

Person moved adoption
of the following Resolution:

**BOARD OF EAGLE COUNTY COMMISSIONERS
COUNTY OF EAGLE, STATE OF COLORADO**

RESOLUTION NO. 2014- 002

EAGLE COUNTY FILE NO. LUR-4550

**EAGLE COUNTY LAND USE REGULATION AMENDMENT
FOR THE FLOODPLAIN OVERLAY ZONE DISTRICT**

WHEREAS, the Board of County Commissioners of Eagle, State of Colorado (hereinafter the "Board"), is authorized, pursuant to state enabling legislation including, but not limited to, C.R.S. 30-28-101, *et seq.*, to plan for and regulate the use and development of land in the unincorporated territory of the County of Eagle, State of Colorado, for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the County of Eagle, and;

WHEREAS, Eagle County is experiencing high rates of population growth, increased population density and increased environmental pressures as a result of land development within Eagle County, and;

WHEREAS, the construction of new developments within the County is placing significant additional demands on the natural and human-made environment alike, and;

WHEREAS, the volume and pace of land development in the County threatens the natural environmental attributes of Eagle County, and;

WHEREAS, the Board finds and determines that one of the primary roles of development review is to ensure that changes in land use are awarded in such a manner that will promote and protect the convenience, order, prosperity and welfare of present and future inhabitants and visitors of Eagle County, and;

WHEREAS, at public hearings held on November 20, 2013, and November 21, 2013, the Eagle County Planning Commission and the Roaring Fork Valley Regional Planning Commission (herein after the "Planning Commissions"), considered amendments to the Eagle County Land Use Regulations as contained herein and attached as Exhibit 'A' (herein after "the amendments"), and, based upon their findings, recommended approval of the amendments, and;

WHEREAS, at a public hearing held on December 31, 2013, the Board considered the amendments; the statements of the Eagle County staff, other interested persons, and the recommendations of the Planning Commissions, and;

WHEREAS, the Board finds and determines that the amendments are necessary and designed for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Eagle County and are consistent with the County's goals, policies and plans, including the Comprehensive Land Use Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Eagle, State of Colorado, that File No. LUR-4550 be APPROVED, and that the amendments to the Eagle County Land Use Regulations are EFFECTIVE January 7, 2014;

MOVED, READ AND ADOPTED by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 7th day of January, 2014.

COUNTY OF EAGLE, STATE OF COLORADO,
by and through its BOARD OF COUNTY
COMMISSIONERS

ATTEST:

By:

Teak J. Simonton
Clerk to the Board of
County Commissioners



Sara J. Fisher, Chairman

~~By: [Signature]~~ . Dupin

By:

Jillian H. Ryan, Commissioner

By:

Kathy Chandler-Henry, Commissioner

Commissioner Chandler-Henry - Henry seconded adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

Commissioner Sara J. Fisher
Commissioner Jillian H. Ryan
Commissioner Kathy Chandler-Henry

Yes
Yes
Yes

This Resolution passed by 3/0 vote of the Board of County Commissioners of the County of Eagle, State of Colorado.

EXHIBIT A

Proposed Amendments to the Land Use Regulations

Name	# of Pages
Title Page	1
Article 2 – Definitions	30
Article 3 – Zone Districts	28
Article 5 – Administration	4
Total Pages	63

Note: The above articles consist of only pages that have proposed changes. Pages with no changes have been omitted for brevity.

ARTICLE 2
DEFINITIONS - EAGLE COUNTY

ARTICLE 2

DEFINITIONS

TABLE OF CONTENTS

	<u>PAGE</u>
Section 2-100. Purpose	2-1
Section 2-110. Definitions	2-1

ARTICLE 2**DEFINITIONS****SECTION 2-100. PURPOSE**

The purpose of this Article is to define words, terms and phrases contained within these Land Use Regulations.

SECTION 2-110. DEFINITIONS

The following words shall have the following meanings when used in these Regulations.

100-YEAR FLOOD means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ACCESS means the place, means or way by which pedestrians and vehicles obtain usable ingress and egress to a property, use or parking space. All required means of access shall comply with the applicable standards of these Land Use Regulations.

ACCESSORY BUILDING means a building located on the same lot as the principal building to which it is accessory that is clearly incidental, subordinate, secondary and devoted which is customarily found in conjunction with the principal building. See separate definition of garage. Accessory buildings, excluding garages and agricultural buildings shall not be larger than eight-hundred-fifty (850) square feet (see also definitions for 'garage' and 'agricultural building') (am. 11/08/05)

ACCESSORY DWELLING UNIT means a dwelling unit that is accessory and subordinate to the principal use of the property that has been designed and intended for occupancy by the caretaker of said property, persons who live and work in Eagle County, or relatives and guests of the occupants of the principal use of the property. An accessory dwelling unit contains a kitchen facility separate from the principal use (see definition for 'kitchen facility'). Accessory dwelling units shall meet the criteria stated in Article 3, Section 3-310.A et. seq.) (am. 11/08/05)

ACCESSORY USE means a use located or conducted upon the same lot as the principal use to which it is accessory that is clearly incidental, subordinate, secondary and devoted to the principal use, and is customarily found in conjunction with the principal use. For example, gardens, recreational activities and raising of pets

are accessory uses customarily found in conjunction with residential uses. An accessory use shall not be a use that is designated in the use schedule as being prohibited in the zone district in which it is located.

ADDITION means any activity that expands the footprint or increases the square footage of an existing structure.

ADJACENT PROPERTY, as used for the purposes of meeting public notice requirements as set forth in these regulations, means the property touching any part of the property which is the subject of the application. If an adjacent property is a public road, trail, or right-of-way, railroad right-of-way, stream, or river, the adjacent property shall also be the property on the opposite side of it.

(am 09/27/99)

ADULT ENTERTAINMENT USE means an establishment consisting of, or having the characteristics of, any or all of the following:

1. **Adult Bookstore** means an establishment having a substantial or significant portion of stock-in-trade books, magazines, publications, tapes, or films that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
2. **Adult Club or Cabaret** means an establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas or which features topless or nude dancers, strippers or similar entertainers for observation by patrons.
3. **Adult Motion Picture Theatre** means an enclosed building used for presenting motion pictures or audio-visual displays distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

AGRICULTURAL BUILDING means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation.

AGRICULTURE means farm or ranch uses, as defined in 39-1-102 C.R.S., including buildings for shelter of farm or ranch animals or property primarily employed in any of the above uses. An agricultural use may include those activities necessary to operate the agricultural business, however, processing of agricultural products shall only be permitted when allowed in the underlying zone district and when specifically approved for the subject property.

AIRCRAFT LANDING STRIP means a private facility for accommodation and servicing of aircraft.

AIRPORT means a public facility for accommodation and servicing of aircraft.

1. **UTILITY AIRPORT** means a basic or general utility airport, as defined by the Federal Aviation Agency.
2. **AIR CARRIER AIRPORT** means an air carrier airport, as defined by the Federal Aviation Agency.

ALLEY means a public right-of-way providing secondary access to a property that is not intended for general travel.

ALLUVIAL FAN FLOODING means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

APPEAL means a request for a review of the County's interpretation of any provisions of this regulation. (am 01/04/05)

APPURTENANT FACILITY means any building, structure or other property that is clearly incidental to and customarily found in connection with major facilities of public utilities, including, but not limited to metering stations, storage buildings, fences and compressor stations.

AQUATIC ECOSYSTEMS means rivers, streams, lakes, ponds, springs and seeps.

AREAS AND ACTIVITIES OF STATE INTEREST means those areas and activities which the State of Colorado has authorized local governments to designate from the following list:

1. **Areas of State Interest as Determined by Local Government.**
 - a. Mineral resource areas;
 - b. Natural hazard areas;
 - (1) Floodplains
 - (2) Wildfire hazard areas
 - (3) Geologic hazard areas
 - c. Areas containing, or having a significant impact upon historical, natural, or archaeological resources of statewide importance; and
 - d. Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community.
2. **Activities of State Interest as Determined by Local Government.**
 - a. Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;
 - b. Site selection and development of solid waste disposal sites except those sites specified in Section 25-11-203(1), C.R.S. 1973, and except sites designated pursuant to Part 3 of Article 11 of Title 25, C.R.S. 1973;
 - c. Site selection of airports;

- d. Site selection of rapid or mass transit terminals, stations, and fixed guideways;
- e. Site selection of arterial highways and interchanges and collector highways;
- f. Site selection and construction of major facilities of public utility;
- g. Site selection and development of new communities;
- h. Efficient utilization of municipal and industrial water projects; and
- i. Conduct of nuclear detonations.

AREA OF SHALLOW FLOODING means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three 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.

AREAS OF SPECIAL FLOOD HAZARD means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year. *(am 01/04/05)*

ATTIC means that part of a building that is immediately below and wholly or partly within the roof framing. An attic that is less than five (5) feet in height shall be considered non-habitable.

AVALANCHE HAZARD AREA means an area where a mass of snow or ice and other material that may get incorporated therein moves rapidly down a mountain slope with a predictable recurring frequency over time and at a predictable impact pressure.

BALD EAGLE ROOST SITE means a perch or resting place for the bald eagle that offers ease of access and good visibility for foraging. Bald eagle roost sites are located in tall trees with perches within riparian areas, and are used winter after winter by bald eagles.

BASE FLOOD means a flood having a one percent (1%) chance of being equaled or exceeded in any given year. *(am 01/04/05)*

~~**BASE FLOOD ELEVATION** is the height of the base flood, in relation to the North American Vertical Datum of 1988 as referenced on the Flood Insurance Rate Maps. *(am 01/04/05)*~~

BASE FLOOD ELEVATION (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT means any floor level that is six (6) feet or more below grade for more than fifty (50) percent of the building.

BASEMENT (Floodplain Overlay Zone District Definition^a) – means any area of a building having its floor below ground level on all sides.

BED AND BREAKFAST means a dwelling unit in which overnight accommodations and a morning meal are provided only to guests of the facility for compensation.

BERM means a mound of earth used to screen or separate one area from another to reduce visual, noise and similar impacts. Berm may also mean the act of pushing earth into a mound (see also Landscape Berm).
(am.05/16/06)

BIGHORN SHEEP MIGRATION PATTERNS means the routes bighorn sheep use to migrate between summer ranges and winter ranges.

BIGHORN SHEEP PRODUCTION AREAS means those lands on which pregnant female bighorn sheep give birth to their young in the mid to late spring. Bighorn sheep production areas are undisturbed areas inhabited by female bighorn sheep that contain free-flowing water and sufficient food. These areas also offer good hiding cover by providing an ample understory of low-lying vegetation and by being closely associated with steep terrain and rocky ledges.

BIGHORN SHEEP WINTER CONCENTRATION AREAS means those areas in Eagle County that because of their slope, aspect, elevation and vegetation, including cover, are capable of providing bighorn sheep sufficient food and cover (habitat) to survive the most difficult winter months of average winters. In Eagle County, densities of bighorn sheep in winter concentration areas are twice as great as those in winter ranges in the average five (5) winters out of ten (10).

BOARD means the Board of County Commissioners of Eagle County, Colorado.

BOARDING STABLE means a structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises and for which the owner receives compensation.

BUILDING means any structure used for shelter or enclosure of persons, animals or property. A building shall comply with the Building Resolution, as adopted by Eagle County. A building used for shelter or enclosure of persons shall be one (1) of the following:

1. **CONVENTIONAL BUILDING** means a building constructed or erected on the lot or building site in a conventional manner using individually assembled or unassembled building materials that shall be less than the entire building or major portion thereof.
2. **MODULAR, PREFABRICATED OR FACTORY-BUILT BUILDING** means a building erected on the lot or building site using prefabricated or preassembled component building parts that shall comprise the entire building or major portion thereof.

BUILDING ENVELOPE means that portion of a lot within which all buildings are confined. A specified Building Envelope does not alter setbacks.

BUILDING FRONT means a measurement of the horizontal distance, made at the structural foundation or building line at finished grade, of that building elevation that most closely parallels the front lot line.

a Definitions annotated “Floodplain Overlay Zone District Definition” apply for Section 3-350 only.

BUILDING, TEMPORARY means any building or structure for which the location, occupancy or use shall not exceed six (6) months, unless the duration of its location, occupancy or use has been otherwise limited, pursuant to Section 5-250, Special Uses.

CAMPER VEHICLE OR CAMPER TRAILER means any vehicle or portable structure constructed to be transported on or towed behind a vehicle and designed to permit temporary occupancy. It shall be considered self-contained if it includes a toilet and a bath or shower.

CAMPGROUND means an establishment that provides overnight or short term sites for two (2) or more tents or camper vehicles for recreation, education or vacation purposes. Continuous occupancy of a campground by a person for a period of in excess of two (2) weeks shall be prohibited.

CARETAKER means a person who is not the owner of the land but who is employed by the owner to maintain the land and structures on it.

CEMETERY means property used for the interring of the dead. A cemetery may include a mausoleum, mortuary or similar related uses.

CENTRAL COLLECTION OF SEWAGE means the transmission of all liquid wastes from five (5) or more residential, commercial and/or other sources to an adequate facility for primary, secondary or tertiary treatment, and appropriate reutilization or disposal.

CHANGE IN CIRCUMSTANCES OR CONDITIONS means that the land uses, public facility capacity, or environmental and/or wildlife characteristics impacting or surrounding a development proposed in an application for development permit have changed in such a way that it would influence, or have an affect on, the consideration of the application.

~~**CHANNEL** means a natural or artificial water course of perceptible extent with definite bed and banks to confine and conduct continuously or intermittently flowing water. (am 01/04/05)~~

CHANNEL means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION means the artificial creation, enlargement or realignment of a stream channel.

CHURCH means a building or group of buildings that by design are primarily intended for conducting organized religious services and associated accessory uses.

COMMISSION means either the Eagle County Planning Commission, a Regional Planning Commission, or both, depending on the context in which the term appears in these Regulations.

1. **Eagle County Planning Commission.** Eagle County Planning Commission means the countywide planning commission established pursuant to C.R.S. 30-28-103(1).
2. **Regional Planning Commission.** Regional planning commission means a commission established by any municipality within the borders of Eagle County or by the Board of County Commissioners, pursuant to C.R.S. 30-28-105(1).

COMMON AREAS means areas associated with commercial or multiple family buildings that are intended for public gathering, such as lobbies, lounges, entries, patios, decks, etc.

COMMUNITY BUILDING means a building owned or operated by a governmental agency or a non-profit community organization for the purpose(s) of holding an event which is of civic or public benefit.

COMMUNITY CENTER means those lands in unincorporated Eagle County that are established and recognized as being residential and commercial activity centers or that have been designated on the Future Land Use Map (FLUM) of the Eagle County Master Plan as being appropriate to become such activity centers.

COMPOST means microbiologically degraded organic matter in de-watered sludge under aerobic conditions resulting in a stable humus-like material.

COMPOST FACILITY means a site where compost is processed.

COMPREHENSIVE (MASTER) PLAN means a compendium of reports, charts, graphs, drawings, maps or plans as may be adopted, or any portion thereof or any amendment thereto, that set forth recommendations and policies for guiding future growth and development, while providing for the public's health, safety and general welfare. The Eagle County Comprehensive Plan, adopted by the Eagle County Planning Commission is the officially adopted comprehensive plan for Eagle County, and fulfills the statutory requirements of C.R.S. 30-28-106. The Eagle County Comprehensive Plan also incorporates community and sub area plans adopted for particular areas of the County and functional plans, such those addressing particular issues of concern to the County (trails, open space, housing, etc.). (*orig. 11/08/05*)

COMPREHENSIVE SIGN PLAN means a plan indicating the size, height, text, color and location of the signs that each business will be allowed to display; including directory signs, building identification signs and any informational signs and displays. A sign application for any single sign in a multi-use building or lot shall conform to the approved comprehensive sign plan for that building or lot (i.e., color, location, material, etc.).

CONDITIONAL LETTER OF MAP REVISION (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CONDOMINIUM SUBDIVISION means a subdivision in which the interests created are separate fee simple estates, in individual air space units of a multi-unit property, together with undivided fee simple interests in common elements as defined in Section 38-33-101 et seq., C.R.S. 1973, as amended.

CONSTRUCTION AND DEMOLITION DEBRIS FACILITY means a discrete area of land or an excavation that is designated for the final disposal of solid waste, such as lumber, bricks, concrete, sheetrock and similar materials that result from the construction or demolition of a building or structure.

CONTIGUOUS means sharing a common border at more than a single point of intersection and in such a manner that the shared boundaries are touching. Lands that are separated by a right-of-way that is dedicated in fee simple shall not be considered to be contiguous. Lands that touch at points of intersection shall also not be considered to be contiguous.

CONTRACTOR'S STORAGE YARD means a parcel of land, or portion thereof, used for the purpose(s) of storing construction materials, equipment, vehicles or machinery, that are not, or will not be used on said parcel. The materials, equipment, vehicles or machinery may be stored within a building or shall be surrounded on all sides by a fence, wall, landscaping in combination with fencing, or other opaque screen of at least six (6) feet in height.

COUNTY means Eagle County, Colorado.

CRAWL SPACE means an area on the lowest level of a structure that shall have a ceiling height of less than five (5) feet, measured from the surface of the earth or floor system to the underside of the structural members of the floor directly above.

CRITICAL FACILITY means a structure or related infrastructure, but not the land on which it is situated, as specified in section 3-350.M, 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. See section 3-350.M.

CRITICAL FLOODPLAIN FEATURE means an integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised. (am 01/04/05)

CRITICAL WILDLIFE HABITAT means (1) migration patterns and corridors, winter concentration areas, severe winter ranges, and production areas of elk, (2) migration corridors, staging areas, winter concentration areas, severe winter ranges and winter ranges of mule deer, (3) migration patterns, winter concentration areas and production areas of bighorn sheep, (4) roost sites of bald eagles, (5) nest sites of golden eagles, (6) nest sites of peregrine falcons, (7) production areas of sage grouse, and (8) occupied habitat of lynx.

CUSTOMARY ACCESSORY RESIDENTIAL USES means buildings for shelter or enclosure of property or domestic animals commonly associated with residential uses, fences, and hedges, gardens, walls and similar landscape features.

DAY CARE CENTER means a residence or facility that provides regular care and supervision, for an entire day or a portion of a day, for seven (7) or more children who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care. A day care center shall comply with all applicable standards for child care centers of the Colorado Department of Social Services.

DAY CARE HOME means a residence or facility that provides regular care and supervision, for an entire day or a portion of a day, for more than two (2) but not more than six (6) children from birth to sixteen (16) years of age who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care. Care also may be provided for no more than two (2) additional children

of school age attending full-day school. Residents of the home under twelve (12) years of age who are on the premises and all children on the premises for supervision are counted against the approved capacity. A day care home shall comply with all applicable standards for child care centers of the Colorado Department of Social Services.

DEBRIS FAN means areas of possible recurrent flooding, debris flows and hydrocompaction.

DEBRIS FAN FLOODPLAIN means a floodplain located on triangular-shaped landform formed by deposition of water-transported rock fragments, soil and other debris where a tributary stream flows onto the floor of a larger trunk stream valley. *(am 01/04/05)*

DEPARTMENT means the Eagle County Department of Community Development.

DESIGNATED FLOODPLAIN means the area designated as a floodplain by official action of the Board of County Commissioners with the prior concurrence of the Colorado Water Conservation Board as prescribed by statute. *(am 01/04/05)*

DEVELOPABLE LAND means net land available for building or other development which is free from natural water bodies or the 100-year floodplain. *(am. 01/04/05)*

DEVELOPER means a legal or beneficial owner of any land proposed for inclusion in a development, including a lessee, optionee, or contract purchaser.

DEVELOPMENT means any of the following activities that require some form of development permit pursuant to these Land Use Regulations: 1) the subdivision of a parcel of land into two (2) or more lots or divisions; 2) the construction, reconstruction, conversion, expansion, or structural alteration, relocation, or enlargement of any buildings, structures, or accessory structure; 3) any use or change in use of any buildings, land, or water; 4) any clearing, grading or other movement of land of a nature or dimension; 5) any mining, dredging, filling, grading, paving, excavating, piling channel rectification, road or bridge construction, ~~or~~ drilling operations, or storage of equipment or materials for more than six (6) months. *(am 01/04/05)*

DEVELOPMENT PERMIT means an amendment to the Zoning District Map, a Conceptual/Preliminary Plan for PUD, a Sketch Plan/Preliminary Plan for Subdivision, a Final Plat for Subdivision, a Special Use Permit, a Variance Permit, a Certificate of Zoning Compliance, a Building Permit, Floodplain Permit or any other official action of Eagle County having the effect of permitting the development of land. *(am 01/04/05)*

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) means a FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

DISTRIBUTION CENTER means an establishment engaged in the receipt, storage and distribution of goods, products, cargo and materials, including trans-shipment by motor vehicles, rail, air or boat.

DRY WASH CHANNEL means natural passageways or depressions of perceptible extent containing intermittent flow. *(am 01/04/05)*

DRY WASH FLOODPLAIN means an area subject to sudden overflow of floodwater or flood borne debris from a dry wash channel. *(am 01/04/05)*

1. Single-Family Dwelling means a free-standing, detached building containing a single dwelling unit.
2. Duplex Dwelling means a building containing two (2) dwelling units connected by a common wall shared by the units, as further defined in the illustration on the prior page and by separate definition in this section,, neither of which are multi-housekeeping-unit dwelling units. (see definition for Multi-Housekeeping-Unit Dwelling Unit).
3. Multi-Family Dwelling means a building containing three (3) or more dwelling units, none of which are multi-housekeeping-unit dwelling units. Multifamily dwellings include but are not limited to condominiums, townhomes and apartments.
4. Multi-Housekeeping-Unit Dwelling means a building containing one (1) or more multi-housekeeping-unit dwelling units. (*am. 11/08/05*)

EASEMENT means a conveyance or reservation of an incident of ownership in real property for one (1) or more specific purposes; public or private.

EDUCATIONAL FACILITY means public schools, non-public schools, colleges and universities, proprietary schools and schools administered and operated by the State. The following definitions shall apply to the various types of educational facilities:

1. **PUBLIC SCHOOLS** means those schools administered by legally organized school districts.
2. **NON-PUBLIC SCHOOLS** means all private, parochial and independent schools which provide education for compulsory school age pupils comparable to that provided in the public schools of the State.
3. **COLLEGES OR UNIVERSITIES** means such educational facilities under charter or license from the State of Colorado.
4. **PROPRIETARY FACILITIES** means all privately owned and managed educational facilities, which may include but not be limited to, art, church, business colleges, trade schools, church camps, residential camps and day camps.

ELECTRIC POWER GENERATION FACILITY means any electric energy generating facility with generating capacity of ten (10) megawatts or more, and any appurtenant facilities thereto.

ELECTRIC POWER TRANSMISSION LINE means any power line designed for or capable of the transmission of sixty-nine (69) kilovolts of electricity or greater and which emanates from an electrical power plant or electric substation and terminates at a substation.

ELEVATED BUILDING (Floodplain Overlay Zone District Definition^a) means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building

a Definitions annotated "Floodplain Overlay Zone District Definition" apply for Section 3-350 only.

during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

ELK MIGRATION PATTERNS AND CORRIDORS means the routes elk use to migrate between summer ranges and winter ranges.

ELK PRODUCTION AREAS means those lands on which pregnant female elk give birth to their young in the early spring. Elk production areas are undisturbed areas inhabited by female elk that contain free-flowing water, an ample understory of low-lying vegetation that provides good hiding cover, and sufficient food.

ELK SEVERE WINTER RANGES means those areas that because of their physical characteristics (such as low elevation, minimum snowpack, or physical barriers either natural or man-made) provide elk sufficient food and cover (habitat) during the most difficult months (where there is maximum snowpack or minimum temperatures) of the most severe winters (the worst two [2] winters out of ten [10]).

ELK WINTER CONCENTRATION AREAS means those areas that because of their slope, aspect, elevation and vegetation, including cover, are capable of providing elk sufficient food and cover (habitat) to survive the most difficult winter months of average winters. In Eagle County, densities of elk in the winter concentration areas are twice as great as those in surrounding winter ranges in the average five (5) winters out of ten (10).

ENERGY GRADE LINE means a line showing the total energy of the flow across a section with a reference to a datum line. (*am 01/04/05*)

EQUIPMENT, HEAVY means high-capacity mechanical devices for moving earth or other materials, and mobile power units including but not limited to: carryalls, graders, front loaders, dump trucks, bulldozers, excavators, tractors, augers, concrete mixers, pump trucks, and similar devices with greater than two-and-a-half-ton (2.5 ton) gross vehicle weight rating.

EROSION means the detachment and movement of soil, rock fragments or ground surface as a result of the movement of wind, water, ice, gravity and/or land disturbance activities. (*orig. 05/01/07*)

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION (Floodplain Overlay Zone District Definition^a) means 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 a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION (Floodplain Overlay Zone District Definition^a) means 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).

EXPANSIVE SOILS AND ROCK means soil and rock that contains clay and expands or swells to a significant degree upon wetting and shrinks upon drying.

a Definitions annotated "Floodplain Overlay Zone District Definition" apply for Section 3-350 only.

EXTRACTION, see "Industrial Operations".

FABRICATION, see "Industrial Operations."

FAMILY means one (1) or more persons who occupy a single dwelling unit and act as a single housekeeping unit, together with their customary household servants; or a group of not more than four (4) persons who occupy a single dwelling unit and who do not act as a single housekeeping unit. In no event shall a family occupying one dwelling unit exceed the size of one person for each 300 square feet of space in the living quarters of the dwelling unit.

FARM/RANCH STAND means a structure for the display and sale of primarily raw farm or ranch products produced principally upon the farm or ranch on which the stand is located.

FARMERS MARKET means one (1) or more structures for the display and sale of primarily raw farm or ranch products, located at a site other than the farm or ranch at which the product was produced.

FEEDLOT means a closely confined and contained area for the commercial feeding of livestock, as contrasted with grazing, pasturing or winter feeding of livestock.

FEMA means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

~~**FLOOD or FLOODING** means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, rivers or other inland water bodies, or (b) the unusual and rapid accumulation or runoff of surface water from any source. (am 01/04/05)~~

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from: 1) The overflow of water from channels and reservoir spillways; 2) The unusual and rapid accumulation or runoff of surface waters from any source; or 3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

~~**FLOODPLAIN** means an area of land periodically subject to partial or complete inundation from a flood.~~

FLOODPLAIN OR FLOOD-PRONE AREA means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR means the community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA) or Flood Overlay Zone District. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and the Flood Overlay Zone District.

FLOODPLAIN MANAGEMENT means 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.

FLOODPLAIN MANAGEMENT REGULATIONS means the Floodplain Overlay Zone District in Article 3, Section 3-350 of these regulations. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING means 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. *(am 01/04/05)*

~~**FLOODWAY** means the high hazard area and encompasses an area which includes the channel of a stream or other watercourse and any adjacent floodplain areas which are reasonably required to carry and discharge the floodwaters of a base flood and which must be kept free of development so the base flood can be carried without an increase in flood height. If the floodway is not identified, it is considered to be identical to the floodplain. Specifically, a floodway is defined as the stream channel plus any adjacent floodplain areas that must be kept free of development so the base flood can pass with no more than a 0.5 foot increase in the water surface elevation or the energy grade line, providing hazardous velocities are not produced for all rivers except the Roaring Fork River. The floodway for the Roaring Fork River is defined as the stream channel plus any adjacent floodplain areas that must be kept free of development so the base flood can pass with no increase in the water surface elevation or the energy grade line. However, for all rivers, in no instance shall the floodway-flood fringe boundary be closer than twenty-five (25) feet to the natural streambank. *(am 01/04/05)*~~

FLOODWAY (REGULATORY FLOODWAY) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation or energy grade line more than a designated height. If the floodway is not identified, it is considered to be identical to the floodplain. The designated height to be used for all existing and newly studied reaches shall be one-half foot (six inches). The designated height of the Roaring Fork River shall be zero feet. However, for all rivers, in no instance shall the floodway-flood fringe boundary be closer than twenty-five (25) feet to the natural streambank.

FLOOD FRINGE means the low hazard area encompassing that area between the outer boundary of a Floodway and the outer limit of the 100-year floodplain. *(am 01/04/05)*

FLOOD INSURANCE RATE MAP (FIRM) means an 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 community. *(am 01/04/05)*

~~**FLOOD INSURANCE STUDY (FIS)** means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary, floodway boundary and the water surface elevation of the base flood. *(am 01/04/05)*~~

FLOOD INSURANCE STUDY (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOOD-PRONE AREA means an approximate area encompassing the area in and adjacent to a stream or other watercourse, which is subject to flooding as the result of a base flood, the water surface elevations of

FORESTRY means an establishment primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

FRACTIONAL FEE ESTATE means any interest in real property, including condominiums, owned or leased by five (5) or more persons or entities or any other device including ownership in a corporation, cooperative, partnership, or joint venture whereby the owners or lessees have formally or informally agreed that such owners or lessees shall have the preferred or exclusive use during specified periods of time. Any conveyance of a fractional fee estate or undivided interest by separate deed is within this definition and is to be regulated hereby. A fractional fee estate shall be deemed to be created upon the marketing, promotion, selling or offering to sell specified period or periods of time in one (1) or more residential units.

FREEBOARD means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

FRONTAGE means the length of that property line of a lot which abuts a legally accessible street right-of-way.

FUNCTIONALLY DEPENDENT IMPROVEMENT means an improvement which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, ship building and ship repair facilities, ~~and~~ boat launch facilities, intakes, channels, diversion structures, riverbank filtration galleries, alluvial wells, storm sewers, effluent outfall structures, and underground pipelines, but does not include long-term storage or related manufacturing facilities.

GARAGE, private, for residential use means an accessory building, or an accessory portion of a main building, designed for shelter or storage of motor vehicles which are owned, and operated by the occupants of the main building. In the FH, RSM, RSL, and RMF zone districts, habitable spaces within garages such as, offices, bathrooms or other similar uses will be counted towards the property's floor area ratio. In all zone districts, total garage square footage shall not exceed total habitable space located on the lot. (am 3/12/02)

GOLDEN EAGLE NEST SITE means the bed or receptacle prepared by the golden eagle for its eggs and young. Generally, golden eagle nest sites occur on cliffs, but trees are sometimes used. Nests are generally located so that the birds are provided an unobstructed view of surrounding areas, affording maximum foraging opportunity.

GRADE, FINISHED means the final elevation of the ground level after development.

GRADE, NATURAL means the elevation of the ground level in its natural state, before construction, filling or excavation.

GROUP HOME means a residential building that is owned and operated by a non-profit organization, or is owned and operated by an individual or group of individuals who actually reside at and maintain their primary place of residence in the group home, that:

1. **Occupied By Elderly Persons.** Is occupied by not more than eight (8) persons who are sixty (60) years of age or older who do not require skilled or intermediate care facilities; or

2. **Occupied By Developmentally Disabled Persons.** Contains a state-licensed facility for the exclusive use of not more than eight (8) persons that are developmentally disabled due to their having cerebral palsy, multiple sclerosis, mental retardation, autism or epilepsy; or
3. **Occupied By Mentally Ill Persons.** Contains a state-licensed facility for the exclusive use of not more than eight (8) persons that have been determined to be mentally ill as defined and limited by '30-28-115(b.5), C.R.S. No person who has been determined to be not guilty of a violent offense by reason of insanity or who has been convicted of a felony shall be placed in a group home.
4. **Occupied by Handicapped Persons.** Is occupied by not more than eight (8) persons who are handicapped as that term is defined by the United States Fair Housing Act, 42 USCA '3601 et seq.
5. **Occupied by Certified or Licensed Child Care Facilities.** Contains a certified or licensed foster care home, residential child care facility or secure residential treatment center, as defined by '26-6-101, et seq., CRS, or licensed halfway house, as defined by '19-1-103, CRS, for the exclusive use of not more than eight (8) children.

GROUND SUBSIDENCE means a process characterized by the downward displacement of surface material caused by natural phenomena, such as removal of subsurface fluids, natural consolidation, or dissolution of subsurface materials, or by man-made phenomena, such as subsurface mining.

HABITABLE SPACE means any space or area in a structure used for living, sleeping, eating or cooking. Habitable space shall have a ceiling height of five (5) feet, zero (0) inches or more between the surface of the earth and/or floor system and the underside of the structural member(s) of the floor directly above. Any habitable space that is not an accessory dwelling unit that is located within a detached garage, agricultural building or other accessory structure, unless otherwise approved through special use, shall not exceed eight-hundred-fifty (850) square feet. All habitable space shall be included in a calculation of the property's maximum floor area in those zone districts where floor areas are restricted. (*am. 11/08/05*)

HELIPORT means an area, either at ground level, or elevated on a structure, licensed by the Federal Aviation Administration or other appropriate state or federal agency that is approved for the loading, landing and takeoff of helicopters, that includes auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

HELISTOP means a heliport that does not contain any auxiliary facilities.

HIGH WATER MARK means the visible line on the edge of a river, stream, lake, pond, spring or seep up to which the presence and action of water are so usual and long conditioned (with a recurrence interval of ten (10) years or less) so as to create a distinct character with respect to vegetation and the nature of the soil.

HIGHEST ADJACENT GRADE (Floodplain Overlay Zone District Definition^a) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is: 1) 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; 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a

a Definitions annotated "Floodplain Overlay Zone District Definition" apply for Section 3-350 only.

registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3) 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 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: a) By an approved state program as determined by the Secretary of the Interior or; b) Directly by the Secretary of the Interior in states without approved programs.

HOME BUSINESS means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support by residents of the dwelling and employees residing off-premises, that may serve patrons on the premises. A home business shall comply with the standards of Section 3-310 F.1., Home Business.

HOME OCCUPATION means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support, only by residents of the dwelling, that does not serve patrons on the premises, except in an incidental manner. A home occupation shall comply with the standards of Section 3-310F.2., Home Occupation.

HORTICULTURE means the growing or production for income of fruits, vegetables, flowers and nursery stock including ornamental plants, trees and/or shrubs. (*orig. 10/09/07*)

HOSPITAL means an institution providing primary health services, medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

HOTEL means a building that is designated, intended or used for the accommodation of tourists, transients and permanent guests for compensation and in which no provision is made for cooking in individual rooms or suites. For impact analysis purposes, three (3) hotel rooms are equivalent to one (1) single family dwelling unit.

HOUSEKEEPING UNIT means one (1) or more persons who live together in a single dwelling unit, with an expectation of living together permanently, who are economically and socially dependent on one another, own and use the dwelling units elements, furnishings and equipment as common to all, and represent themselves to the public and conduct themselves as a single, interdependent, permanent unit. A housekeeping unit is manifested by, at a minimum, a single or joint tenancy ownership of, or single lease -- with a minimum duration of one year to which each of the adult members of the housekeeping unit are bound -- or, the real property interest in the dwelling unit and the personal property interest in the furnishings and equipment in it. Housekeeping units usually are, but need not be, comprised of persons related by blood, marriage or adoption, or bound by a legal custodial relationship.

IMPERVIOUS COVER OR MATERIALS means a surface that does not readily allow water to infiltrate into the ground. The term may include, but not be limited to, building roof surfaces including roof overhangs, concrete or asphalt pavement surfaces, compacted gravel and similar surfaces.

INDIVIDUAL BUSINESS means a structure or lot containing one (1) business or several related businesses under any form of ownership. If two (2) or more businesses are located in a structure or on a lot, use the same entrance and are not physically separated by walls, they shall constitute one (1) business for the purposes of these Land Use Regulations.

homeowner convenience and is not intended to function as the cooking facility for a separate dwelling unit shall not be considered a kitchen facility (see also ‘wet bar facility’). (*am. 11/08/05*)

LAND means all land or water surfaces, whether public or private, including lots, parcels, or other ownership categories and all surface, subsurface, or air rights that may be attached or detached from the land.

LANDSCAPE BERM refers to a mound or ridge of earthen material placed above natural, or existing grade for the general purpose of shielding, screening, mitigating impacts from or otherwise separating areas of dissimilar land use. Landscape berms may also be used to provide visual interest, accommodate planned landscape improvements, control the direction of water flow, or to protect structures against possible landslides, rockfalls, or snow avalanches. (*am. 05/16/06*)

LANDSCAPING STORAGE YARD means a parcel of land, or portion thereof, used for the purpose(s) of storing landscaping materials, including plants, trees, masonry, dirt, mulch, gravel and equipment necessary for the landscaping operation; as well as horticulture or protection of plants within a greenhouse. Any motorized equipment or machinery is required to be stored entirely within a garage, shed, or other enclosure. Onsite sales of materials are not allowed. (*orig. 10/09/07*)

LANDSLIDE HAZARD AREA means areas where falling, slipping or mass movement of land occurs due to a distinct surface rupture or zone of weakness. Landslides include slope failure complexes, debris slides, bedrock slides and areas of accelerated soil creep.

LAKE means a naturally created body of standing water, usually at least six (6) feet deep.

LEGAL LOT OF RECORD means any lot, parcel, or tract of land that was filed in the records of the Eagle County Clerk and complied with all applicable laws and regulations in effect at that time.

LETTER OF MAP REVISION (LOMR) means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

~~**LEVEE** means a human-made 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. (*am 01/04/05*)~~

LEVEE – means a man-made embankment, usually earthen, 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. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM means 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. (*am 01/04/05*)

~~**LOWEST FLOOR** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking or 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 requirements of these regulations. (am 01/04/05)~~

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or 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 44 CFR Section 60.3 of the National Flood insurance Program regulations.

LYNX OCCUPIED HABITAT means areas above eight thousand (8,000) feet in elevation that are known to contain lynx by the documented discovery of lynx tracks within five (5) years, that contain diverse old growth forest with alternate stands of conifers, or aspen with shrubby openings, and abundant snowshoe hare habitat.

MAJOR EXTENSION OF AN EXISTING DOMESTIC WATER TREATMENT SYSTEM means (1) the expansion of existing domestic water treatment capacity or storage; or (2) any extension of existing water supply systems to service an additional development density of ten (10) or more residential dwelling units or the equivalent thereof in other uses. (am. 02/11/03)

MAJOR EXTENSION OF AN EXISTING WASTEWATER TREATMENT SYSTEM means any modification of an existing sewage treatment plant to increase hydraulic capacity or upgrade treatment capability or any extension of existing main collector sewer lines or any increase in capacity of existing main sewer lines or any extensions to serve a total development density of ten (10) or more dwelling units or the equivalent thereof in other uses. (am. 02/11/03)

MAJOR NEW DOMESTIC WATER SYSTEM means a new water supply system or water treatment plant if such system or plant is designed to serve a total of ten (10) or more residential dwelling units or the equivalent thereof. (See *Water and Sewer Projects*.) (am. 02/11/03)

MAJOR NEW DOMESTIC WASTEWATER TREATMENT SYSTEM means a new wastewater treatment plant, group of wastewater systems or collector system designed to treat the wastewater generated by ten (10) or more residential dwelling units or the equivalent thereof in other uses. (See *Water and Sewer Projects*.) (orig. 02/11/03)

MANAGING BODY means the collective body, agency or association within a Planned Unit Development (PUD) responsible for the review of design standards for compliance with the Planned Unit Development (PUD) Covenants. The managing body may include but not be limited to a Homeowner's Association, Design Review Board or Architectural Control Committee.

MANUFACTURED HOME means a factory built dwelling that is manufactured or constructed to comply with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 and is to be used as a place for human habitation.

MANUFACTURED HOME (Floodplain Overlay Zone District Definition⁴) means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION (Floodplain Overlay Zone District Definition⁴) means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL means for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations (BFE) shown on the Flood Insurance Rate Maps are referenced.

MASS GATHERINGS means entertainment, recreation, religion, athletic and similar activities having a reasonable expected attendance of five hundred or more (500+) persons. (*am.0 3/12/02*)

MASTER PLAN (See definition for COMPREHENSIVE PLAN) (*am. 11/08/05*)

MATERIAL SAFETY DATA SHEET (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

MATERIALS RECOVERY FACILITY means a facility designed to receive and process recyclable materials.

MATERIALS RECYCLING FACILITY means a central operation where commingled materials designated for recycling from residential and other users are sorted and processed for market.

MEAN SEA LEVEL means the North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. (*am. 01/04/05*)

MECHANICAL AREA means an enclosed area within a structure that is intended to house the electrical, heating, plumbing and air conditioning systems related to the structure. Any square footage located within the mechanical area larger than that required to accommodate the mechanical equipment will be calculated as habitable space as specified by the applicable zone district and the Eagle County Building Resolution (see also definition of 'Habitable Space'). (*orig. 11/08/05*)

MEDICAL MARIJUANA means marijuana that is grown and sold pursuant to all applicable provisions of the State of Colorado and for a purpose authorized by Section 14 of Article XVIII of the State Constitution. (*orig. 07/01/2011*)

MEDICAL MARIJUANA CENTER means a person licensed pursuant to all applicable provisions of these land use regulations and the State of Colorado to operate a business that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the State

[a Definitions annotated "Floodplain Overlay Zone District Definition" apply for Section 3-350 only.](#)

deer sufficient food and cover (habitat) during the most difficult months (when there is maximum snowpack or minimum temperatures) of the most severe winters (the worst two [2] winters out of ten [10]).

MULE DEER STAGING AREAS means those areas where mule deer concentrate prior to migration to winter ranges. Staging areas provide solitude to mule deer prior to migration, which reduces stress and allows for undisturbed feeding prior to migration to lower elevations. The onset of migration out of staging areas is due to snowfall.

MULE DEER WINTER CONCENTRATION AREAS means those lands in Eagle County that because of their slope, aspect, elevation and vegetation, including cover, are capable of providing mule deer sufficient food and cover (habitat) to survive the most difficult months of average winters. In Eagle County, the densities of mule deer in winter concentration areas are twice as great as those in the winter ranges in the average five (5) winters out of ten (10).

MULE DEER WINTER RANGES means those lands typically used by mule deer through all or nearly all of the winter season for foraging and for shelter from severe weather conditions.

MULTI-HOUSEKEEPING-UNIT DWELLING UNIT means a dwelling unit with not more than five (5) bedrooms which is occupied by no more adults than the number of bedrooms in the dwelling unit and whose occupants do not, or which is intended for occupancy by persons who do not, act as a single housekeeping unit.

MULTIPLE BUSINESS SHOPPING OR BUSINESS CENTER means a building, lot or series of lots designed for occupation by two (2) or more businesses, where each business is structurally separated from the others and has its own public entrance, but overall the businesses are physically related and operated as a group.

MUNICIPAL AND INDUSTRIAL WATER PROJECTS means systems and all related components that provide water or may provide water in the future either directly or by exchange for municipal and industrial uses; provided, however, "systems and related components" for a snowmaking project are limited to (i) those through which water is diverted and/or stored for snowmaking, and (ii) permanent distribution systems and components that are not otherwise regulated by state or federal regulations. (*am.* 02/11/03)

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NATURAL GAS TRANSMISSION PIPELINE means any pipeline and appurtenant facilities that are capable of transporting natural gas from a gathering line or storage facility to a distribution center or storage facility or which operates at a hoop stress of twenty (20) percent or more of the Specific Minimum Yield Strength (SMYS), as calculated according to Part 192.105 of The Department of Transportation Regulations for the transportation of natural and other gas pipeline.

NEIGHBORHOOD SUBSTATION means any facility used for the purpose of reducing voltages to levels of sixty-nine (69) kilovolts or less, for distribution to individual users.

NEW CONSTRUCTION means structures for which “start of construction” commenced on or after the effective date of the applicable official floodplain maps. (*am 01/04/05*)

NEW MANUFACTURED HOME PARK OR SUBDIVISION (Floodplain Overlay Zone District Definition^a) means 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 a community.

NEW TECHNOLOGY DEVICE means a wood burning device that meets or exceeds the emissions standards for certification of Phase II appliances identified by the Environmental Protection Agency in Federal Regulation 40 CFR Part 60, as amended (this includes most pellet stoves).

NIGHTCLUB, BAR OR TAVERN means a commercial establishment which dispenses alcohol and is operated as a place of entertainment. Forms of entertainment may include, but is not limited to, live, recorded or televised performances (by musicians, comedians, etc.) or sporting events; and dancing. (*orig. 05/01/07*)

NO-RISE CERTIFICATION means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a licensed Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

NONCONFORMING LOT means a parcel of land not meeting the minimum lot size requirements of the underlying zone district. (*am 3/12/02*)

NONCONFORMING STRUCTURE means any structure or use of land which was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but which does not comply with the standards of these Land Use Regulations for the zone district in which the structure is located.

NONCONFORMING USE means any use of a structure or land which was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but which use is not designated in these Land Use Regulations as an allowed use, a use allowed by special review or a use allowed by limited review in the zone district in which the use is located.

OBSTRUCTION means any dam, wall embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any floodplain which might impede, retard, or change the direction of flow of water, either by itself or by catching or collecting debris carried by such water. (*am 01/04/05*)

OFFICE means a room or a series of rooms where business, professional or governmental services are made available to the public. Office includes a business office occupied by those such as Realtors, travel agents, advertising agents, insurance agents, brokerage houses and lenders, and a professional office occupied by those such as physicians and other health care professionals, dentists, lawyers, architects, engineers, accountants and other professionals. An office that is part of, and located within, another principal use is considered to be

a Definitions annotated “Floodplain Overlay Zone District Definition” apply for Section 3-350 only.

PATIO HOME means a free standing structure containing a single family dwelling unit that is surrounded by land under common ownership. Each home shall be located on a separate parcel of land which shall be configured to approximate the outline of the structure's footprint. The layout of patio homes on a property shall be approved through the appropriate planning processes and each patio home parcel shall be platted through the appropriate final plat process. (*orig. 11/08/05*)

PEREGRINE FALCON NEST SITE means the bed or receptacle prepared by the peregrine falcon for its eggs and young. Generally, peregrine falcon nest sites occur on steep cliff faces, two hundred (200) to three hundred (300) feet in height, in close proximity to open riparian areas.

PERMIT means a document issued by Eagle County granting permission to perform an act or service which is regulated by the County.

PERSON/PERSONS means an individual or group of individuals, a corporation, a company, a firm, a partnership, a limited liability company, an association, a social or fraternal organization, an estate, a trust, a receiver, a syndicate, a manager, an agent, an owner, a director, a servant, an employee, an officer, a city, town, state agency or other branch of government, or any other group or combination acting as a unit.

PHYSICAL MAP REVISION (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

PLANNING STAFF means a person(s) employed by Eagle County in the Department of Community Development, Division of Planning.

PLAT or PLATTED means and refers to a land survey plat prepared in accordance with these Land Use Regulations, or their predecessor regulations, which is approved by the Board of County Commissioners as an exemption plat, planned unit development plat or subdivision plat and filed for record with the Clerk & Recorder.

PREMISES means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area. (*orig. 07/01/2011*)

PRIMARY WOOD PROCESSING means the processing of wood for fence posts, corral posts, cabin logs, and other similar type uses.

PROCESSING, see "Industrial Operations".

PROGRAM DEFICIENCY means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of the floodplain overlay zone district or of the NFIP standards. (*am 01/04/05*)

PUBLIC BUILDING means a building operated and occupied by a governmental agency for the purpose of carrying out official duties.

PUBLIC IMPROVEMENT means any improvement, facility or service, together with the associated site or right-of-way and appurtenances thereto, necessary to provide for public needs.

1. **Ownership.** Public improvements may be owned by a governmental agency and may be leased to a private entity to provide the service or operate the entity. Conversely, government may lease a private facility to carry out a public function. In both cases, the improvements or facilities would still be considered public improvements.
2. **Scope of Public Improvements.** The scope of public improvements associated with any particular development shall be determined by the Board of County Commissioners prior to approval of the final plat and any associated public improvements agreement.

PUD GUIDE means a formal document that establishes the permitted land uses and restrictions within a planned unit development (PUD).

RECREATIONAL VEHICLE means a pickup camper, motor home, travel trailer, tent trailer or similar mobile unit that has wheels, is built on a single chassis, has less than 400 square feet or less when measured at the largest horizontal projections, is intended to be transported over streets, roads and highways as a motor vehicle or attached to a motor vehicle, and is designed primarily for use as a temporary unit for human occupancy. Recreational vehicles shall be used for human occupancy only when located within a lawful recreational vehicle park or campground, except that any recreational vehicle may be inhabited on private property for no more than five (5) days within a thirty (30) day period. *(am 01/04/05)*

RECREATION VEHICLE PARK means any lot or parcel of ground upon which two (2) or more recreational vehicle sites are located, established, or maintained on a short term or seasonal basis as temporary dwellings or sleeping accommodations.

MAJOR RECREATION VEHICLE PARK means a recreational vehicle park located on a minimum 5 acre, or larger, parcel. See Section 3-310.Y.5 Major Recreational Vehicle Park.

MINOR RECREATION VEHICLE PARK means a recreational vehicle park located on a minimum 1-5 acre parcel, containing a maximum of 5 camping spaces per acre. See Section 3-310.Y.6 Minor Recreational Vehicle Park. *(org 03/12/02)*

RECYCLABLE MATERIALS means a type of material that is capable of being re-used or recycled, and is intentionally separated from a waste stream for processing or re-manufacture.

RECYCLING COLLECTION OR DROP OFF CENTER means a centralized collection location to drop off designated recyclable materials.

RECYCLING OPERATION means a separate facility, at which recyclable materials may be separated from other materials for further processing or marketing. A business in which automobile or other mechanical parts are salvaged and re-sold or recycled shall also be considered a recycling operation.

REGULATORY FLOOD PROTECTION ELEVATION means the elevation of one (1) foot above the water surface elevation of the base flood or the base flood elevation. *(am 01/04/05)*

REMEDY A VIOLATION means to bring the structure or other development into compliance with FO Zone District regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages,

SIGN WITH BACKING means any sign that is displayed upon, against, or through any material or colored surface or backing that forms an integral part of such display and differentiates the total display from the background against which it is placed.

SIGN WITHOUT BACKING means any word, letter, emblem, insignia, figure, or similar character, or group thereof that is neither backed by, incorporated in, or otherwise made a part of any larger display area.

SKI AREA means an area developed for snow skiing, providing facilities associated with alpine or nordic skiing, including but not limited to ski trails, lifts, operational and maintenance facilities, equipment storage, snowmaking facilities, restaurants, warming huts and ski schools. A ski area may be part of a ski resort, that provides base area facilities including, but not limited to hotels, motels and dwellings, retail establishments and year-round recreational uses.

SLOPE means the change in vertical elevation of a property over a specified horizontal distance, measured between contour intervals. Slope shall be stated as a percentage or ratio.

SLUDGE means the accumulated solids resulting from processing wastewater in a treatment plant.

SMALL HYDROELECTRIC DEVICE means a hydroelectric generation device less than 500 kilowatts in rated capacity which relies on natural surface water flows, does not use a dam, water storage, or other man-made impoundment which impedes minimum stream flows for the purpose of electric energy generation. (*orig. 09/11/07*)

SMALL SCALE WIND TURBINE means a device whose primary purpose is harnessing wind energy with a maximum cumulative generation capacity no larger than 20 kW. (*orig. 09/11/07*)

SOLAR ENERGY DEVICE means a solar collector or other device or a structural design feature of a structure which provides for the collection of sunlight and which comprises part of a system for the conversion of the sun's radiant energy into thermal, chemical, mechanical, or electrical energy. (*orig. 09/11/07*)

SPECIAL FLOOD HAZARD AREA means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

SPORTS COMPLEX means a recreation or amusement center that contains multiple recreation facilities. Sports complex includes fair or rodeo grounds, regional ball field complexes, community recreation centers, commercial amusement centers and similar facilities.

~~**START OF CONSTRUCTION** includes substantial improvement and means the date the appropriate permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit issue date. (*am 01/04/05*)~~

START OF CONSTRUCTION means the date the building permit was issued, including substantial improvements, 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 and/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.

STORAGE, see "Industrial Operations".

STREAM means a watercourse having a natural source and terminus, banks and channel, through which waters flow at least periodically. Stream includes creeks and other flowing waters that are tributary to a river. Man-made irrigation ditches are excluded from this definition.

STREET FRONTAGE means the distance along any property line of a lot that is also the boundary line of a public street, road or highway right-of-way.

STRUCTURE means any building, carport, deck, fence, gazebo, pole, antenna, satellite reception or transmission device, storage tank, tower, bridge, dam, culvert, pier, or any other construction or erection, except uncovered porches, slabs, patios, decks, walks, steps that do not exceed thirty (30) inches above grade and streets, walks, trails or driveways.

STRUCTURE (Floodplain Overlay Zone District Definition^a) means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

STUDIO FOR ARTS AND CRAFTS means the workshop of an artist, sculptor, photographer, craftsperson, or organization.

SUBDIVISION OR SUBDIVIDED LAND means a parcel of land in unincorporated Eagle County that is divided into two (2) or more lots, tracts, sites, parcels, separate interests, interests in common or other division, unless exempted by ' 30-28-110, CRS.

The terms "subdivision" and "subdivided land," above, shall not apply to any division of land which creates parcels of land each of which comprises thirty-five (35) or more acres of land and none of which is intended for use by multiple owners.

Unless the method of disposition is adopted for the purpose of evading the County Land Use Regulation, the terms "subdivision" and "subdivided land," as defined above, shall not apply to any division of land:

1. Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest;
2. Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the board of county commissioners of the county in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of these regulations prior to entry of the court order;

a Definitions annotated "Floodplain Overlay Zone District Definition" apply for Section 3-350 only.

and, if the board does not file an appropriate pleading within twenty days after receipt of such notice by the court, then such action may proceed before the court;

3. Which is created by a lien, mortgage, deed of trust, or any other security instrument;
4. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;
5. Which creates cemetery lots;
6. Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;
7. Which is created by the acquisition of an interest 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 these Regulations as only one interest;
8. Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five (35) acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five (35) acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph 8.
9. Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this article and any applicable county regulations, the land which he is to acquire pursuant to the contract;
10. Which creates a cluster development pursuant to '30-28-401 Colorado Revised Statutes.

SUBSTANTIAL CHANGE means either a change in (1) land use category; (2) site design which increases or decreases (a) the number of dwelling units, (b) the number of structures of a size or nature requiring a building permit, (c) the minimum or maximum square footage of structures if a minimum or maximum has been specified in a permit or approval, (d) projected traffic such that a highway access permit or an amendment to a highway access permit is required as a result of the change, or (e) the size of the land which is the subject of the permit or approval; (3) land use which creates or increases the incompatibility of the use of the subject land with the adjacent land uses; or (4) site design which changes the location of (a) uses, when multiple uses are provided on single lots or (b) improvements other than within an approved building envelope.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when 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. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either: 1) 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 conditions or 2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

SUSTAINABLE COMMUNITY means a community which fosters economic opportunity and social capital while protecting and restoring the natural environment upon which people and economies depend.

TALUS SLOPE means areas of potential rockfall and small, localized debris flows.

TELECOMMUNICATION FACILITIES means all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Facilities may be self supporting, guyed; mounted on poles, other structures; light posts; power poles; or buildings. Telecommunication facilities include radio, television, telephone and microwave towers or antennas for commercial transmission to consumers.

TEMPORARY CONSTRUCTION TRAILER means a wheeled trailer capable of being pulled by a motorized vehicle that is intended to temporarily house office space or store construction materials on a construction site. Temporary construction trailers shall only be allowed during the time that a building permit is active on the property. (*orig. 11/08/05*)

THRESHOLD PLANNING QUANTITY (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

TRANSFER STATION FOR SOLID WASTE means a facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of containerized collection receptacle to another, or is processed for compaction.

TRANSPORTATION SERVICES means establishments furnishing passenger ground transportation, including taxicabs, vans, transportation charter services and similar entities.

TRUCK STOP means an establishment in which the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor vehicle fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include a restaurant.

UPLAND AREAS means lands found at a higher elevation than adjacent riparian areas or aquatic ecosystems that do not share the soil or vegetation characteristics of those ecosystems.

USE means the purpose or function for which a lot, structure or building is intended, designed or constructed or the activity that is carried on within said lot, structure or building.

USE, TEMPORARY means any use of any parcel of land or building for a period of less than six (6) months, unless the duration of the use has been otherwise limited, pursuant to Section 5-250, Special Uses.

UTILITY DISTRIBUTION FACILITY means any gas or electric line other than gas transmission or electrical transmission line as defined herein, and telephone or telegraph line, cable television line, water line, sewer line, or neighborhood substations.

UTILITY SUBSTATION means any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity sixty-nine (69) kilovolts or greater.

VANTAGE POINTS are a series of points established in equal half-mile intervals along a roadway, used in the Visual Analysis of a parcel of land. (*orig. 07/17/06*)

VARIANCE (Floodplain Overlay Zone District Definition^a) means a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see 44 CFR Section 60.6 of the National Flood Insurance Program regulations).

VETERINARY HOSPITAL means a place where animals are given medical care and boarding of animals is limited to short term care that is incidental to the hospital stay.

VIEWSHED means a visually sensitive area that is visible from a defined observation point. (*orig. 02/06/07*)

VIOLATION (Floodplain Overlay Zone District Definition^a) - 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 44 CFR Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

VISUALLY SENSITIVE AREA means pleasing vistas or prospects or scenes, including but not limited to skylines, ridgelines, bluffs, rock outcroppings, foothills, mountain backdrop, unique vegetation, floodplains, streams, surface water, natural drainageways and wildlife habitat. (*orig. 02/06/07*)

WAREHOUSE means a building used primarily for long or short term storage of goods and materials at which no sales activity, or only limited sales activity, to customers occurs.

WATER AND SEWER PROJECTS. The Site Selection and Construction of Major New Domestic Water and Wastewater Treatment Systems, Major Extensions of Existing Domestic Water and Wastewater Treatment Systems, and Efficient Utilization of Municipal and Industrial Water Projects, including any proposed land development directly related to such Project if such development is to be located wholly or partially within this County and if such development specifically generates the need for the Project. (*orig. 02/11/03*)

WATER IMPOUNDMENT means an impoundment of water, including surface runoff, stream flow, extracted ground water and water as a by-product of extraction or processing of mineral resources, energy generation or agricultural, municipal, or industrial water supply or sewage treatment installation that is designed to contain at least one (1) acre foot but less than ten (10) acre feet, or a number of smaller impoundments on one (1) lot with an aggregate capacity of at least one (1) acre foot, but less than ten (10) acre feet.

a Definitions annotated "Floodplain Overlay Zone District Definition" apply for Section 3-350 only.

ARTICLE 3

ZONE DISTRICTS - EAGLE COUNTY

- F. **Incentives for Affordable Housing.** Establish incentives for applicants to assure that long term affordable housing will be developed; and
- G. **Achieve Master Plan.** Ensure that the purposes of the Eagle County Master Plan and these Land Use Regulations are achieved; and
- H. **Air Quality.** Maintain and enhance air quality in Eagle County; and
- I. **Wildlife.** Protect and maintain critical wildlife habitat and migration corridors.

SECTION 3-250. FLOODPLAIN OVERLAY ZONE DISTRICT (*org. 01/04/05*)

The purpose of the Floodplain Overlay (FO) zone district is to manage development while protecting public safety in the floodplain. This is an overlay zone district and shall be applied as a supplemental regulation on existing zoned areas containing ~~flood hazard areas~~ Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), including Planned Unit Development zone district and the Eagle-Vail PUD zone district. The FO zone district is superimposed on the existing zoning and all restrictions and requirements herein are in addition to those of the underlying zone district. All land use review processes that apply to the underlying zone district shall remain in full force and effect. In the case of overlapping or conflicting requirements, the most restrictive provision shall apply.

SECTION 3-350 FLOODPLAIN OVERLAY ZONE DISTRICT (orig. 01/04/05) (am xx/xx/xx)

- A. Applicability.** The provisions and regulations of this section shall apply to all lands within the unincorporated area of Eagle County which are located within the Floodplain Overlay (FO) zone district. If a structure, lot, or other parcel of land lies partly within the FO zone district, the part of such structure, lot, or parcel lying within the district shall meet all requirements for the FO zone district.
- B. Liability.** The degree of flood protection intended to be provided by this section has been determined to be reasonable for regulatory purposes and is based on engineering and scientific methods of study. Floods of greater magnitude may occur and flood heights may be increased by man-made or natural causes, such as ice jams and bridge or culvert openings restricted by debris. This zone district does not imply that the areas outside floodplain zone district or land uses permitted within such areas will be free from flooding or flood damages or that compliance with these regulations will prevent any or all damages from flooding. Nor shall this article create a liability on the part of, or a cause of action against, the County of Eagle or any officer or employee thereof for any flood damages that may result from reliance on this article or any administrative decision. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.
- C. Designation of ~~Floodplain Management Administrator~~Floodplain Administrator.** The Board of County Commissioners hereby designates the County Engineer or his/her designee as the ~~Floodplain Management Administrator~~Floodplain Administrator to assist in the implementation and administration of the FO zone district regulations. Duties of the ~~Floodplain Management Administrator~~Floodplain Administrator shall include the following:
1. **Set Fees.** Receive completed applications and set the fees associated therewith.
 2. **Review Applications.** Review all permit applications to determine whether the requirements of the FO zone district have been satisfied and all necessary permits have been obtained from local, state, or federal agencies from which prior approval is required by law, including Section 404 of the Federal Water Pollution Control Act.
 3. **Set Base Flood Elevation (BFE).** ~~Obtain, review, and reasonably utilize any base flood elevation data available from state, federal, or other sources. When Base Flood Elevation data has not been provided in accordance with section 3-350 D, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source.~~
 4. **Maintain Lowest Floor Elevation Records.** Obtain and maintain the actual elevation records and certificates of the lowest floor, including the basement, of all new or substantially improved structures, and, if the structure has been flood proofed, the elevation to which the structure was flood proofed; and certification by a ~~registered Colorado Licensed~~ Professional Engineer ~~in the State of Colorado~~ or ~~architect~~ Architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria.

5. **Maintain All Records.** Maintain for public inspection all records pertaining to the provisions of the FO zone district including records of permits granted and records of all variance actions with justification for their issuance. Variances issued shall be reported on an annual basis to ~~the Federal Insurance Administration~~FEMA.
6. **Notify Communities and Agencies.** Notify adjacent communities, potentially impacted communities and property owners, and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the ~~Federal Insurance Administration~~FEMA.
7. **Determine if Development is in Floodway or Flood Fringe.** Determine whether the site for a proposed development is located in a floodway, the flood fringe, or outside the floodplain pursuant to section 3-350 H of the FO zone district.
8. **Approve Floodplain Development Permits.** Review all permit applications which involve a use or structure enumerated in sections 3-350 F, 3-350 G and 3-350 H of the FO zone district and based thereon, either approve the application and grant a permit, or deny the application pursuant to section ~~3-350 N3-350 J~~.
9. **Administer FO Zone Districts.** Carry out other administrative duties in the implementation and administration of the FO zone district regulations as the Board of County Commissioners may from time to time delegate to the ~~Floodplain Management Administrator~~Floodplain Administrator.
10. **Interpret Maps.** Make interpretations where needed, as to the exact location of the boundaries of the FO zone district where there appears to be a conflict between a mapped boundary and actual field conditions based upon an engineering study by the applicant.
11. **Make Recommendations to the Zoning Board of Adjustment.** Review and transmit recommendations to the Zoning Board of Adjustment regarding requested variances and appeals pursuant to Section 5-260.
12. **Make Recommendations on Amendments to the FO Zone District.** Review floodplain reports approved by the Colorado Water Conservation Board and make recommendations to the Planning Commission and Board of County Commissioners regarding necessary amendments or additions to the FO zone district.
13. **Development Inspections.** Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
14. **Approve Certain Development that increase the Base Flood Elevation.** Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the Floodplain Administrator may approve certain development in Zones A1-30, AE, AH, as shown on the FIRM which increases the water surface elevation of the base flood by more than one-half foot or zero feet for the Roaring Fork River, provided that an application is made for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), all conditions and requirements for such revisions are fulfilled as established under the provisions of Section 65.12 and receives FEMA approval.

15. Flood Carrying Capacity. Ensure that the flood carrying capacity within any altered or relocated portion of any watercourse is maintained.

D. Official Floodplain Maps. The FO zone district is comprised of the Special Flood Hazard Area (or SFHA, formerly referred to as the “100 year floodplain”) of the rivers and creeks in unincorporated Eagle County. *(am 11/13/07)*

- 1. Designation of Official Maps.** The following reports designate the location and boundaries of the FO zone district:
 - a.** A report entitled “Flood Insurance Study, Eagle County, Colorado and Incorporated Areas,” (FIS) effective December 4, 2007, as prepared by FEMA, Flood Insurance Study Number “08037CV000A” which contains detailed flood hazard information for the Roaring Fork River, The Eagle River, Brush Creek, and Gore Creek and its tributaries. *(am 11/13/07)*
 - b.** Flood Insurance Rate Maps prepared by FEMA for Eagle County, last revised December 4, 2007. *(am 11/13/07)*
 - c.** Floodplain Information Report of the Roaring Fork and Frying Pan Rivers, Eagle County, Colorado, prepared by Wright-McLaughlin Engineers and dated February, 1978.
 - d.** United States Department of the Interior, Geological Survey Maps of Flood-Prone areas for the Basalt Quadrangle, Edwards Quadrangle, Eagle Quadrangle, Gypsum Quadrangle, Minturn Quadrangle, and Wolcott Quadrangle dated 1974.
 - e.** Gore Creek Floodplain Information, Vail, Eagle County, Colorado, prepared by Hydro-Triad, Ltd., and dated June, 1975.
 - f.** Flood Information Report, Roaring Fork River, Town of Basalt, Eagle and Pitkin Counties, Prepared by Matrix Design Group dated November 14, 2001.
 - g.** Flood Information Report, Eagle and Colorado River, Eagle County, Colorado prepared by Matrix Design Group dated August 22, 2003.
 - h.** Digital FIRM (DFIRM) mapping available from FEMA’s Map Service Center <http://msc.fema.gov> *(orig. 11/13/07)*
 - i.** Any further floodplain studies that have been approved by the Board of County Commissioners with the prior concurrence of the Colorado Water Conservation Board.
- 2. Adoption of Floodplain Maps.** Maps officially adopted by the Board of County Commissioners as a part of the FO zone district may be amended in accordance with the procedures prescribed in Section 5-230, Amendments to the Text of These Land Use Regulations or the Official Zone Change Map.
- 3. Public Inspection of Maps.** The Eagle County Engineering Department shall keep copies of the reports cited in Section 3-350 D.1 on file and open to public inspection.

4. **Interpretation of Official Maps.** Where interpretation is needed as to the exact location of the boundaries of the FO zone district, the ~~Floodplain Management Administrator~~Floodplain Administrator shall make the necessary interpretation by referring, as necessary, to the engineering study upon which the maps and elevations are based, to the professional engineers who prepared the study, to the Colorado Water Conservation Board, and/or the Federal Emergency Management Agency. The base flood elevations, as shown on the flood profiles and in the floodway tables of the Eagle County Flood Insurance Study as prepared by the Federal Emergency Management Agency, shall be the governing factor in determining accurate boundaries.

E. **Division of the Floodplain Overlay Zone District.** The FO zone district within the unincorporated territory of the County of Eagle subject to these regulations is hereby divided into the following areas.

1. **Flood-prone area.** The flood-prone area means an approximate area encompassing the area in and adjacent to a stream or other watercourse, which is subject to flooding as the result of a base flood, the water surface elevations of which have not been determined by detailed engineering study. Such area is equivalent to the “Special Flood Hazard Area (SFHA)” designated as any of the “Zone A’s” on Flood Insurance Rate Maps (FIRM) or DFIRM and to “Flood-prone Areas” on U.S. Geological Survey Flood-prone Area Maps. *(am 11/13/07)*
2. **Floodway.** The floodway means the high hazard area and encompasses an area which includes the channel of a stream or other watercourse and any adjacent floodplain areas which are reasonably required to carry and discharge the floodwaters of a base flood and which must be kept free of development so the base flood can be carried without an increase in flood height. If the floodway is not identified, it is considered to be identical to the floodplain. Specifically, a floodway is defined as the stream channel plus any adjacent floodplain areas that must be kept free of development so the base flood can pass with no more than a 0.5 foot increase in the water surface elevation or the energy grade line, providing hazardous velocities are not produced for all rivers except the Roaring Fork River. The floodway for the Roaring Fork River is defined as the stream channel plus any adjacent floodplain areas that must be kept free of development so the base flood can pass with no increase in the water surface elevation or the energy grade line. However, for all rivers, in no instance shall the floodway-flood fringe boundary be closer than twenty-five (25) feet to the natural streambank.
3. **Flood Fringe.** The flood fringe means the area, encompassing that area between the outer boundary of the floodway and the outer limit of the “Special Flood Hazard Area (SFHA)”. *(am 11/13/07)*
4. **Areas of Shallow Flooding (AO/AH Zones).** Located within the Special Flood Hazard Area established in the FO zone district, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident.

Areas of Shallow Flooding may also be subject to the above listed divisions of the Floodplain Overlay Zone District. Areas of Shallow Flooding are characterized by ponding or sheet flow; therefore, the following additional provisions apply:

a. Residential Construction. All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a Colorado Licensed Professional Engineer, Architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

b. Nonresidential Construction. With the exception of Critical Facilities, outlined in section 3-350 M, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a Colorado Licensed Professional Engineer, Architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator ~~A Colorado Licensed Professional Engineer or Architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in section 3-350 N, are satisfied.~~

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

- F. Regulations of Flood-Prone Areas.** The provisions of this section shall apply to each Flood-Prone area as identified on the official map or maps listed in Section 3-350 D.
- 1. Floodplain Development Permit Required.** No person shall engage in development of any kind, whether a conforming or nonconforming use or structure, within a Flood-Prone area without first obtaining a floodplain development permit.
 - 2. Prohibited Uses.** No development on or over any portion of a Flood-Prone area shall be permitted which alone, or cumulatively with other such activities, would cause or result in any of the following:
 - a.** The storage or processing of materials that in time of flooding are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal or plant life.
 - b.** The disposal of garbage or other solid waste materials.

- c. The potential of substantial solid debris or ~~waste-refuse~~ being carried downstream by floodwaters.
 - d. The increase in the level or likelihood of flooding on the property or on any other properties that may be impacted by the development.
3. **Allowed Uses.** The following uses shall be allowed within a Flood-Prone area:
- a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, and sod farming.
 - b. Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, target ranges, shooting preserves, trap and skeet ranges, hunting and fishing areas, fish hatcheries, and hiking, biking and equestrian trails, except that structures accessory to such uses shall not be located in a Flood-Prone area.
4. **The Flood Hazard's Specific Extent Has Not Yet Been Determined.** The specific extent of the flood hazard has not yet been determined in a flood-prone area. The boundaries of the flood-prone area are based on physical factors indicating flow and direction of water, historical flood experience, or other readily available data.
5. **Determine if in Floodway or Flood Fringe.** The flood hazard is of such significance that before any proposed development, other than those uses enumerated in subsection 3, of this section 3-350 F, may be permitted in any portion of such area, public health, safety and welfare require that a determination shall be made as to whether the site of the proposed development or activity is located within a floodway or flood fringe. The ~~Floodplain Management Administrator~~Floodplain Administrator shall make such determination promptly and as may be appropriate and practical. Any application for a permit to conduct development in a Flood-Prone area shall not be considered complete or be accepted unless and until it is accompanied by the results of studies necessary to determine whether the proposed development is located in a floodway or flood fringe.
6. **Technical Criteria.** These floodplain studies shall meet the technical criteria established by the Colorado Water Conservation Board and the Federal Emergency Management Agency for the review and designation of floodplain delineation studies.
7. **Notice of Floodway or Flood Fringe Determination.** Upon receipt of the completed study and a determination by the ~~Floodplain Management Administrator~~Floodplain Administrator that such study is true and accurate; the ~~Floodplain Management Administrator~~Floodplain Administrator shall inform the applicant in writing whether the site of the proposed development or activity lies within any of the following:
- a. The floodway, in which case further processing of the application shall be governed by section 3-350 H, and the applicable provisions of this Section.
 - b. The flood fringe, in which case further processing of the application shall be governed by section 3-350 G, and the applicable provisions of this Section.

- c. None of the above, in which case none of the provisions of the FO zone district shall have any further applicability to such application.

G. Regulations for the Flood Fringe. The provisions of this section shall apply to each flood fringe area as identified in one of the official FO zone district maps.

1. **Floodplain Development Permit.** No person shall engage in development of any kind, whether a conforming or nonconforming use or structure, within a flood fringe without first obtaining a floodplain development permit.
2. **Stream Setbacks.** When applicable, a floodplain development permit will only be issued if a variance from the Zoning Board of Adjustments pursuant to Section 5-260 or variation from the stream setbacks approved as part of Planned Unit Development pursuant to Section 5-240 has been obtained.
3. **Prohibited Uses.** No development or uses on or over any portion of the flood fringe shall be permitted which alone, or cumulatively with other such development or uses, would cause or result in any of the following:
 - a. The storage or processing of materials that in time of flooding are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal, or plant life.
 - b. The disposal of garbage or other solid or liquid waste materials.
 - c. The potential of substantial solid debris or waste being carried downstream by floodwaters.
 - d. The construction or improvement of a structure, whether fixed or mobile, such that any external wall shall be not less than fifteen (15) feet from the stream side of the flood fringe.
 - e. The lowest floor, including the basement, of any such building or structure shall be not less than one (1) foot above the maximum base flood elevation. The lowest adjacent grade surrounding the structure shall be filled to at least the base flood elevation, compacted with slopes and protected by vegetated cover.
 - f. The lowest interior grade, including crawl spaces, shall not be lower than the base flood elevation.
4. **Allowed Uses.** The following uses shall be allowed within the flood fringe:
 - a. **All Structures.** The following subsection is applicable to all structures and uses provided that:
 - (1) **All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;**

- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. 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.
- (6) All new and replacement potable and non-potable water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system utilizing best management practices (BMPs), unless specific components of these systems require infiltration, such as supply intake structures;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system utilizing best management practices (BMPs) and discharge from the systems into flood waters; and,
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

ab. Residential Structures. In addition to the requirements set forth in 3-350 G 4 a above, Residential-residential structures and uses are allowed provided that they meet the following additional requirements:

- (1) Any residential structure, including all electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), whether fixed or mobile, designed for human occupancy or the storage of property, shall be constructed, located or improved so that any external wall shall be not less than fifteen (15) feet from the stream side of the flood fringe.
- (2) The lowest floor, including the basement, including all electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), of any such building or structure shall be not less than one (1) foot above the maximum base flood elevation. The lowest adjacent grade surrounding the structure shall be filled to at least

the base flood elevation, compacted with slopes and protected by vegetated cover.

- (3) The lowest interior grade, including crawl spaces, shall not be lower than the lowest adjacent grade.

- ~~(4) Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a Colorado Licensed Professional Engineer, Architect, or Land Surveyor. Such certification shall be submitted to the Floodplain Administrator.~~

c. Nonresidential Structures or Uses. Nonresidential structures or uses are allowed provided that:

- (1) ~~With the exception of Critical facilities, outlined in section 3-350 M, any nonresidential structure, including electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), shall be constructed, located or improved so that any external wall shall be not less than fifteen (15) feet from the stream side of the flood fringe.~~
- (2) Any nonresidential structure shall either have the lowest floor, including electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), including the basement, not less than one (1) foot above the BFE; or together with attendant utility and sanitary facilities shall be flood proofed so that below the computed BFE the structure is water tight with walls substantially impermeable to the passage of water; have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and be certified by an engineer or architect ~~registered-licensed~~ in the State of Colorado that the standards of this subsection are satisfied. Any nonresidential structure shall be constructed by methods and practices that minimize flood damage, and shall be constructed with materials resistant to flood damage. Such certifications shall be submitted to the ~~Floodplain Management Administrator~~ Floodplain Administrator or its designated representative and provide that where a non-residential structure is intended to be made watertight below the one (1) foot above the BFE, (i) a ~~registered Colorado Licensed professional Professional engineer Engineer~~ or architect ~~in the State of Colorado~~ shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with current technical criteria, and (ii) a record of such certificate which includes the specific elevation (in relation to the appropriate datum) that the structures are flood proofed. Such certification shall be maintained by the Floodplain Administrator All flood proofing shall meet the current technical criteria set by the Colorado Water Conservation Board and the

Federal Emergency Management Agency. Such certifications shall be provided to the ~~Floodplain Management Administrator~~Floodplain Administrator.

- (3) In the event that floodwaters in the flood fringe can be expected to attain a velocity greater than three (3) feet per second (at any point where the proposed development is to occur), additional flood proofing shall be required sufficient to withstand such greater water velocity.

(4) Nonresidential uses including:

- (4a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, and sod farming.
- (5b) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, trap and skeet ranges, hunting and fishing areas, fish hatcheries, hiking, biking and equestrian trails.
- (6c) Open area residential uses such as lawns, gardens, parking areas, and play areas.
- (7d) Uses accessory to open space or uses for which a permit is required under the FO zone district.
- (8e) Railroads, streets, roads, bridges, utility lines and facilities, and structures for irrigation, drainage or flood control.

d. 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 Colorado Licensed Professional Engineer or Architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one 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 one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

e. Manufactured Homes. All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- (1) The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
- (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength 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.

H. Regulations for the Floodway. The provisions of this section shall apply to each floodway as identified on the official FO zone district maps.

1. **Floodplain Development Permit.** No person shall engage in development of any kind, whether a conforming or nonconforming use or structure, within the floodway without first obtaining a floodplain development permit.
2. **Prohibited Uses.** Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, No-no development, encroachment, use, or alteration in, on, or over any part of the floodway shall be permitted which alone or cumulatively with other such uses would cause or result in:
 - a. The occupation of permanent or temporary structures.
 - b. The development or use of overnight campgrounds and travel trailer parks.
 - c. The storing or processing of materials that are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal or plant life.

- d. Solid waste disposal sites and central collection sewage treatment facilities.
 - e. The potential of solid debris (including, but not limited to garages, storage sheds, decks, fences, etc.) or waste (including, but not limited to septic systems, etc.) being carried downstream.
 - f. An encroachment that would adversely affect the efficiency and capacity of the floodway or change the direction of flow or cause any increase in the base flood elevation or so as to cause foreseeable damage to others, wherever located.
 - g. An encroachment, including fill, new construction, substantial improvements and other development unless certification by a ~~registered Colorado Licensed professional Professional engineer Engineer or architect~~ is provided demonstrating that encroachments shall not result in any increase in flood levels or velocities during the occurrence of the base flood discharge. The analysis shall be in accordance with standard engineering practice and a No-Rise Certification shall be submitted to the Floodplain Administrator.
3. **Allowed Uses.** The following uses shall be permitted within the floodway to the extent that are not prohibited in a particular area by any underlying zoning district and only if they do not adversely affect the efficiency of the floodway, change the direction of flow or increase the BFE.
- a. Agricultural uses such as general farming, grazing of livestock and horses, sod farming and wild crop harvesting.
 - b. Uses accessory to residential uses including but not limited to lawns, open areas, gardens, driveways and play areas.
 - c. Recreational uses not requiring permanent or temporary structures designed for human habitation.
 - d. Road and highway structures and attached utilities.
 - ~~e. Stream restoration projects, such as fish habitat enhancements, and bank stabilization, and wetland and riparian improvement projects.~~
 - ~~f. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, any of the allowed uses that encroach may be permitted within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the applicant first applies for a CLOMR and floodway revision through FEMA.~~
 - ~~g. Buried utilities.~~
 - ~~h. Domestic and municipal intake structures.~~
 - ~~i. Whitewater and recreation parks.~~

I. Mobile Home Parks and Recreational Vehicle Parks. The provisions of this section shall apply to all mobile home parks and recreational vehicle parks currently in the FO zone district, or proposed to be in the FO zone district.

1. **1. Anchors.** Use of existing mobile homes within the floodway, the flood fringe or a flood-prone area may be continued as a nonconforming use provided, however, that any mobile home located within the floodway, the flood fringe and/or a flood-prone area shall be anchored to resist flotation, collapse or lateral movement in the event of flooding by providing over-the-top and frame ties to ground anchors. Specific requirements shall be as follows:
 - a. **Over-the-top Ties.** Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations, with mobile homes less than fifty (50) feet long requiring one additional tie per side.
 - b. **Frame Ties.** Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with homes less than fifty (50) feet long requiring four additional ties per side.
 - c. **Components.** All components of the anchoring system be capable of carrying a force of 4,800 pounds.
 - d. **Additions.** Any additions to the home be similarly anchored.
2. **New Mobile Homes in the Floodplain.** Development of new mobile home parks, the expansion of any existing mobile home parks, the placement of any mobile homes outside a mobile home park within the floodway, flood fringe or a flood-prone area shall be prohibited.
3. **Lowest Floor Above the BFE.** All new mobile homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the mobile home is one foot above the BFE.
4. **Recreational Vehicles.** Recreational vehicles that meet the following conditions may be located in the flood fringe:
 - a. The recreational vehicle is located on the site for fewer than one hundred eighty (180) consecutive days.
 - b. The recreational vehicle is fully licensed and ready for highway use. 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.
 - c. Meet the permit requirements of section 3-350 N, and the elevation and anchoring requirements for "manufactured homes" in section 3-350 G 4 e.

J. Alteration of a Watercourse. For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
 2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
 3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
 4. Any stream alteration activity shall be designed and sealed by a Colorado Licensed Professional Engineer or Certified Professional Hydrologist.
 5. All activities within the regulatory floodplain shall meet all applicable Federal, State and FO zone district floodplain requirements and regulations.
 6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a Colorado Licensed Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with section 3-350 H.
 7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
- K. Properties Removed from the Floodplain by Fill.** A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:
1. Residential Construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.
 2. Nonresidential Construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- L. Subdivision Proposals.** All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.

1. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of section 3-350 N.
2. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to section 3-350 C or section 3-350 D 1.
3. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

M. Critical Facilities. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Section 3-350 M 1, 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.

1. Classification of Critical Facilities. It is the responsibility of the local government having jurisdiction to identify and confirm that specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- (1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- (2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctor's offices, and non-urgent care medical structures that do not provide these functions);
- (3) Designated emergency shelters;
- (4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- (5) Public utility plant facilities for generation and distribution (hubs, treatment plants, municipal wells, substations and pumping stations for

water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

- (6)** Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP) and appurtenant facilities, non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the local government having jurisdiction that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the local government having jurisdiction on an as-needed basis upon request.

- b.** Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- (1)** Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- (2)** Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (3)** Refineries;
- (4)** Hazardous waste storage and disposal sites; and
- (5)** Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the

Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000

pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- (6) Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- (7) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- (8) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this section.

c. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- (1) Elder care (nursing homes);
- (2) Congregate care serving 12 or more individuals (day care and assisted living);
- (3) Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

d. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- (1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- (2) Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the local government having jurisdiction that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the local government having jurisdiction on an as-needed basis upon request.

2. Protection for Critical Facilities. All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this section, protection shall include one of the following:

- a. Location outside the Special Flood Hazard Area; or
- b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

3. Ingress and Egress for New Critical Facilities. New Critical Facilities shall, when practicable as determined by the local government having jurisdiction, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

~~JN.~~ Floodplain Development Permit. A floodplain development permit shall be obtained from the ~~Floodplain Management Administrator~~Floodplain Administrator before the start of construction or development within the FO zone district.

1. Contents of Floodplain Development Permits. Applications for floodplain development permits are to be submitted to the ~~Floodplain Management Administrator~~Floodplain Administrator and shall include the following information as applicable:

- a. Application Form.** A completed application form with all necessary information completed.
- b. Site Plan.** A plan at a scale of 1"=200' or as approved by the ~~Floodplain Management Administrator~~Floodplain Administrator, stamped by an engineer ~~registered~~licensed in the State of Colorado, which includes:
 - (1)** The site location.
 - (2)** A legal description of parcel.
 - (3)** Base flood limits and water surface elevations in relation to mean sea level.

- (4) Floodway limits.
- (5) Channel of watercourse.
- (6) Existing and proposed contours or elevations at no more than 2' intervals, in relation to mean sea level.
- (7) Existing and proposed structures, with the lowest floor elevations (including basements and garages) of each structure.
- (8) Proposed elevations in relation to mean sea level to which structures will be flood proofed (if applicable).
- (9) Location and elevations in relation to mean sea level of existing streets, water supply, and sanitation facilities.
- (10) Limits and total land area of all existing and proposed impervious surfaces, including structures.
- (11) Existing water supply ditches, irrigation ditches and laterals.
- (12) All maps shall comply with the National Map Accuracy Standards.

c. Channel Cross-Section. A typical cross-section showing:

- (1) The channel of the watercourse.
- (2) Limits of floodplain adjoining each side of channel.
- (3) Cross-section area to be occupied by the proposed development.
- (4) Existing and proposed base flood elevations.

d. Construction Specifications. Specifications for construction and materials of buildings, flood proofing, filling, dredging, grading, channel improvements, storage of materials, water supply, and sanitation facilities as applicable.

- (1) **Floodproofing Certificate.** If applicable, a certificate from a Colorado Licensed Professional Engineer or Architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 3-350 G 4 b.

e. Alteration of Water Course. Description of the extent to which any water course will be altered or relocated as a result of the proposed development.

f. Floodway Floodplain Development Requirements. If development is proposed in a floodway then a floodway analysis by a Colorado ~~Registered-Licensed~~ Professional Engineer must be completed using methodology acceptable to the Federal Emergency Management Agency and Colorado Water Conservation Board and must meet the following guidelines:

- (1) If a detailed hydraulic floodway analysis has not been performed, the responsibility for determining the floodway boundary rests with the floodplain development permit applicant. The need for a detailed hydraulic floodway analysis shall be the decision of the ~~Floodplain Management Administrator~~Floodplain Administrator.
- (2) The ~~Floodplain Management Administrator~~Floodplain Administrator may require that the detailed hydraulic floodway analysis be based on the identical hydraulic model which was used to develop the engineering study currently adopted by the Board of County Commissioners, if available. The applicant should obtain, through the ~~Floodplain Management Administrator~~Floodplain Administrator, a copy of the input data representing the computer model used for the effective flood hazard study if available.
- (3) The model must then be updated to existing hydraulic conditions to determine what increase in the 100 year water surface elevation levels have already been achieved by development since the floodplain was established.
 - (a) Alternate floodway configurations may then be analyzed based on methods as outlined in the current U.S. Army Corps of Engineers HEC-RAS Water Surface Profiles Users Manual and submitted to the ~~Floodplain Management Administrator~~Floodplain Administrator for review and approval.
 - (b) Approval will be based on demonstration that the cumulative effects of the proposed development, plus the effects of development since the original flood hazard area was established, does not cause a rise in the base flood elevation.
 - (c) At the ~~Floodplain Management Administrator~~Floodplain Administrator's discretion, where a regulatory floodway has been designated, it may not be necessary to determine the cumulative effects of existing development.
- (4) Floodway boundary configurations will be examined and approved by the ~~Floodplain Management Administrator~~Floodplain Administrator. The following specific information, for the stream reach 1000 feet upstream and 1000 feet downstream from the proposed encroachment, must be submitted:
 - (a) A copy of the printout for the hydraulic computer model representing the base flood profile run for conditions existing at the time the currently effective floodplain was developed. The printout must include the full input and output listing.
 - (b) A copy of the printout from the hydraulic computer model representing the floodway run for the proposed floodway

configuration and including developments and other hydraulic changes within the floodplain since the currently effective floodplain was established. The printout must include the full input and output listing with all input changes from the original model highlighted.

- (c) A copy of the floodway data table representing data for the proposed floodway configuration.
 - (d) A copy of the currently effective official engineering study showing the existing floodplain and the proposed floodway configuration.
 - (e) Certification from a Colorado ~~Registered~~Licensed Professional Engineer that the proposed floodway configuration, in combination with current floodplain hydraulic conditions, meets FEMA and CWCB requirements when evaluated against flood elevations established when the original floodplain study was completed.
 - (f) Electronic copies of all aforementioned data and model input files of this section shall be submitted on a suitable medium. *(am 11/13/07)*
- g. Report.** An engineering report addressing those standards set forth in this section, signed and sealed by a Colorado ~~Registered~~Licensed Professional Engineer.

2. Standards for Permit Review.

- a. Completeness.** No later than (10) days following receipt of a completed application for a floodplain development permit, the ~~Floodplain Management Administrator~~Floodplain Administrator shall:
 - (1) Determine and set a fee in an amount necessary to cover the costs incurred in the review and approval or disapproval of the permit application, including all hearings, copying, mailings, publications, labor, overhead, consultants, experts, and attorneys that the county deems necessary, and shall notify the applicant in writing of the amount of the fee. Until the fee is paid to the ~~Floodplain Management Administrator~~Floodplain Administrator, the application for the floodplain development permit shall not be further processed.
- (a) Floodplain Development Permit (Minor Fee).** For Floodplain Development Permits that are entirely within the flood fringe only, are for a single structure or of a simple nature, and do not require a detailed hydraulic analysis, the minor permit fee shall apply.

(b) Floodplain Development Permit (Major Fee). For all other Floodplain Development Permits, the major permit fee shall apply.

- (2) Determine if the application is complete. If the application is not complete the ~~Floodplain Management Administrator~~Floodplain Administrator shall in writing notify the applicant of the deficiency of the application. Until the information is submitted to the ~~Floodplain Management Administrator~~Floodplain Administrator, the application for the floodplain development permit shall not be further processed.
- (3) The amount of the fee may be increased at any time if it is determined by the ~~Floodplain Management Administrator~~Floodplain Administrator that the fee is not sufficient to cover all costs associated with the floodplain development permit.

b. Review of Application. Once the application is complete and the fee is paid, the ~~Floodplain Management Administrator~~Floodplain Administrator shall within thirty (30) days either:

- (1) Approve the application and grant a permit if the proposed development complies with these regulations. The ~~Floodplain Management Administrator~~Floodplain Administrator may attach such permit conditions as deemed necessary in furthering the purpose of the FO zone district.
- (2) Deny the application if the proposed development does not comply with the regulations of the FO zone district. The decision of the ~~Floodplain Management Administrator~~Floodplain Administrator shall state, in writing, reasons for the decision and shall be given to the applicant.

c. Factors determining permit issuance. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental 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;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(10) The relationship of the proposed use to the comprehensive plan for that area.

ed. Permit Issued Only for Allowed Use. A floodplain development permit shall not be issued unless the proposed development complies with the standards and uses allowed in the FO zone district and will not otherwise violate the purposes and intent of these Floodplain Regulations.

de. Determination of Flood Hazard. In reviewing an application for a floodplain development permit, the ~~Floodplain Management Administrator~~Floodplain Administrator shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

ef. Other Permits and Approvals. The floodplain development permit applicant must obtain all other necessary permits and approvals from which approval is required by local, Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

fg. Issuance of Permit. If the ~~Floodplain Management Administrator~~Floodplain Administrator determines that the application for a floodplain development permit meets the purposes and requirements of this Section, the floodplain development permit shall be issued, with the attachment of any conditions as deemed necessary to further the purposes of this Section. Such conditions may include, but are not limited to, specifications for modification of waste disposal methods and facilities, landscaping, periods of operation, operational controls, sureties, deed restriction, and adequate flood proofing.

h. Maintain Records. All floodplain development permits will be maintained and copies will be stored for future referral.

3. Building Permit. The Chief Building Official shall not issue any permit for, nor shall the Planning Director allow any use involving any building, structure, or other development within the FO zone district unless a floodplain development permit has been granted for the development.

4. Permit Expiration. A floodplain development permit shall expire two years after the date of issuance if the permittee has not commenced construction under the permit.

5. **Waiver of Submission Requirements.** The ~~Floodplain Management Administrator~~Floodplain Administrator may waive any part but not all of the submission requirements imposed by the FO zone district upon petition by the applicant that a portion of the submission requirements is inapplicable to the development for which the permit is sought, and/or full compliance with the submission requirements would be unreasonable burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the ~~Floodplain Management Administrator~~Floodplain Administrator, upon written determination that the information to be submitted is sufficient for the ~~Floodplain Management Administrator~~Floodplain Administrator to arrive at a permit decision in full compliance with the law and these Floodplain Regulations and that the proposed development will have an insubstantial impact on the surrounding area.
6. **Notice to Purchaser or Lessee.** In addition to the provisions set forth in the Administrative Regulations, in the event that a permit issued under these Floodplain Regulations allows a structure to be located in a floodplain, the terms of the permit shall require notice that the structure is being located in a floodplain and must be disclosed to the purchaser or lessee in the purchase contract, deed or lease.
7. **Permit Conditions.** The ~~Floodplain Management Administrator~~Floodplain Administrator may attach such conditions to granting of a permit for proposed development in the floodway, the flood fringe or a flood-prone area, as he deems necessary in furthering the purposes of these Floodplain Regulations. Such conditions may include, but not be limited to, specifications for modifying waste disposal and water supply facilities, landscaping, deed restrictions, or adequate flood proofing.

~~KO.~~ **Floodplain Variances.** The provisions of this section shall apply to requests for variances from the requirements of the flood overlay zone district. For the purpose of this section, the Zoning Board of Variance shall be served as the Appeal Board.

- ~~1.~~ The Appeal Board shall hear and render judgment on requests for variances from the requirements of this ordinance.
- ~~2.~~ The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- ~~3.~~ Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- ~~4.~~ The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- ~~5.~~ 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 ordinance.
- ~~6.~~ Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half 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 Section 3-350 K have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in Section 3-350 K.

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. 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 variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon:

(1) Showing a good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) A determination that the granting of a variance is necessary to avoid a direct conflict with the terms and conditions of any state or federal permit, provided, that, any requirement in this Floodplain Overlay Zone District Section that is more stringent than a state or federal permit term or condition, than the Floodplain Overlay Zone District Section shall take precedence.

c. 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.

11. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Improvement provided that:

a. The criteria outlined in section 3-350 O are met, and

- b.** 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.

ARTICLE 5: ADMINISTRATION

ARTICLE 5
ADMINISTRATION

- e. **Not Detrimental to the Public Good.** Granting the variance will not cause substantial detriment to the public good.
 - f. **Variance Will Not Impair the Zoning Plan and Resolutions.** Granting the variance will not substantially impair the intent and purpose of the zone plan and the zoning resolutions.
3. **Solar Energy Devices Considered.** In determining whether difficulties to, or hardship upon, the owner of the subject property exist, the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980 may properly be considered.
 4. **Is Exempt From Prosecution.** No appeal to the Board of Adjustment shall be allowed for building use violations that may be prosecuted pursuant to Section 30-28-124(1)(b) of the Colorado Revised Statutes.
 5. **Conditions and Restrictions.** The Zoning Board of Adjustment may, in approving a Variance Permit, impose restrictions and conditions on the approval it determines are required by the general goals, objectives and policies of the Comprehensive Plan and these Land Use Regulations in order to prevent, or to minimize, adverse effects from the Variance Permit on other lands in the neighborhood or on the general health, safety, and welfare of the County.
(am 9/27/99) (am 11/08/05)

G. Variance from Improvement Standards

1. **General.** The Board of County Commissioners shall have the authority to approve, approve with conditions, or disapprove variances from Article 4, Division 6, Improvement Standards. Any person seeking a variance from the improvement standards shall file an application with the Planning Director, or shall consolidate said application with any other application the applicant is submitting. The application shall be determined sufficient, and a staff report prepared pursuant to Section 5-210.D, Common Procedure for Review of Applications.
2. **Standards.** In determining whether to approve, approve with conditions, or disapprove the application for Variance to Improvement Standards, the Board of County Commissioners shall balance the hardships to the applicant of not granting the Variance against the adverse impact on the health, safety, and welfare of persons affected, and the adverse impact on the lands affected. In approving or approving with conditions said Variance, the Board of County Commissioners may impose such conditions that are necessary to ensure compliance with the terms of this Subsection, these Regulations, and the Comprehensive Plan. (am 11/08/05)

H. Floodplain Variance

1. General. See Section 3-350 K for floodplain variances.

SECTION 5-270. SUBDIVISION EXEMPTION

SECTION 5-280. SUBDIVISION

A. Purpose and Intent. The purpose of this Section is to establish the minimum standards for the division of land and improvement of that land in unincorporated Eagle County:

1. **General.** Establish reasonable and equitable procedures and standards for the subdivision of land.
2. **Safe and Convenient Traffic Circulation.** Require the provision of safe and convenient vehicular and pedestrian traffic circulation.
3. **Adequacy of Public Facilities.** Ensure that public facilities are available to serve development.
4. **Conserve and Manage Natural Resources.** Conserve and manage natural resources.
5. **Minimize Air and Water Pollution.** Minimize the impacts of air and water pollution and the degradation of land.
6. **Open Space.** Provide for open space and recreational land through efficient and appropriate subdivision design.
7. **Conformance with Comprehensive Plan and Land Use Regulations.** Guide future growth and development in substantial conformance with the purposes, intents, goals and policies of the Eagle County Comprehensive Plan, Area Community Plans, and any applicable ancillary County adopted documents pertaining to natural resource protection, affordable housing, or infrastructure management, and other applicable provisions of these Land Use Regulations. *(am 11/08/05) (am 05/08/12)*
8. **Safety From Fire, Flood, and Other Disasters.** Maintain or improve safety from fire, flood and other potential disasters- including all flooding requirements per section 3-350.L.
9. **Adequate Light, Air, and Privacy.** Provide adequate light, air, and privacy for land uses.
10. **Recording.** Ensure that the subdivision of lands is recorded with proper legal descriptions and monuments. *(am 3/12/02)*

B. Procedures.

1. **Overview of Procedures.** Unless exempted pursuant to Section 5-280.B.2, Exemptions, prior to the division or transfer of land within unincorporated Eagle County, an applicant shall obtain approval for a Sketch Plan, Preliminary Plan and Final Plat for Subdivision pursuant to the procedures and standards of this Section.
 - a. **Sketch Plan.** The purpose of sketch plan review is for the applicant, the County and the public to evaluate and discuss the basic concepts for development of the proposed subdivision, and to consider whether there are any alternative concepts the applicant should explore. It is the time when determinations should be made as to whether the proposed subdivision substantially complies with these Land Use Regulations and is

- a. Conservation/Agricultural Lands Tract.** The design of a Conservation Subdivision shall result in the creation of a contiguous tract of land that is no less than 67% of the property covered by the application, excluding floodplains, utility corridors and established rights of way, which will remain in an undeveloped state. To the greatest extent possible, this Tract shall contain the following:
- (1) Lands of existing agricultural production, including irrigated fields, pastures or croplands.
 - (2) Identified wildlife habitat and wildlife migration corridors, or buffer zones necessary to protect the same.
 - (3) Streams, drainages, wetlands, ground water recharge areas and riparian habitats.
 - (4) Lands of significant scenic or cultural value.
 - (5) Natural hazard areas including steep slopes, floodplains, debris flow paths and avalanche paths, including all flooding requirements per section 3-350.L.
 - (6) Unique landforms or topographic features.
- b. Building Envelopes.** All residential and accessory residential structures within a Conservation Subdivision shall be located within building envelopes, each of which is no more than three (3) acres in size, and located on that portion of the property deemed most suitable for development. Building envelopes shall be indicated on the Final Plat for the subdivision.
- 4. Shared Septic Systems.** If septic systems are to be used for waste water disposal, shared septic systems are encouraged to the extent determined to be practicable by the Eagle County Environmental Health Department. Demonstration of an maintenance program shall be provided which is determined by the Eagle County Environmental Health Department to be adequate.
- 5. Maximum Size of Dwelling Units**
- a. Primary Dwelling Units.** Primary dwelling units shall be limited to a maximum floor area of 5,000 square feet.
 - b. Accessory Dwelling Units.** Accessory dwelling units shall conform to the provisions of Section 3-310.A., Accessory Dwelling Unit.
- 3. Residential Building Sites not in a Cluster.** On parcels larger than 70 acres in the Resource Zone district, and on parcels larger than 40 acres in the Resource Limited Zone district, one residential building site may be located outside the grouped lots. All residential and accessory residential structures associated with this isolated building site must be located within a designated building envelope, as indicated on the final plat for the subdivision. The area of the building envelope shall not count in the calculation of acreage required for the Conservation/Agricultural Use Tract. Unless pre-existing, the location of this building site should also conform to the greatest extent possible to established Conservation Subdivision Criteria.
- 4. Maximum number of Dwelling Units Per Cluster.** The maximum number of home