility that is engaged in the sales, repair or rental of heavy equipment including, but not limited to, tractors, semi-trucks or trailers, harvesters, loaders and all tracked vehicles.

Heavy Manufacturing, General
The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment; or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards; or that otherwise do not constitute “light manufacturing,” or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of all buildings on the lot. Examples include, but are not limited to: battery manufacture, bottling works, production of dairy products, foundry casting, concrete batching, and plastic products manufacturing.

Hedge
A fence or boundary formed by a dense row of shrubs or low trees.

Height
See Building Height.

Heliport
Any landing area used by helicopters which, in addition, includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie down areas, hangars, and other necessary buildings and open spaces.

Helistop
Any landing area used for the landing and taking off of helicopters for the purpose of picking up or discharging of passengers or cargo without fueling, refueling, or service facilities.

Historic Structure
Any structure that is:

- **a.** Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- **b.** Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- **c.** Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or
- **d.** Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - **i.** By an approved state program as determined by the secretary of the interior; or
  - **ii.** Directly by the secretary of the interior in states without approved programs.

Home Occupation
An occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Homeowners' Association (HOA)
An incorporated, nonprofit organization operating under recorded land agreements through which:

a. Each lot or homeowner in a planned unit development or other described land area is automatically a member;

b. Each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and

c. Such charge, if unpaid, becomes a lien against the property.

Horse Stables
Any area wherein a horse, mule, llama or donkey is maintained for either public commercial hire or private non-commercial recreation.

Hospital
An institution providing health services primarily for human inpatient medical or surgical care including trauma centers for the sick or injured and including related facilities such as laboratories, outpatient departments, training and central services facilities and staff offices.

Hotel or Motel
A building or a group of buildings primarily containing guest rooms for sleeping purposes, but also including accessory dining areas, meeting rooms, and recreational facilities. A motel is typically arranged so that individual guest rooms are directly accessible from an automobile parking area.

Household Living
This use category is characterized by residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of less than 30 days is classified under the "Public Accommodation" category). Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupants' vehicles. Home Occupations and Accessory Dwelling Units are accessory uses that are subject to additional regulations (see Section 2.3, Accessory Uses and Structures). Specific use types include, but are not limited to: **Dwelling, Duplex; Dwelling, Live/Work; Dwelling, Mobile Home; Dwelling, Multi-Family; Dwelling, Single-Family Attached; Dwelling, Single-Family Detached; Mobile Home Park; or Model Home**.

Human Health Services
Human Health Services uses are characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to: **Dental or Medical Office, Clinic, or Laboratory; Hospital/ Substance Abuse Treatment Facility, Outpatient; or Urgent Care Facility**.

Human Scale
The proportional relationship of a particular building, structure, or streetscape element to the human form and function. "Human scale" often refers to the subjective objective that the relationship between a person and his natural or man-made environment should be comfortable, intimate, and contribute to the individual's sense of accessibility.

Improvement
Any man-made, immovable item which becomes part of, is placed upon or is affixed to real estate.

Industrial, Heavy
A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industrial, Light
A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Industrial Service
Industrial Service firms are engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and similar uses perform services off-site. Few customers come to the site. Accessory activities may include sales, offices, parking, and storage. Specific use types include, but are not limited to: **Building Materials and Lumber Sales; Contractor's Shop or Storage Yard; Heavy Equipment Sales, Service, and Rental; Industrial, Heavy; Industrial, Light; Light Equipment Sales, Service; or Research and Development Facility**.

Infill Development
The development of vacant or partially developed parcels which are surrounded by or in close proximity to areas that are substantially or fully developed.

Infrastructure
Those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems, solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

Inhabitant
A person who dwells and is domiciled in a place, as distinguished from a transient lodger or visitor.

Irrigation Ditch or Lateral
A channel designed to transport irrigation water.

Junk or Salvage
Used machinery, scrap, iron ,steel, other ferrous and nonferrous metals, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

Junkyard
Used machinery, scrap, iron, steel, other ferrous and nonferrous metals, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

Keeping of Large Animals
Areas, buildings, or structures secondary to a principal residential use for the boarding of horses, mules, llamas or donkeys for the private, non-commercial benefit of the property owners.

Kennel
An establishment where domesticated animals are kept, sold, boarded, bred, groomed, or trained, typically with fenced or enclosed spaces, areas, or runs for individual animals. Kennels may be indoor only, or indoor/outdoor, depending on the zoning district in which they are located; see Table 3-1.

Landscape buffer
An area of landscaping separating 2 distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of 1 land use on the other.

Landscaping

The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment may also include the use of logs, rocks, fountains, water features and contouring of the earth.

Levee
A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System
A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Level of Service
An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on, and related to, the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

Library
A permanent facility for storing and loaning books, periodicals, reference materials, audio tapes, video tapes, and other similar media to Town residents. A library may also include meeting rooms, offices for library personnel, and similar support facilities.

Light Equipment Sales, Service
A facility that is engaged in the sales, repair or rental of light equipment including.

Light Manufacturing, General
The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building; or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25 percent of the floor area of all buildings on the lot. Examples include, but are not limited to: book bindery, frozen foods locker, and electronics assembly.

Light Source
Includes neon, fluorescent or similar tube lighting, the incandescent bulb (including the light producing elements therein) and any reflecting surface that, because of its construction or placement, becomes in effect the light source.

Limited Solid Material Fence
All fences, which have 50 percent or less solid material will be considered "limited solid material fences". Example: chain link or split rail fences.

Live-Work Unit
A dwelling unit combining a residential use with a non-residential use permitted in the zoning district in which the dwelling unit is located with at least 1 person residing in the residential dwelling unit being employed on the premises.

Loading Berth
An off-street space where an automotive vehicle can be parked for loading or unloading.

Lodging Establishment
See hotel/motel.

Logo
A graphic symbol or emblem which conveys a recognizable meaning, which symbol or emblem may include script (words) provided that such script is contained entirely within the boundaries of

the symbol or emblem; and script alone, or outside of the boundaries of the symbol or emblem, whether registered as a trademark or not, is not included within the meaning of the term logo.

Lot
A designated parcel, tract, or area of land established by a plat or other means as permitted by law, which is to be used, developed, or built upon.

Lot, Corner
A lot bound by 2 streets which intersect, with possible access to either or both streets.

Lot, Double Frontage
A lot in which both the front lot line and rear lot line abut a street or other right-a-way.

Lot, Flag
A lot for which a street is accessed by an extended driveway, often shared with an adjacent lot, such that conceptually the driveway appears to be a flagpole, and the lot the flag.

Lot, Interior
A lot other than a corner lot.

Lot, Triple Frontage
A lot which is bounded on 3 sides by a street, thereby presenting a possible access point to the lot from any 1 of those streets.

Lot Area
The total area, measured on a horizontal plane, included within lot lines.

Lot Area per Dwelling Unit
The number of square feet of lot area required per dwelling unit.

Lot Coverage
The amount (percent) of impervious coverage, including the surface parking and the building footprint.

Lot Depth
The average horizontal distance between front and rear lot lines.

Lot Line, Front
The property line dividing a lot from the right-of-way of the street. For a corner lot, the shortest street right-of-way line shall be considered as the front line. For a corner lot, double frontage lot or other questionable situations, the front lot line shall be established by the Director based upon architectural character of nearby properties, access and other appropriate considerations.

Lot Line, Rear
The property line opposite the front lot line.

Lot Line, Side
Any lot line other than a front or rear lot line.

Lot Size
The amount of horizontal (plan view) land area within lot lines

Lot Width
The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

Lowest Floor
The lowest floor of the lowest enclosed area (including basement or crawlspace). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that

such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manor Home
A building having accommodations for 3 or more families living independently of each other that is designed to look like a large single family home.

Manufactured Home
A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured Home Park or Subdivision
A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

Manufacturing and Production
This use category includes firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on-site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters. Specific use types include, but are not limited to: **Heavy Manufacturing, General; Light Manufacturing, General; or Mining and Mineral Extraction**.

Maximum Extent Reasonably Feasible or Practicable
No feasible or practicable and prudent alternative exists, and all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken.

Mean Sea Level
For purposes of the national flood insurance program, the North American vertical datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Minimum Lot Area
The total area within the property lines of the lot, excluding adjacent right-of-ways.

Mining and Mineral Extraction
The extraction of minerals, including solids like coal and other ores, from their natural occurrences on affected land.

Mini-Warehouse/Self Storage
A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares.

Minor Subdivision
The division of land which creates four or fewer lots.

Mixed-Use
The development of a lot, tract or parcel of land, building or structure with 2 or more different uses including, but not limited to, residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

Mobile Home

A transportable, single-family dwelling unit built on a permanent chassis with attached undercarriage consisting of springs, axles, wheels and hubs, and which is suitable for year-round occupancy and contains the same water supply, waste disposal and electrical conveniences as immobile housing. A mobile home is designed to be transported on streets to the place where it is to be occupied as a dwelling unit and may or may not be attached to a permanent foundation.

Mobile Home Park
A residential development that consists of mobile homes that are transported to the park site.

Model Home
A dwelling unit temporarily used for display purposes as an example of dwelling units available or to be available for sale or rental in a particular subdivision or other residential development approved by the Town. Model homes may also incorporate sales or rental offices for dwelling units within the development.

Mulch
Any organic material such as leaves, bark, wood chips, straw, or inorganic material such as crushed stone or gravel, or other materials left loose and applied to the soil surface for the beneficial purpose of reducing evaporation.

Museum
A permanent facility for the collection and public display of artwork including, but not limited to, paintings, sculpture, textiles, and antiquities. Support facilities include office space, restoration facilities, parking and storage areas.

Native Vegetation
Any plant identified in the Erie Native Plants list: Plant Characteristics and Wildlife Value of Commercial Species, prepared by the Town's Natural Resources Department, updated February 2003 and as amended.

Neighborhood Recreation Center (Indoor/Outdoor)
A building, structure, or facility available for recreational clubs and activities. Such uses commonly include tennis courts, swimming pools, restaurants for members and guests only, and gymnasiums. Such uses may be either public or private, but typically are intended only for the residents and guests of a particular residential development or neighborhood.

New Construction
For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the town.

Night Club
An establishment that stays open late at night and typically serves food and liquor, and provides music and space for patrons to dance.

Non-Concealed Building-Mounted Antennae and Towers
Any tower, pole, or similar structure attached to a building that supports telecommunications antennae.

Non-Concealed Freestanding Towers
Any structure that is designed and constructed primarily for the purpose of supporting 1 or more antennae, including guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular teleph1 towers, alternative tower structures, and the like.

Nonconforming Building
A building or portion thereof legally built prior to the effective date of this UDC or any amendment thereto, which does not conform with the regulations of the district in which it is located.

Nonconforming Structure
A structure which was lawful and nonconforming under prior law on the day before the effective date of this UDC or subsequent amendment thereof.

Nonconforming Use
Either a use which was lawful and nonconforming under prior law on the day before the effective date of this UDC or subsequent amendment thereof, or with respect to lands newly annexed, a use which was lawful immediately before annexation but which does not conform to the use regulations for the zone district in which such use is located either at the time of annexation or as the result of subsequent amendments to this UDC.

Nonconformities
A nonconforming use, structure or building.

Office
Office uses are characterized by activities generally focusing on business, professional, insurance, or financial services. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to: **Office, Business or Professional; or Recording or Broadcasting Studio**.

Office, Business or Professional
The office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional persons; and any office used primarily for accounting, correspondence, research, editing, or administration.

Off-Street Loading Space
A space located outside of a public street or alley for the discharge of passengers, or a space directly accessible to the building it serves for bulk pickups and deliveries by delivery vehicles.

Off-Street Parking Area
Any parking area located wholly within the limits of 1 or more lots.

Off-Street Parking Space
The space required to park a passenger vehicle which is not located on the street.

Oil and Gas Well
A well, the principal production of which at the mouth of the well is either oil or gas.

Oil and Gas Well, Production Facilities
All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

Oil and Gas Well Flowlines
Those segments of pipe from the wellhead downstream through the production facilities ending at:

a. In the case of gas lines, the gas metering equipment, or

b. In the case of oil lines, the oil loading point or LACT unit, or

c. In the case of water lines, the water loading point, the point of discharge to a pit, or the injection well head.

Oil and Gas Well Gathering Lines
A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term "gathering line" includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

Oil and Gas Well Pipelines
Flowlines and gathering lines for oil and gas wells.

Old Town
An area in the Town of Erie with the following boundary: Evans Street on the north, Coal Creek on the east, Union Pacific Railroad on the south, and County Line Road on the west.

Open Space
An area that is not developable due to environmental constraints or on which development has been limited for aesthetic, environmental, or recreational purposes.

Orient
To bring in relation to, or adjust to, the surroundings, situation or environment; to place with the most important parts facing in certain directions; to set or arrange in a determinate position: to orient a building.

Outdoor Amphitheater, Public
An outdoor stadium, theater, amphitheater or similar structure operated by the Town or other unit of government.

Outdoor Display and Sales
Outdoor display of goods or materials for sale, accessory to a commercial principal use. Merchandise may be directly available to the consumer for purchase.

Outdoor Recreational Vehicle Storage
An unroofed, controlled access, fenced area designated for the keeping of recreational vehicles including but not limited to motorized homes, travel trailers, boats, campers, and the associated devices utilized to convey said vehicles.

Outdoor Storage
Outdoor storage, but not display for sale, of goods or materials accessory to a commercial principal use. Merchandise shall not be directly available to the consumer without the assistance of an employee.

Owner
Any person whose name appears on the tax bill for the property or who, alone or jointly or severally with others, has legal title to any dwelling unit, with or without actual possession thereof, or has charge, care or control of any dwelling unit as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or assignee of rents. Owner shall not include any person, group of persons, company, association or corporation who holds only a security interest or easement on the rental property upon which the dwelling unit is situated.

Park
An area open to the general public and reserved for recreational, educational or scenic purposes.

Park and Open Space
Park and Open Space uses focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking. Specific use types include, but are not limited to: **Athletic Fields and Courts; Community Garden; Open Space; Outdoor Amphitheater, Public; or Park**.

Parking Area, Shared Assemblage
A parking lot that is constructed on 2 or more separate but adjacent properties designed for joint use by the businesses or residents of the properties.

Parking Lot
An area, not within a building, where, as a principal use, motor vehicles may be parked for purposes of daily or overnight off-street parking.

Parking Space
A rectangular area not less than 9.0 feet wide by 18 feet deep, along with maneuvering and access space necessary to park within the rectangle.

Parking Structure
A structure or facility where, as a principal use, motor vehicles may be stored for purposes of temporary, daily, or overnight, off street parking. The facility may be above, below, or partially below ground. Includes parking garages and parking decks.

Paved Patio or Terrace
A relatively flat area, that is at ground level, adjacent to a building that is covered in a paving surface.

Pedestrian Scale (Human Scale)
The proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

Permit
A document issued by the Town of Erie, Colorado, granting permission to perform an act or service which is regulated by the Town.

Permitted Use
A use permitted by right, without special conditions other than those imposed upon other uses by right in the district.

Personal Service Establishment
A business that provides individual services related to personal needs directly to customers at the site of the business, or that receives goods from or returns goods to the customer, which have been treated or processed at that location or another location. This includes travel agencies, dry cleaning pick-up and drop-off, laundries, tailors, hair stylists, cosmeticians, toning or tanning salons, photocopy centers, shoe repair shops, and interior design studios. This shall not include gas stations, service stations, Commercial Indoor/Outdoor Recreation uses, dry cleaning plants or massage therapy establishments.

Planned Unit Development
A project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses, or industries and associated uses, planned as a single entity and therefore subject to development and regulation as 1 land-use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire tract; and is designed to provide variety and diversity through the variance of normal zoning and subdivision standards so that maximum long-range benefits can be gained, and the unique features of the development or site preserved

and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing.

Plat, Final
A map of land hereon described and prepared as an instrument for recording with the County Clerk which depicts the boundaries of real estate interests.

Plat, Preliminary
The preliminary map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of these regulations.

Playhouse
An accessory structure for the use of children with a maximum height of 12 feet and an area not to exceed 120 square feet.

Porch
A roofed platform that is enclosed only by a parapet or railing, and which is attached to the principal structure.

Pre-Application Conference
An informal conference with Staff at which a map or maps of a proposed subdivision along with supporting materials are presented, prepared by the Applicant in accordance with the requirements of the Regulations, to evaluate feasibility and design characteristics at an early stage in the subdivision process.

Premises
A general term which means part or all of any lot, parcel or tract, or part or all of any building or structure or group of buildings or structures located thereon.

Principal Use
The main use of land or of a structure as distinguished from a subordinate or accessory use.

Private Utility
Any utility other than a municipally owned and operated utility, including telephone, electric and gas utilities, and other privately owned and operated utilities.

Produce Stand
A structure or area devoted to the small scale retail or wholesale sales of agricultural goods or products which have been grown on the same site or property as the stand.

Property Line
The boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

Public Facilities
Mean transportation systems or facilities, parks and recreation or natural area program systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric utilities, gas utilities, cable facilities or other public utilities.

Public Hearing
A meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

Public Improvements
Public or privately owned infrastructure within public land or dedicated right-of-ways or easements.

Public Safety Station

A use designed to protect public safety and provide emergency response services, often located in or near the area where the service is provided. Employees are regularly present on-site. Accessory uses include offices and parking. Examples include fire stations, police stations, and emergency medical and ambulance stations.

Public Use
Any use intended to be conducted in a facility or upon land which is owned by and operated for public use by school districts or by town, county, state or federal governments.

Public Utility Services
Equipment, structures and activities related to the provision of public utility services including, but not limited to, water, waste water, storm water, gas, electrical, wire communication services, including poles, antennas, transmitters, wires, mains, hydrants, drains, pipes, conduits and cables; equipment structures and activities related to the provision of transportation, police and fire protection services, including, but not limited to, traffic control signals and signs, street lights, fire-alarm and assistance call boxes; and other similar equipment, structures and activities in connection therewith which are reasonably necessary for the furnishing of adequate service by such governmental or public utilities for the public health, safety, and general welfare. Facilities for the treatment, production, generation and administration, operation and maintenance of such services, and facilities for wireless communications, are not included in this definition.

Public Works Facility
Town owned facility used for administration, operation, storage or maintenance services related to the transportation, parks, open space and recreation infrastructure of the Town. Maintenance or storage facilities that are accessory to parks and opens space are not included in this definition.

Quarters for Caretaker/Guard
An accessory dwelling on a nonresidential property occupied by the person who oversees or guards the operation.

Racetrack
A measured course where animals or machines are entered in competition against 1 another or against time, including tracks used only in the training of animals.

Recreational Vehicle
A vehicular unit other than a mobile home, which is designed as a temporary dwelling unit for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.

Recreational Vehicle Park
A parcel of land providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging.

Recreation and Entertainment, Indoor
Indoor Recreation and Entertainment uses provide recreation or entertainment activities within an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to: **Adult Amusement or Entertainment; Commercial Amusement; Fitness and Recreational Sports Center; Shooting Range, Indoor; or Sports Arena**.

Recreation and Entertainment, Outdoor
Outdoor Recreation and Entertainment uses provide recreation or entertainment activities outside of an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to: **Amusement Park; Campground; General Outdoor Recreation, Commercial; Golf Course; Golf Driving Range or Putting Course; Racetrack; Recreational Vehicle Park; Shooting Range, Outdoor**.

Recycling Center
A facility in which recoverable resources such as newspapers, glassware, plastics, and metal cans are recycled, reprocessed, and treated to return such products to a condition in which they can again be used for production. This facility is not a junkyard or salvage yard.

Recycling Collection Point
A center or collection point with containers or facilities designed and intended for the depositing of clean, separated, and recyclable paper, cardboard, metal, glass, plastic or other recyclable materials and the collection of such materials for processing at another location, but itself having no mechanical facilities for the processing of such materials.

Redevelopment
The intensification of use of existing underutilized buildings or development sites, building rehabilitation, or removal or demolition of existing buildings, followed promptly by construction of replacement buildings.

Religious Assembly
Religious Assembly facilities are used primarily for non-profit purposes to provide assembly and meeting areas for religious activities. Accessory uses include parking, caretaker's housing, buildings ancillary to a religious function, pastor's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques. Accessory uses do not include schools, which shall require approval as a separate primary use.

Repair Shop
The maintenance and rehabilitation of appliances customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, and hair dryers.

Research and Development Facility
Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products.

Reservation
An agreement between parties which obligates a property owner to keep property free from development for a stated period of time.

Residential Development Parcel
Encompassing an entire development property zoned for residential uses in its configuration before subdivision.

Restaurant
An area or structure in which the principal use is the preparation or sale of food and beverages. Operations may or may not include outdoor seating areas or outdoor food service, depending on the zoning district in which they are located; see Table 3-1.

Restaurant, with Drive-Through or Up Service
An eating/drinking establishment in which the principal business is the sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

Restaurant, with Outdoor Seating
A restaurant with tables on the sidewalk in front or on the sides of the premises.

Retail Sales and Service
Retail Sales firms are involved in the sale, lease or rent of new or used products to the general public. No outdoor display is permitted unless specifically authorized by this UDC. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale. Specific use types include, but are not limited to: Convenience Store;

Farm Market; Funeral Parlor or Mortuary; General Retail; Personal Service Establishment; Repair Shop; or Shopping Center.

Right-Of-Way
That portion of land dedicated to public use of a street, path, street trees, and /or utility purposes.

Roof
The cover of any building, including the eaves and similar projections.

Roofline
The point on any building where an exterior wall or any parapet wall encloses usable floor space, including floor area for housing mechanical equipment.

Runway Protection Zone ("RPZ")
The RPZ is defined by the Federal Aviation Association as a trapezoid-shaped area centered about the extended runway centerline that is used to enhance the safety of aircraft operation. It begins 200 feet beyond the end of the runway or area usable for takeoff or landing. The RPZ dimensions are functions of the design aircraft, type of operation, and visibility minimums for the particular runway. The depth of the RPZ can vary from 1,000 feet for runways less than 4,000 feet to 2,500 feet for runways 6,000 feet or longer.

Sanitary Landfill
A discrete area of land or an excavation for which the final disposal of solid waste employs a method to obtain the most dense volume practicable of the waste and covering with earth or other suitable material. A sanitary landfill may receive household waste, community waste, municipal solid waste, commercial waste, and industrial waste.

School (Public or Private)
An accredited school under the sponsorship of a public, private, or religious agency, having a curriculum generally equivalent to public elementary or secondary schools, not including commercial schools.

Service Station
Any premises where gasoline and other petroleum products are sold or light maintenance activities such as engine tune-ups, emissions testing, lubrication, minor repairs, and carburetor cleaning are conducted. Accessory activities may include automatic car wash and convenience items sales. Service stations shall not include premises where heavy motor vehicle maintenance activities such as engine overhauls, motor vehicle painting, and body fender work are conducted. Fuel dispensing may be performed by an employee of the establishment (full-service) or by the customer (self-service).

Setback
A required area on the same lot or tract with a principal use that provides for light, air, building separation, and access for emergency personnel and equipment. A setback shall be unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this UDC. The depth of a setback is measured at right angles to the relevant property line.

Setback, Front
A setback that extends across the full frontage of a lot or tract on a public or private street. The front setback is defined by the front property line.

- **a.** In the case of rounded property corners at street intersections, the front setback is measured as if the corner is not rounded and the front property lines are extrapolated to intersect.
- **b.** In the case of corner or through lots, a front setback extends across all frontages.
- **c.** For cul-de-sac lots and lots abutting a curved street, the front setback follows the curve of the front property line.

i. The minimum lot width requirement shall be met at the front setback line.

ii. In no event shall the front lot line be less than 35 feet.

d. In the case of flag lots, a front setback extends across the entire flag portion of the lot and includes the flagpole portion of the lot.

e. In the case of a corner lot, through lot, or 3 sided lot, there will be no rear setbacks, but only front and side setbacks.

Setback, Rear
A setback that extends across the full rear of a lot or tract. The rear setback is defined by the rear property line.

Setback, Side
Any setback that is not a front or rear setback. Generally, side setbacks extend from the inner boundary of the front setback (or from the front property line of the lot or tract where no front setback is required) to the inner boundary of the rear setback (or to the rear property line of the lot or tract where no rear setback is required.) For corner and through lots, setbacks remaining after front setbacks have been established shall be considered side yards.

Sexually Oriented Business
Amusement entertainment that is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas. Uses shall include, but shall not be limited to, the following: **Adult Bookstore, Adult Photo Studio, and Adult Theater**.

Shared Parking
A public or private parking area used jointly by 2 or more users or uses to fulfill their individual parking requirements.

Shed
An accessory building of not more than 150 square feet in floor area and not more than 14 feet in maximum height.

Shooting Range, Indoor
A soundproof, enclosed building or part thereof, wherein firearms are shot at targets under strict rules of conduct and safety.

Shooting Range, Outdoor
An outdoor facility wherein firearms are shot at targets under strict rules of conduct and safety.

Shopping Center
A retail shopping area in excess of 30 acres (divided by no interior public streets) containing at least 1 major retail store of over 100,000 square feet of gross leasable area and additional retail area.

Sidewalk
An improved pedestrian surface that is typically located adjacent to a street.

Sight Distance Triangle
The area required to be clear of obstructions at the intersections of streets, highways, railroads, alleys and driveways. See the Town of Erie Standards and Specifications for Design and Construction of Public Improvements.

Sign
Any object or device or part thereof situated outdoors or indoors which is used to advertise or identify an object, person, institution, organization, business, product, service, event, or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination, or projected images. Signs do not include:

a. Flags of nations, or organizations of nations, or states and cities, or fraternal, religious, or civic organizations;

b. Merchandise, pictures or models of products or services incorporated in a window display;

c. Time and temperature devices not related to a product;

d. National, state, religious, fraternal, professional and civic symbols or crests.

Sign, Development Identification
A monument sign which, by means of symbol or name, identifies a residential development, shopping center, commercial/business/office/industrial park, or other development that may contain a mixture of uses.

Sign, Ground
A freestanding sign that is mounted on poles or braces.

Sign, Maintenance
The replacing, repairing or repainting of part of a sign structure; periodic changing of bulletin board panels; or renewing of copy made unusable by ordinary wear and tear, weather or accident. The replacing or repairing of a sign or sign structure damaged to an extent exceeding 50 percent of the appraised replacement cost (as determined by the building official) shall be considered as maintenance only when said sign conforms to all of the applicable provisions of this UDC and when the damage has been caused by an act of God or violent accident.

Sign, Monument
A low profile freestanding sign that is placed on a solid base.

Sign, Nameplate
A sign identifying, by name only, the occupant of a building or office.

Sign, Projecting
A sign that projects from a wall and is supported by a wall.

Sign, Projection
A sign that is wholly or partly dependent upon a building for support and which projects horizontally more than 12" from such building.

Sign, Wall
A sign fastened to or painted on a wall of a building or structure in such a manner that the wall is the supporting structure for or forms the background surface of the sign and which does not project more than 12" from such building or structure.

Site Plan
A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

Special Review Use
A use permitted in a zoning district only if reviewed and approved as a special use in accordance with the procedures of Section 7.13.

Specimen Trees
Trees species identified in the Town "Standards and Specifications for Design Construction of Public Improvements" that meet Subsection 6.2.C.6 of this UDC.

Sports Arena
An officially designated area for indoor sports or entertainment.

Stacked Tri-plex/Quad-plex

A building having accommodations for 3 or 4 families living independently of each other with 1 or more of the dwelling units on a second or higher story.

Staff
Any person or persons, whether publicly or privately employed who provides administrative, planning, engineering or other services to or for the Town.

Start of Construction
Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Stoop
Platform or stairs in front of a door.

Story
See Height.

Street
Any street, avenue, boulevard, road, lane, parkway, viaduct, alley, or other way for the movement of vehicular traffic which is an existing state, county or municipal roadway, or a street or way shown upon a plat, heretofore or hereafter dedicated and which includes the land between right-of-way lines, whether improved or unimproved, and may be comprised of pavement, shoulders, gutters, sidewalks, parking areas and other areas within the right-of-way.

Street, Private
A right-of-way or easement of private ownership not dedicated or maintained as a public street, which affords the principal means of access to 2 or more sites.

Street Tree
A tree typically planted along public or private streets and drives to provide shade to reduce heating of pavements, and to provide spatial definition and visual enhancement.

Structurally Altered
Changes which increase, extend, or enlarge the building or convert the existing building into a different structure or affect the form or character of an existing building or structural quality.

Structure
A walled and roofed building or manufactured home that is principally aboveground.

Subdivider or Developer
Any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Subdivision
Any undivided parcel of land which is proposed to be divided and used for multiple residential dwelling units, industrial uses, or commercial activity. It also may be land which was previously subdivided and the filing accompanying such subdivision complied with Town regulations; or the

division of a lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Unless the method of disposition is adopted for the purpose of evading this article, the terms “subdivision” and “subdivided land”, as defined in these Regulations above, shall not apply to any division land which:

a. Is created by order of any court in this State of by operation of law;

b. Is created by a lien, mortgage, deed of trust, or any other security instrument;

c. Is created by security of unit of interest in any investment trust regulated under the laws of this State or any other interest in and investment entity;

d. Creates cemetery lots;

e. Creates an interest in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership of real property; or

f. Is created by the Acquisitions of an interested in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common and any such interest shall be deemed for purposes of this Subsection as only 1 interest.

Substance Abuse Treatment Facility, Outpatient
Structures and land used for the treatment of alcohol or other drug abuse where neither meals nor lodging is provided.

Substantial Damage
Damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement
Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. This term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure” provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Swimming Pool
Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Tenant Frontage
The horizontal, linear dimension of that side of a building in which a tenant occupancy abuts a street, private drive, parking areas or pedestrian plazas.

Telecommunication Facilities
Telecommunications facilities transmit analog or digital voice or communications information between or among points using electromagnetic signals via antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development. Specific use types include: **Antenna Collocation of Existing Tower; Concealed Antennae and Towers; Non-Concealed Building-Mounted Antennae and Towers; or Non-Concealed Freestanding Towers**.

Towing and Storage Facility
A commercial establishment engaged in towing of vehicles or equipment from 1 location to another. Such facilities may also include an indoor or outdoor storage component for such vehicles or equipment, but may not include junked, salvage, or permanently inoperable vehicles or equipment.

Town
The Town of Erie, Colorado.

Town Administrator
The administrative official appointed by the Board of Trustees to administer the provisions of the UDC or the person designated by the Town Administrator.

Tract
A tract is a legally defined parcel of land on a plat that will not have residential, commercial, or industrial buildings located on them.

Trailer
Any wheeled vehicle, without motive power and having an empty weight of more than 2,000 pounds, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

Transit Center
An area utilized by public or commercial carriers for pick-up or drop-off of passengers. In addition to loading and unloading areas, transit centers may include shelters, restrooms, concessions, benches, information offices, ticket sales, landscaping, lighting and other such facilities and appurtenances. Individual bus stops, maintenance and storage facilities are not included in this definition.

Tree Lawn
The area between the back of curb and sidewalk, primarily used for planting low groundcover and street trees.

Truck Stop
An establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

Turf
A surface layer of earth containing mowed grass with its roots.

Urgent Care Facility
A medical center that provides limited emergency medical services that may not require 24-hour care.

Utility Facilities
Buildings, structures, or other facilities used or intended to be used by any private or non-governmental utility other than telecommunications facilities. (Public utility facilities are addressed separately under “Public Utility Services”.) This category includes buildings or structures that house or contain facilities for the operation of privately owned water, wastewater, waste disposal, or electricity services. This use also includes water storage tanks; electric or gas substations, water or wastewater pumping stations, or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, or wastewater. This category includes passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, water, sewage, or other similar services on a local level. Additionally, a private utility facility means any energy device or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood,

geothermal, or similar sources. Accessory uses may include control, monitoring, data, or transmission equipment.

Utility Facility, Major
A service that is necessary to support development within the immediate vicinity and that involves significant structures. Employees typically are not located at the site. Examples include electric transformer stations, gas regulator stations, telephone exchange buildings, and well, water, and underground utility boxes, and sewer pumping stations.

Utility Facility, Minor
Small scale facilities serving a local area including power, water, and sewer lines.

Utility Facility, Town Owned
A utility facility owned and maintained by the Town

Variance
A legal modification of applicable zoning district provisions, such as yard, lot width, yard depth, sign, setback, and off-street parking and loading regulations, granted due to the peculiar conditions existing within a single piece of property.

Vehicle and Equipment
Vehicles and Equipment uses include a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage, offices, and sales of parts. Specific use types include, but are not limited to: **Car Wash; Service Station; Towing and Storage Facility; Vehicle Sales and Rental; Vehicle Service and Repair, Heavy; or Vehicle Service and Repair, Light**.

Vehicle Sales and Rental
The storage, display, sale, lease, or rental of new or used vehicles, including automobiles, vans, motorcycles, and light trucks. This use shall not include salvage operations or scrap operations.

Vehicle Service and Repair, Heavy
An establishment involved in the major repair and maintenance of automobiles, motorcycles, trucks, vans, trailers, or recreational vehicles. Services include engine, transmission, or differential repair, reconditioning or replacement; bodywork; upholstery work; painting; and associated repairs conducted within a completely enclosed building.

Vehicle Service and Repair, Light
An establishment involved in the minor repair and maintenance of automobiles, motorcycles, trucks, or vans not in excess of 10,000 pounds gross vehicle weight. Services include brake, muffler, and tire repair and change; lubrication; tune ups and associated repairs, conducted within a completely enclosed building.

Vested Property Right
The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Violation
The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Visitor Accommodation
For-profit facilities where lodging, meals, and the like are provided to transient visitors and guests for a defined period. Specific use types include: Bed and Breakfast; Boarding or Rooming House; Extended-Stay Lodgings; or Hotel or Motel.

Warehouse and Freight Movement

Firms involved in Warehouse and Freight Movement are engaged in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas. Specific use types include, but are not limited to: **Freight or Truck Yard; Mini-Warehouse/Self Storage; or Wholesale Distribution Center**.

Waste and Salvage
Waste and Salvage firms receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste and Salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products. Specific use types include, but are not limited to: **Auto Wrecking and Salvage Yard; Hazardous Materials Handling and Transfer Facility; Junkyard; Recycling Collection Point; Recycling Center; or Sanitary Landfill**.

Watercourse
A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake in which storm runoff and floodwater flows either regularly or infrequently. This includes major drainage ways for carrying urban storm runoff.

Water Surface Elevation
The height, in relation to the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wholesale Distribution Center
A permanent facility for the storage of products, supplies, and equipment offered for wholesale distribution (not for direct sale to the general public).

Yard
An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, Front
A yard extending across the front lot line between the side lot lines, and being the minimum horizontal distance between the front lot line and the front wall of any building.

Yard, Rear
A yard extending across the rear lot line between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building. The rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side
A yard between the main building and the side-line of the lot, and being the minimum horizontal distance between the building and the side lot line and extending from the front lot line to the rear lot line.

Zero Lot Line Development Plan
A development plan where 1 or more dwelling units (limited to single-family detached or single-family attached dwelling units) are placed on lots in such a manner that at least 1 of the dwelling units sides rests directly on a lot line, as measured from the outer edge of the dwelling units foundation at the ground line, so as to enhance the usable open space on the lot.

Zone District

A designated area of the Town within which certain zoning regulations and requirements, or various combinations thereof, apply as set forth in this UDC.

Zoning Map
The official zoning map adopted by the Town by ordinance, as amended.

Zoo
An area, building, or structures that contain wild animals on exhibition for viewing by the public.

CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS

10.12.1 GENERAL PROVISIONS

A. Title and Citation

These Regulations are entitled and may be cited as the "Regulations for Oil and Gas Operations."

B. Purpose

The purpose of these Regulations is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that preserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects public health, safety, welfare and the environment of the Town. These standards are not intended to supersede state laws, regulations or rules pertaining to oil and gas development, but rather are meant to supplement those requirements where appropriate, and to address areas of regulation where none has been established by the state.

C. Authority

This section is adopted pursuant to C.R.S. § 31-15-401, C.R.S. and §§ 29-20-101 et seq.

D. Oil and Gas Permit Required

1. **Type A Permit**
   Planning Commission review and decision, subject to call-up by Board of Trustees. Public hearing is not required. See Section 10.12.3.D.

2. **Type B Permit**
   Director review, public hearing and recommendation by Planning Commission, public hearing and decision by Board of Trustees. See Section 10.12.3.E.

E. Applicability

1. New or expanded Oil and Gas Operations within the Town are subject these Regulations. These Regulations take the place of the existing special review use process. In the event that the provisions of these Regulations conflict with any other provisions of the UDC, this section shall supersede as it applies to Oil and Gas Operations.

2. Oil and Gas Permits issued pursuant to these Regulations shall encompass within its authorization the right of the Operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the permit, subject to all other applicable Town regulations and requirements.

3. Operators of all Oil and Gas Operations existing prior to October 31, 2017 are required to submit to the Town Administrator by December 31, 2017 the following information regarding existing oil and gas flowlines and all other subsurface facilities installed or acquired, owned, or operated by the Operator within the Town limits. The information shall be submitted in an electronic format designated by the Town:

   a. A map at a scale designated by the Town showing the location, including GPS location, of the existing flowlines and all other subsurface facilities. The map shall denote if the subsurface facility is in use, abandoned, or shut-in; its age; its size and the maximum pressure at which it is operated; and its depth from the surface.

b. A copy of notices of abandonment filed by the Operator with COGCC for any abandoned flowlines or other subsurface facilities.

c. A plan for removing abandoned flowlines or other subsurface facilities where such removal is practicable by October 31, 2018. The plan should identify those flowlines and other subsurface facilities where removal is not practicable with a brief explanation of why not.

F. Exemption from these Regulations

1. Operator Agreement
An Operator Agreement approved by the Town Board of Trustees may, by its terms, exempt the proposed Oil and Gas Operation from these Regulations.

2. Continuation of Existing Operations
Oil and Gas Operations that are in existence on the effective date of these Regulations or that are located within territory which thereafter is annexed to the Town may continue operating without the issuance of an Oil and Gas Permit under these Regulations.

3. Recompletion of Existing Wells
Recompletion of wells in existence as of the effective date of these regulations shall be reviewed in accordance with Section 10.12.3.F.

G. Expansion of Operations Existing at the Time of the Effective Date of These Regulations

Expansion of existing oil and gas operations is subject to these Regulations. "Expansion" includes:

1. Installation of new wells on existing well pad sites.

2. Expansion of the areas of existing well pad sites.

H. Severability

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety and welfare.

I. Definitions

Closed Loop Drilling Process or System
A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage and the use of solids removal equipment which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused to continue drilling the well bore. The solids are placed in containment, either a shallow lined pit or an above ground container, provided on location. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be reused. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.

Degradation
Lowering in grade or desirability; lessening in quality.

Director
Community Development Director or the Director's representative.

Exploration and Production Waste
Those wastes associated with Oil and Gas Operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and

intrinsic to oil and gas exploration, development or production activities that are exempt from regulation under the Resource Conservation and Recovery Act (RCRA).

Flare Pit
A pit used exclusively for flaring gas.

Flowlines
Those segments of pipe from the wellhead downstream through the production facilities ending at:

- **a.** In the case of gas lines, the gas metering equipment; or
- **b.** In the case of oil lines, the oil loading point or LACT unit; or
- **c.** In the case of water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point.

Gathering Line
A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

Geologic Hazards
Terrain and geological traits that pose a risk of causing damage to property or human life, including subsurface features such as fault lines, aquifers and other geothermic and geologic phenomena.

Hydraulic Fracturing or Hydraulic Fracturing Treatment
All stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and natural gas.

Hydraulic Fracturing Fluid
The fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.

Linear Feature
A road, gathering line, or pipeline that is necessary to cross a water body or connect or access a well or gathering line. A linear feature is not considered necessary simply because it is the most proximate or least expensive method for crossing a water body or connecting or accessing a well or gathering line.

Mitigation
The following actions, in order of preference:

- **a.** Avoiding impacts: avoiding an impact by not taking a certain action or parts of an action; or
- **b.** Minimizing impacts: limiting the degree or magnitude of the action or its implementation, or by changing its location; or
- **c.** Rectifying impacts: repairing, rehabilitating, or restoring the impact area, facility or service; or

d. Reducing or eliminating impacts: reducing or eliminating the impact over time by preservation and maintenance operations; and

e. Other provisions for addressing impacts: replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.

Oil and Gas Operations
Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil or gas well; pumping stations; production facilities and operations including the installation of flow lines and gathering lines; accessory equipment; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources, including their impacts on or construction of access roads and easements.

Operator Agreement
An agreement between the Town and an Operator describing how proposed Oil and Gas Operations are to be conducted within the municipal boundaries.

Operation(s)
Oil and Gas Operations.

Operator
The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

Permit
Town of Erie Oil and Gas Permit issued pursuant to the provisions of this Chapter 12.

Pipelines
Flowlines and gathering lines for oil and gas wells.

Pit
Any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.

Pitless
Pitless with respect to drilling means there is no pit regardless of size or function. This includes conventional reserve drilling pits and drilling cutting pits, but does not include flare pits which may be utilized to contain necessary flaring during the drilling, completion, or up-set conditions. An above ground water tight metal or other material container is utilized instead of a sub-surface pit to hold drilling cuttings until they are disposed of.

Production Facilities
All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

Regulation(s)
The Town of Erie Oil and Gas Regulations set forth in Chapter 12 of the UDC.

Reference Area
An area either (1) on a portion of the site that will not be disturbed by oil and gas operations, if that is the desired final reclamation; or (2) another location that is undisturbed by oil and gas

operations and proximate and similar to a proposed oil and gas location in terms of vegetative potential and management, owned by a person who agrees to allow periodic access to it for the purpose of providing baseline information for reclamation standards, and intended to reflect the desired final reclamation.

Residential Building Unit
Building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes.

Significant
Of considerable or substantial consequence.

Significantly Degrade
To lower in grade or desirability to a significant as opposed to trifling degree.

Subsurface Facility
Flowlines and all other subsurface facilities of Oil and Gas Operations.

UDC
Town of Erie Unified Development Code.

VOC Emissions
Volatile organic compounds in oil and gas operations that are released into the atmosphere and/or ground.

Water Body
Any surface waters which are contained in or flow in or through the Town, including: Coal Creek, Boulder Creek, Erie Lake, Erie Reuse Reservoir, Thomas Reservoir, Prince Lake #2, and any irrigation ditches.

Well (Oil and Gas)
An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

Wildlife Habitat
A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leaks, migration corridors, calving and fawning grounds for big game.

10.12.2 PERMIT APPLICATION PROCESS FOR OIL AND GAS OPERATIONS

A. Permit Application Submittal

The applicant shall submit the Permit application materials to the Director. The Permit application materials are set forth in Section 10.12.2.D.

B. Waiver of Permit Application Material Requirements

The Director may waive any part of the Permit application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the approval standards.

C. Permit Application Fee

The applicant is responsible for the costs of reviewing and processing the Permit application. The applicant is responsible for the costs of counsel, consultant and referral agency review of the Permit application including reviews associated with the pre-application conference, completeness determination, and all hearings and meetings on the Permit application.

1. **Fee Requirement**
   The Permit application shall be accompanied by the application fees set forth in Section 2-10-5 of the Municipal Code.

2. **Payment of Additional Costs**
   If there are costs for reviewing and processing the Permit application in addition to the application fees paid pursuant to C.1 above, the additional cost shall be billed to the applicant. Additional costs billed to the applicant must be paid within thirty (30) days of the billing date, and must be paid in full prior to final action by the Town on the Permit application.

D. Permit Application Materials for Oil and Gas Operations

The applicant shall submit the application materials to the Community Development Department. The Director may waive any part of the application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the applicable standards.

1. **Application Form**
   Completed Land Use application form.

2. **Summary Proposed Oil and Gas Operation**
   Summary of proposed Oil and Gas Operation, including a list of all proposed oil and gas facilities to be installed and estimated timeline.

3. **Topographic Map**
   - **a.** Proposed Oil and Gas Operation location. The location of the proposed Oil and Gas Operation including well pads, tanks, roads, pipelines and gathering systems, and related features on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.
   - **b.** Topography. Existing and proposed topography at intervals established by the Director as necessary to portray the direction and slope of the area affected by the proposed Oil and Gas Operation.
   - **c.** Transportation and roads. All public and private roads that traverse and/or provide access to the proposed Oil and Gas Operation.
   - **d.** Easements. Easements recorded or historically used that provide access to or across, or other use of, the property.
   - **e.** Municipal and subdivision boundaries. Municipal or subdivision boundaries within one mile of the well pad, tanks, gathering lines, storage areas or any other ancillary feature of the proposed Oil and Gas Operation.
   - **f.** Other Operations. Location of other Oil and Gas Operations within one mile of the site.
   - **g.** Shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit.

4. **Current Aerial Photo**

Current aerial photo that shows the location of the proposed Oil and Gas Operation and the shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit, displayed at the same scale as the topographic map to facilitate use as an overlay.

5. **Site Preparation Plan**
   Site plan for site preparation, mobilization, and demobilization.

6. **Applications and Permits**
   Copies of all state applications for the proposed Oil and Gas Operation, and permits, when issued.

7. **Reports/Studies/Plans**
   The following reports, studies and plans shall be prepared to adequately portray the physical characteristics of the property.

   a. **Air Quality Impact Assessment and Mitigation Plan**
      An assessment of air quality impacts of the proposed Oil and Gas Operation and a plan to maintain air quality, including a plan to minimize VOC emission in compliance with these Regulations.

   b. **Chemicals and Hydraulic Fracturing Fluids Disposal and Reporting Plan**
      A plan for disposal and reporting of chemicals and hydraulic fracturing fluids, that includes:

      i. Material safety data sheets for the chemicals used in the proposed Oil and Gas Operation.

      ii. Chemical Abstract Service Registry Numbers for every chemical used in the proposed Oil and Gas Operation, if available, other than those protected as Trade Secrets.

      iii. Hydraulic fracturing.

      iv. Provision for reporting to the Town the chemicals, other than those protected as a Trade Secret, that will be stored and used during any hydraulic fracturing event along with the maximum quantity that will be present on-site at any one time.

   c. **Cultural Survey**
      A cultural, historical, and archeological survey of the proposed Oil and Gas Operations site and other areas and properties impacted by access to the site.

   d. **Dust Suppression Plan**
      Dust suppression and control plan.

   e. **Grading/Drainage and Erosion Control Plan**
      A plan that identifies existing (dashed lines) and proposed (solid lines) contours, at two-foot intervals, and the methods for controlling erosion during construction and operational phases of the proposed Oil and Gas Operation.

   f. **Emergency Response Plan**
      A plan that addresses events such as explosions, fires, gas or water pipeline leaks or ruptures, leaks from well casings and pits, tank leaks or ruptures, hydrogen sulfide or other toxic gas emissions, transportation of hazardous material and vehicle accidents or spills. The plan must include proof of adequate personnel, supplies, and funding to immediately implement the emergency response plan at all times during construction and Operations.

   g. **Geological Report**

A report detailing the geological characteristics of the site, prepared by a registered engineer. The report shall include an assessment of the geologic hazards within one mile of the site and a plan for mitigating impacts from geologic hazards to the proposed Oil and Gas Operation and impacts of the proposed Operation on geologic hazards.

h. Public Services and Facilities Impact Assessment
A description of existing levels, demand for, adequacy of, and the operational costs of public services affected by the proposed Oil and Gas Operation; a description of the increase in demand on those services and a plan for mitigating the impacts to public services and facilities.

i. Lighting
A plan for installation of down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that the Operator may still use lighting that is necessary for public and occupational safety.

j. Operations Plan
A plan including the method and schedule for drilling, completion, transporting, production and post-operation, and a description of future Oil and Gas Operations.

k. Flowline Management Plan
A plan that includes the following:

i. A copy of COGCC approved continuous monitoring program providing for pressure data monitoring 24 hours a day 7 days a week and a provision for reporting results to the Town; or description of COGCC Rule 1101.e pressure testing practices and provision for reporting results to the Town.

ii. A map at a scale designated by the Town showing the location, including GPS location, of all existing and proposed flowlines and other subsurface facilities associated with the Oil and Gas Operations. For each existing and proposed flowline or other subsurface facility, the map shall denote its size and the maximum pressure at which it is or will be operated; its depth from the surface; and, if existing, whether it was constructed or installed before October 31, 2017 and whether it is in use, abandoned, or shut-in.

l. Reclamation Plan
A plan for interim reclamation and revegetation of the site and final reclamation of the site. The plan shall include the locations of any proposed Reference Areas to be used as guides for interim and final reclamation.

m. Spill Prevention Control and Countermeasures Plan

n. Traffic Management Plan
A plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed access routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation.

o. Access Road Plan
A plan sufficient to demonstrate compliance with the approval standards in Section 10.12.4.

p. Stormwater Control Plan
A plan to minimize impacts to surface waters from erosion, sediment, and other sources of nonpoint pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision.

q. Vegetation and Weed Management Plan
A written description of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed Oil and Gas Operation, and proposed mitigation to address these impacts. The plan shall include any COGCC required interim and final reclamation procedures.

r. Water Quality Impact Assessment and Mitigation Plan

i. Identification of all surface and subsurface water bodies. An inventory and location of all water bodies, as well as domestic and commercial water wells within one mile of the proposed Oil and Gas Operation.

ii. Identification of intake(s) for public drinking water supply.

iii. Water quality monitoring and mitigation plan. A Water Quality Monitoring Plan that establishes a baseline and a process for monitoring changes to water quality and the aquatic environment to demonstrate the effectiveness of mitigation. The plan shall comply with the Colorado Oil and Gas Association Voluntary Baseline Groundwater Quality Sampling Program, as it may be amended, and be complementary to any monitoring required by the state. The plan shall, at a minimum, include the following elements:

(A) Key stream segments, other water bodies, and groundwater to monitor.

(B) Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to the proposed Oil and Gas Operation including existing water quality, aquatic life and macro-invertebrates, and groundwater data.

(C) Key indicators of water quality and stream health, and threshold levels that will be monitored to detect changes in water quality and health of the aquatic environment.

(D) Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to constituents regulated by the Colorado Water Quality Control Commission, and constituents associated with the proposed Oil and Gas Operation.

(E) Locations for and frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the proposed Oil and Gas Operation and five years after final reclamation of all disturbed areas is complete.

(F) Mitigation steps that will be implemented to avoid degradation of water bodies if monitoring of key indicators reveals degradation.

s. Water Availability: Physical Availability and Legal Right to Utilize
An assessment of how much water will be needed for each phase of the proposed Oil and Gas Operation, and the source of water supply both physically and legally, for the life of the proposed Operation.

t. Wildlife and Wildlife Habitat Assessment
An assessment of existing wildlife and wildlife habitat, an evaluation of the impacts of the proposed Oil and Gas Operation on wildlife and wildlife habitat, and proposed mitigation to address these impacts.

u. Operational Conflict/Technical Infeasibility/Environmental Protection Waiver Request

Documentation of the basis for any waiver of approval standards based on operational conflict, technical infeasibility or environmental protection that the applicant may request pursuant to Section 10.12.4.C of these Regulations.

v. Additional information requested by the Director

10.12.3 PERMIT PROCESS FOR OIL AND GAS OPERATIONS AND NOTICE OF RECOMPLETION OF EXISTING WELLS

A. Pre-Application Conference and Permit Classification

1. Pre-Application Conference

Prior to submitting an application for an oil and gas permit, an applicant shall meet with the Director to discuss the proposed Oil and Gas Operation. The purpose of the pre-application conference includes, without limitation:

a. To discuss the location and nature of the proposed Oil and Gas Operations;

b. To explain the application submittal requirements, the nature of materials that will be responsive to those requirements, and waivers of any materials that would not be necessary in determining whether the application complies with Town requirements;

c. To discuss state terms and conditions imposed on the proposed Oil and Gas Operation;

d. To identify site-specific concerns and issues that bear on the proposed Oil and Gas Operation;

e. To discuss projected impacts and potential mitigation;

f. To discuss the Town Oil and Gas Operations Standards that must be satisfied for Permit approval;

g. To discuss whether the application will be classified as a Type A or Type B Permit application; and

h. To identify potential Operational Conflicts, or waivers of Oil and Gas Operation Standards based on technical infeasibility or environmental protection that the applicant intends to raise.

2. Pre-Application Materials

At or before the pre-application conference, the applicant shall provide the Director with information that is sufficient for determining the location and nature of the proposed Oil and Gas Operation, the degree of impacts associated with the Operation, and mitigation proposed to offset such impacts.

B. Classification of Permit Application

Within ten (10) working days after the pre-application conference the Director shall classify the Permit application as a Type A or Type B Permit application.

1. Oil and Gas Operations Classified as Type A

An Oil and Gas Operation will be classified as a Type A Permit application if the Operator agrees to conduct the operation in conformance with the following requirements[1].

[1] These requirements may not be waived.

a. The Operation will be at least 1000 feet from occupied buildings or occupied buildings permitted for construction.

b. Wells and production facilities shall be 750 feet or more from Erie platted residential lots or parks, sports fields and playgrounds, or other designated outside activity areas.

c. The Operation will be at least 500 feet from any surface water body.

d. The Operation will be at least 500 feet from any domestic or commercial water wells or irrigation wells and the Operation is not located within a floodway district as defined in Section 10.2.7.C.4 of the UDC.

e. The Operation will utilize closed-loop systems for drilling and completion operations.

f. The Operator agrees to control noise levels as follows.

i. For db(A) scale noise, Operator will insure that the noise level from Operations subject to the light industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) does not exceed sixty (60) db(A) and that the noise level from Operations subject to the industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) is reduced at least five (5) db(A) below the maximum level permitted by those Regulations. For this purpose, the noise level shall be measured as set forth in COGCC Regulations 802.b and c, except no measurements shall be taken when traffic is passing the sound level meter, and Operator shall be present during all measurements. As set forth in COGCC Regulation 802.b, the noise levels shall be subject to increase for a period not to exceed fifteen (15) minutes in any one (1) hour period and reduction for periodic, impulsive or shrill noises.

ii. For db(C) scale noise, Operator shall comply with the requirements of COGCC Regulation 802.

g. The Operator agrees to control air quality through the following practices.

i. To identify leaks, Operator will perform audio, visual and olfactory inspections on a monthly basis at all of its new and existing wells and related facilities and equipment within Erie's Town Limits. Operator will also inspect each such well with an infra-red camera on a monthly basis. The initial baseline inspections will occur within sixty (60) calendar days after the date of Permit approval. After a well has produced for twelve (12) months, the frequency of such inspections shall decrease from monthly to quarterly. If Operator determines that any repairs are required based on these inspections, Operator will promptly initiate these repairs.

ii. Operator will report to the Director on the inspection results and any associated repairs the month after the inspection or repair occurs. This information will be collectively reported on a monthly basis in the same format that Operator uses for reporting to the Air Pollution Control Division under Regulation 7, but that is specific to wells located within the Erie Town Limits. The Town will make this information available upon its website, or may provide a link for such information from Town's website to Operator's website.

iii. For each well completion operation with hydraulic fracturing, the Operator will control emissions by the following procedures.

(A) For the duration of flowback, route the recovered liquids into one or more storage vessels or re-inject the recovered liquids into the well or another well, and route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

(B) If compliance with the prior paragraph is infeasible, the Operator must capture and direct flowback emissions to a completion combustion device equipped with a reliable continuous ignition source over the duration of flowback, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways or nearby structures. Non-flammable gas may be vented temporarily until flammable gas is encountered where capture or combustion is not feasible.

h. The Operation will recycle and reuse water at the pad sites and otherwise minimize waste water production to the extent that it is determined such recycling, reuse, and waste water minimization is technically and economically feasible.

i. If water is not being piped to a well pad site, the proposed Operation will utilize Town water rather than trucking water to the site.

j. The Operation will not utilize Class II underground injection control wells.

2. Oil and Gas Operations Classified as Type B
Operations that are not classified as Type A Permits shall be classified as Type B Permits.

C. Determination of Completeness

1. Application Is Not Complete
If the Director determines that the application is not complete, the Director shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) calendar days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.

2. Application Is Complete
If the Director determines that the application is complete, the Director shall date the application and notify the applicant in writing.

3. Completeness Is Not a Determination of Compliance
A determination that an application is complete shall not constitute a determination that it complies with the approval standards of these Regulations.

D. Type A Permit Review and Planning Commission Decision

A Type A Permit is subject to review and decision by the Planning Commission. The Planning Commission shall make a decision on the Permit application at a properly noticed public meeting. A public hearing is not required.

1. Neighborhood Meeting
The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed

Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

a. Applicability
The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.

i. Traffic;

ii. Natural resources protected under the UDC; and

iii. Operational compatibility, such as lighting, hours of operation, odor, noise, litter, or glare.

b. Notice of Neighborhood Meeting
The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.

c. Attendance as Neighborhood Meeting
The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not determinative of the Town's position on the application.

d. Summary of Neighborhood Meeting
The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. Public Notice of Planning Commission Meeting

a. Written Notice of Planning Commission Meeting to Adjacent property Owners
Not less than fifteen (15) calendar days prior to the date of the Planning Commission meeting to consider the Permit application, the Director shall mail written notice of the meeting to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

i. Notice
The applicant is responsible for composing the written notice. The notice shall include:

(A) Date, time, and place of the meeting;

(B) Description of the property involved in the application by street address or by legal description and nearest cross street;

(C) Description of the purpose of the meeting and that interested parties can come to the meeting and speak on the matter;

(D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation; and

(E) Contact information for the Operator, including phone number and office hours.

ii. List of Property Owners
The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

(A) Owners of record of property within one-half (1/2) mile of the site of the proposed Operation.

(B) Associated homeowners associations.

(C) Additional persons or geographic areas that the Director may designate.

iii. Validity of Notice
The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

b. Posted Notice
The applicant is required to post on the property a notice of the Planning Commission meeting to consider the Permit application. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Prior to the meeting the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. Referral of Application
The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. Application Review and Staff Report

a. Director Review and Staff Report
The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

b. Distribution of Staff Report
The Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

5. Permit Decision by Planning Commission
The Planning Commission shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Commission's decision shall include the following:

a. Description of Project
Brief discussion of the proposed Oil and Gas Operation;

b. Issues
Description of issues raised by the affected property owners, referral agencies and consultants;

c. Conditions Imposed by the State
Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;

d. Impacts and Mitigation
Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and

e. Conditions of Approval
Conditions of approval, if any, necessary to ensure compliance with approval standards.

6. Reconsideration of Planning Commission Decision by Board of Trustees

a. Call-up by Board of Trustees
At the next regularly scheduled meeting for which proper notice can be accomplished following the Planning Commission's decision, the Board of Trustees may, at its discretion, decide to reconsider the Commission's decision.

b. Request by Applicant for Reconsideration by Board of Trustees
Not more than five (5) working days after the Planning Commission's decision, the applicant may submit a written request for reconsideration by the Board of Trustees of the Planning Commission's decision.

c. Reconsideration of Planning Commission's Decision
After call-up by the Board or upon receiving the request for reconsideration of the Planning Commission's decision, the Board may reconsider the decision at the next regularly scheduled meeting for which proper notice can be accomplished. A public hearing is not required. The Board shall either uphold the Planning Commission's decision, modify the decision, or reverse the decision based upon the information on record.

E. Type B Permit Review and Decision

1. Neighborhood Meeting
The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

a. Applicability
The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.

i. Traffic;

ii. Natural resources protected under the UDC; and

iii. Operational compatibility, such as lighting, hours of operation, odor, noise, litter, or glare.

b. Notice of Neighborhood Meeting

The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.

c. Attendance at Neighborhood Meeting
The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Community Development Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not binding.

d. Summary of Neighborhood Meeting
The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. Public Notice of Planning Commission Hearing

a. Published Notice
Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.

b. Written Notice of Planning Commission Hearing to Adjacent Property Owners
Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

i. Notice
The applicant is responsible for composing the written notice of Public Hearing. The notice shall include:

(A) Date, time, and place of the hearing;

(B) Description of the property involved in the application by street address or by legal description and nearest cross street;

(C) Description of the purpose of the hearing and that interested parties can come to the meeting and speak on the matter;

(D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation; and

(E) Contact information for the Operator, including phone number and office hours.

ii. List of Property Owners
The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

(A) Owners of record of property within 300 feet of the site of the proposed Operation.

(B) Associated homeowners associations.

(C) Additional persons or geographic areas that the Director may designate.

iii. Validity of Notice
The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

c. Posted Notice
The applicant is required to post on the property a notice of the Planning Commission hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. Referral of Application
The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. Application Review and Staff Report

a. Director Review and Staff Report
The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

b. Distribution of Staff Report
The Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

5. Planning Commission Hearing and Recommendations
The Planning Commission shall consider the Permit application at a public hearing following proper public notice.

a. Recommend Approval of Permit Application
If the proposed Oil and Gas Operation satisfies the approval standards, the Planning Commission shall recommend the Permit application be approved.

b. Recommend Denial of Permit Application
If the proposed Oil and Gas Operation fails to satisfy the approval standards, the Planning Commission may recommend that the Permit application be denied; or

c. Recommend Conditional Approval of Permit Application
The Planning Commission may recommend approval with conditions determined necessary for compliance with applicable development standards.

6. Public Hearing and Decision by Board of Trustees

a. Public Notice of Board of Trustees Hearing

i. Published Notice

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.

ii. Written Notice of Planning Commission Hearing to Adjacent Property Owners

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

(A) Notice

The applicant is responsible for composing the written notice of public hearing. The notice shall include:

(1) Date, time, and place of the hearing;

(2) Description of the property involved in the application by street address or by legal description and nearest cross street;

(3) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.

(4) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.

(5) Contact information for the Operator, including phone number and office hours.

(B) List of Property Owners

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

(1) Owners of record of property within 300 feet of the site of the proposed Operation.

(2) Associated homeowners associations.

(3) Additional persons or geographic areas that the Director may designate.

(C) Validity of Notice

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

iii. Posted Notice

The applicant is required to post on the property a notice of the hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall

submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

b. Application Review and Staff Report

i. Director Review and Staff Report
The Director shall prepare a report taking into account the application, Planning Commission recommendation, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

ii. Distribution of Staff Report
No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Board of Trustees. A copy of the staff report shall also be available for public review prior to the hearing.

c. Permit Decision by Board of Trustees
The Board of Trustees shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Board's decision shall include the following:

i. Description of Project
Brief discussion of the proposed Oil and Gas Operation;

ii. Issues
Description of issues raised by the Planning Commission, affected property owners, referral agencies and consultants;

iii. Conditions Imposed by the State
Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;

iv. Impacts and Mitigation
Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and

v. Conditions of Approval
Conditions of approval, if any, necessary to ensure compliance with approval standards.

F. Recompletion of Wells Existing as of the Effective Date of These Regulations

1. Notice of Recompletion
Prior to submitting Form 2 to the COGCC for recompletion of any well existing as of the effective date of these Regulations, the Operator shall notify the Local Government Designee (“LGD”) of its intent to submit such form.

2. Neighborhood Meeting
Prior to submitting the Form 2 for recompletion of any well existing as of the effective date of these Regulations, the Operator shall hold a neighborhood meeting at the Erie Community Center or a similarly convenient location approved by the Operator and the Town. The Operator shall provide 3 x 5 cards for the public to make written comments. The Town shall provide a lockbox for purposes of collecting written comments from meeting attendees. The LGD or his appointee will attend the meeting and collect the lockbox containing any written comments from meeting attendees. The LGD will transmit the written comments to the COGCC with any comments he submits on behalf of the Town regarding the Form 2.

3. **Mailed Notice**
Prior to the neighborhood meeting, the Operator shall mail notice of the anticipated recompletion to those properties located within at least one-half (1/2) mile of the pad site that would be affected by the recompletion. Owners of record shall be ascertained according to the records of the County Assessor's Office, unless more current information is made available in writing to the Town prior to the mailing of the notices. This notice shall include reference to the neighborhood meeting, contact information for the Operator, and the approximate date recompletion will begin. The Operator will provide the Town with an affidavit or certificate of mailing showing that notice was provided to the list of property owners.

4. **Posted Notice**
Ten (10) days prior to the neighborhood meeting, the Operator shall post a sign at the pad site, giving notice to the general public of the recompletion and contact information for the Operator. The Town will provide the signs for posting. The applicant is responsible for filling out the signs. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. Such signs shall be posted on the subject property in a manner and at a location or locations reasonably calculated by the Town to afford the best notice to the public.

10.12.4 OIL AND GAS OPERATIONS APPROVAL STANDARDS

A. Standards Applicable to Type A Permits

In addition to the standards in Section 10.12.4.B, below, all Type A permits shall be subject to the requirements set forth in Section 10.12.3.B.1.

B. Standards Applicable to Type A and Type B Permits

The following standards are the minimum standards that will apply to all proposed Oil and Gas Operations, and shall be in addition to any applicable state standards.

1. **Use of Steel-Rim Berms**
The Oil and Gas Operation will use steel rim berms or some other state of the art technology that will contain fluids and other material instead of sand or soil berms.

2. **Setbacks**
Wells and any associated Oil and Gas Operation facility or structure (above ground) shall be set back in accordance with Colorado Oil and Gas Conservation Commission Regulations, as amended.

3. **Minimal Site Disturbance**
The Oil and Gas Operation shall be located and constructed in a manner so that there is no unnecessary or excessive site disturbance and that minimizes the amount of cut and fill:
    - **a.** Multi-well drill pads and consolidated facilities will be used to minimize surface disturbance.
    - **b.** Pad dimensions will be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
    - **c.** Structures and surface equipment will be the minimum size necessary to satisfy present and future operational needs.
    - **d.** The Operation will be located in a manner to minimize impacts on surrounding uses, and achieve compatibility with the natural topography and existing vegetation.

4. **Visual Quality**
The Oil and Gas Operation will not cause significant degradation to the scenic attributes and rural character of the Town.

a. Facilities shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.

b. The Oil and Gas Operation should be buffered from sensitive visual areas by providing landscaping along the perimeter of the site between the surface equipment and the sensitive visual area.

c. The Oil and Gas Operation should be constructed in a manner to minimize the removal of and damage to existing trees and vegetation. If the Operation requires clearing trees or vegetation, the edges of the cleared vegetation should be feathered and thinned and the vegetation should be mowed or brushhogged while leaving root structure intact, instead of scraping the surface.

d. The Oil and Gas Operation shall be sited away from prominent natural features and visual, scenic and environmental resources such as distinctive rock and land forms, rivers and streams, and distinctive vegetative patterns.

e. To the maximum extent practicable, the Oil and Gas Operation will use low profile tanks or less intrusive equipment.

5. Natural Resource Area
The Oil and Gas Operation may not be located as to cause significant degradation of natural landmarks, rare plant species, riparian corridors, wildlife habitat or other sensitive areas.

6. Historical and Cultural Resources
The Oil and Gas Operation shall not cause significant degradation to resources of historic, cultural, paleontological, or archeological importance.

7. Public Services and Facilities
The Oil and Gas Operation shall not have a significant adverse effect on the capability of the Town to provide municipal services or the capacity of the service delivery systems.

8. Use of Existing Roads
Unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise, existing roads on or near the site of the Oil and Gas Operation shall be used in order to minimize land disturbance.

9. Transportation, Roads, and Access Standards
The Oil and Gas Operation shall not cause significant degradation to resources of historic, cultural, paleontological, or archeological importance.

a. Compliance with Town Standards
All public roads shall be constructed and maintained in compliance with Town standards as necessary to accommodate the traffic and equipment related to Oil and Gas Operations and emergency vehicles.

b. Dust Suppression
Dust associated with on-site activities and traffic on access roads shall be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or the site to the extent practical given wind conditions.

c. Access to Public Roads

i. Access points to public roads shall be located, improved and maintained to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

ii. Access roads shall be improved a minimum distance of 200 feet on the access road from the point of connection to a public road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the public road and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities.

iii. If an access road intersects with a pedestrian trail or walk, the Operator shall pave the access road as a hard surface (concrete or asphalt) a distance of 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.

iv. Temporary access roads associated with the Oil and Gas Operation shall be reclaimed and revegetated to the original state within sixty (60) days after discontinued use of the temporary access roads.

d. If the projected use of public roads as a result of the Oil and Gas Operation will result in a need for an increase in roadway maintenance, the Operator shall enter into an agreement with the Town whereby the Operator provides for private maintenance or reimburses the Town for such increased costs and/or provides a bond or other financial assurance in an amount acceptable to the Town to cover the costs of mitigating impacts to public roads.

10. Implementation of Traffic Management Plan

The Operator will implement the required Traffic Management Plan

11. Road Repairs

a. The Operator will arrange for a qualified outside consultant to perform a road impact study for all public roads that are used to access the Oil and Gas Operation. The consultant will conduct the first part of the study prior to operations and the second part of the study after the Operator completes all drilling and hydraulic fracturing. The Operator and the Town will use these studies to determine the extent of any damage accruing to the road during the study period. The Operator will either promptly pay the Town to repair such damage or arrange for and pay the cost of such repairs itself, whichever the Town prefers.

b. The Operator shall maintain financial assurance to secure its road repair obligations. The amount of such financial assurance shall equal the Town's annual road maintenance budget as of the date of permit approval multiplied by the percentage yielded by dividing the total number of Town road miles as of the date of permit approval into the number of such road miles that the Operator will use to access the Oil and Gas Operation. The Operator shall select the form of such financial assurance and shall maintain such assurance until it fulfills its obligation to repair road damage pursuant to paragraph a, above.

12. Grading/Drainage and Erosion Control

The Oil and Gas Operation shall be conducted in accordance with the Grading/Drainage and Erosion Control Plan.

13. Water Quality

The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies. The Operator will implement the required water quality monitoring plan. Determination of effects of the Operation on water quality may include, but is not limited to the following considerations:

a. Applicable narrative and numeric water quality standards.

b. Changes in point and nonpoint source pollution loads.

c. Increase in erosion and sediment loads.

d. Changes in stream channel or shoreline stability.

e. Changes in stormwater runoff flows.

f. Changes in quality of ground water.

g. Certification. The Operator must submit annual reports to the Director certifying compliance with water quality standards, documenting any non-compliance, including its date and duration. A compliance plan is required for all instances of non-compliance.

14. Wells

The Oil and Gas Operation shall not cause water quality or water pressure of any public or private water wells to go below pre-project levels. The Operator must submit annual reports to the Director certifying that the Operation has not caused water quality or pressure of public and private wells to go below pre-project levels, documenting non-compliance, including its date and duration. A compliance plan is required or all instances of non-compliance.

15. Floodplain, Wetlands and Riparian Areas

The Oil and Gas Operation will not have a significant adverse effect on the floodplain and will not significantly degrade wetlands and riparian areas. Oil and Gas Operations conducted within the Floodplain Overlay District shall comply with Section 10.2.7.C of the UDC.

16. Wildlife

The Oil and Gas Operation shall not cause significant degradation of wildlife or wildlife habitat.

17. Fuel Storage Areas

The Oil and Gas Operation includes measures to contain fuel in fuel storage areas to prevent release to any water body. Inventory management or leak detection plans may be required.

18. Disposal of Hydraulic Fracturing Fluid

The Operator shall demonstrate the ability to and shall dispose of all hydraulic fracturing fluids in accordance with the Hydraulic Fluid Fracturing Disposal Plan.

19. Hazardous Materials

a. The Oil and Gas Operation includes measures to contain all hazardous materials in storage areas to prevent release to any water body. Inventory management and leak detection systems are required.

b. Full disclosure, consistent with COGCC requirements, including material safety data sheets of all hazardous materials that will be transported on any public or private roadway within the Town for the Oil and Gas Operation, shall be provided to the Director. This information will be treated as confidential and will be shared with other emergency response personnel only on an as needed basis.

20. Spill Release Response and Reporting

The Operator has demonstrated the ability to control and contain all spills and releases of exploration and production waste, including produced fluids, immediately upon discovery in compliance with the following requirements:

a. Impacts resulting from spills and releases shall be investigated and cleaned up as soon as practicable.

b. For all spills and releases reportable under COGCC Rule 906, within ten (10) days after discovery Operator shall submit to the Director a copy of the spill and release report (COGCC Form 19), including the topographic map showing location of the spill and any information relating to initial mitigation, site investigation, and remediation that accompany the report.

c. For spills and releases which exceed twenty (20) barrels of exploration and production waste, the spill and release shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.

d. Spills and releases of any size which impact or threaten to impact any waters of the state, residence or occupied structure, livestock, or public byway shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.

e. Spills and releases of any size which impact or threaten to impact any water supply area shall be verbally reported to the Colorado Environmental Spill Reporting Hotline at 1-877-518-5608, to the Local Government Designee, and to the Director immediately after discovery.

f. Spills, chemical spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Oil and Pollution Act, and the Clean Water Act, as applicable.

21. Emergency Response

The Oil and Gas Operation shall be conducted in accordance with the Emergency Response Plan.

22. General Operations and Maintenance Requirements

a. The Oil and Gas Operation shall maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery / operation.

b. Gas produced during production shall be captured and not flared or vented to the maximum extent practicable.

c. The Operator shall at all times keep the well sites, roads, rights-of-way, facility locations, and other Oil and Gas Operation areas safe and in good order, free of noxious weeds, litter and debris.

i. The Operation shall comply with COGCC rules concerning weed control. The Operator shall be responsible for ongoing weed control at all locations disturbed by the Operation and along access roads during construction and operation, until abandonment and final reclamation is completed.

ii. The Operation shall comply with COGCC rules concerning removal of debris.

iii. The Operator shall utilize vehicle tracking control practices to control potential sediment discharges from unpaved surfaces. Such practices may include road and pad design and maintenance to minimize rutting and tracking, controlling site access, street sweeping or scraping, tracking pads, and wash racks. Traction chains from heavy equipment shall be removed before entering a public roadway.

d. The Operator shall dispose of all water, unused equipment, litter, sewage, waste, chemicals and debris off of the site at an approved disposal site.

i. All equipment used for drilling, re-drilling and maintenance shall be removed from the well pad site within thirty (30) days after completion of

the work, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed.

ii. Materials shall not be buried on-site.

e. The Operator shall promptly reclaim and reseed all disturbed sites in conformance with COGCC rules.

f. Routine field maintenance of vehicles or mobile machinery shall not be performed within three hundred (300) feet of any water body.

g. All mechanized equipment associated with the Operation shall be anchored to minimize transmission of vibrations through the ground.

h. No burning of trash shall occur in association with the Operation.

i. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the Operation site is unattended or is accessible to the general public. Open-ended discharge valves shall be placed within the interior of the tank secondary containment.

j. All permanent equipment with engines or motors that can be electrified shall be electrified from the power grid or from renewable sources. All well pads that are not electrically operated should use quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent; or acoustically insulated housing or covers to enclose the motor or engine.

k. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest occupied structures.

l. Oil and gas well facilities (above ground) shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Director. The fencing color shall be bronze unless the Director approves black fencing. Black fencing will only be approved by the Director if fencing or site furnishings in the adjacent developments have approved black elements.

m. The Operator will install down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that Operator may still use lighting that is necessary for public and occupational safety.

n. Well Abandonment. The Operator shall comply with any COGCC rules regarding well abandonment. Upon plugging and abandonment of a well, the Operator shall provide the Director with surveyed coordinates of the abandoned well and shall leave onsite a permanent physical marker of the well location.

C. Waiver of Approval Standards

The Town may waive one or more of the Oil and Gas Operation Approval Standards set forth in this Section 10.12.4.B for Operational Conflict, Technical Infeasibility or Environmental Protection.

1. Operational Conflict

An approval standard may be waived by the Board of Trustees if the application of a Town standard to the proposed Oil and Gas Operation would materially impede or destroy the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety and welfare, including protection of the environment and wildlife resources.

a. Request for Waiver

Upon written request by the applicant, the Director shall schedule a public hearing by the Board of Trustees at the next regularly scheduled meeting for which proper

notice can be accomplished and for which there is time on the agenda following receipt of the written waiver request.

b. Notice of Public Hearing

i. The notice of public hearing on the waiver request shall be prepared by the Director and shall include a description of the proposed Oil and Gas Operation, description of the standard(s) sought to be waived, and the date and location of the hearing.

ii. Not less than fifteen (15) days prior to the hearing, the Director shall publish the notice of public hearing on the waiver request in a newspaper having general circulation in the area. The Operator shall be responsible for the cost of publication.

iii. Not less than fifteen (15) calendar days prior to the date of the public hearing on the waiver request, the Director shall mail written notice of the public hearing to owners of real property within 300 feet of the subject parcel when the proposed Oil and Gas Operation is located. The applicant shall provide a stamped and addressed envelope for each party to be notified. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

c. Decision by Board of Trustees on Request for Waiver of Standard

The Board of Trustees may waive the standard if the Board determines, based on evidence and testimony at the hearing, that application of the approval standard to the proposed Oil and Gas Operation will result in an operational conflict with a state statute, regulation, or other requirement. The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.

2. Technical Infeasibility

The Operator may make a written request to the Director for a waiver due to technical infeasibility at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver based upon the following determinations:

a. There is no economical technology commercially available to conduct the proposed Oil and Gas Operation in compliance with the standard; and

b. Conduct of the proposed Oil and Gas Operation if the standard is waived will be protective of public health, safety, welfare and the environment.

3. Environmental Protection

The Operator may make a written request to the Director for a waiver based on environmental protection at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver if protection of public health, safety welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

10.12.5 ENFORCEMENT

These Regulations for Oil and Gas Operations shall be enforced pursuant to Section 10.10.1 of the UDC.