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FLOODPLAIN REGULATIONS

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Chapter 18.04

Purpose

18.04.010 Adoption authority

18.04.020 Purposes designated

18.04.010 Adoption authority.

The ordinance codified in this Title for flood regulation is adopted pursuant to the authority contained in Title 31, Article 23, C.R.S. (Ord. 87-52 §1(part), 1988)

18.04.020 Purposes designated.

The purpose of this Chapter is to promote the public health, safety and general welfare, to minimize flood losses in areas subject to flood hazards, and to promote wise use of the floodplain. Specifically, this Chapter is intended to accomplish the following:

A. To reduce the hazard of floods to life and property by:

1. Prohibiting certain uses which are dangerous to life or property in time of flood;
2. Restricting uses which would be hazardous to the public health in time of flood;
3. Restricting uses which are particularly susceptible to flood damage, so as to alleviate hardship and eliminate demands for public expenditures for relief and protection;
4. Requiring permitted floodplain uses, including public facilities which serve such uses, to be protected against floods through the uses of floodproofing and other protective measures at the time of initial construction or reconstruction; and
5. Encouraging low-intensity uses such as agriculture, parking lots, recreation and open space within the floodplain.

B. To protect floodplain occupants from a flood which is or may be caused by their own or other land use and which is or may be undertaken without full realization of the danger, by:

1. Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures;
2. Regulating the method of construction of water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions; and
3. Delineating and describing areas that could be inundated by floods so as to protect individuals from purchasing floodplain lands for unsuitable purposes.

C. To protect the public from the burden of avoidable financial expenditures for flood control and relief by regulating all uses within the floodplain areas so as to produce a method of construction and a pattern of development which will minimize the probability of damage to property and loss of life or injury to the inhabitants of the flood hazard areas.

D. To protect the storage capacity of floodplains and to assure retention of sufficient floodway area to convey flood flows which can reasonably be expected to occur by:

1. Regulation of excavating, filling, dumping, dredging and alteration of channels by deepening, widening, or relocating;
2. Prohibiting unnecessary and damage-creating encroachment; and
3. Encouraging low-intensity uses such as greenbelt open space, recreation facilities and riding trails.

E. To protect the hydraulic characteristics of the small watercourses, including the gulches, sloughs and artificial water channels used for conveying floodwaters, which make up a portion of the urban drainage system, by:

1. Regulation of filling, dumping and channelization so as to maintain the natural storage capacity and slow flow characteristics;
2. Prohibiting encroachment into the small watercourses to maintain their water-carrying capacity; and
3. Encouraging uses such as greenbelt, open space, recreation and pedestrian and riding trails.
(Ord. 87-52 §1(part), 1988)

Chapter 18.08

Definitions

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18.08.010 Appeal.

Appeal means a request for a review of the Town Engineering/Construction Department's interpretation of any provision of this Chapter by the Board of Adjustment. (Ord. 87-52 §1(part), 1988)

18.08.020 Area of special flood hazard.

Area of special flood hazard means the land in the floodplain within the Town subject to a one percent (1%) or greater chance of flooding in any given year. (Ord. 87-52 §1(part), 1988)

18.08.030 Base flood.

Base flood means a flood having a one percent (1%) chance of being equaled or exceeded in any given year. The term is used interchangeably with a one-hundred-year flood. (Ord. 87-52 §1(part), 1988)

18.08.040 Base flood elevation.

Base flood elevation means the water surface elevation of the base flood in relation to mean sea level. (Ord. 87-52 §1(part), 1988)

18.08.050 Basement.

Basement means any area of the building having its floor subgrade (below ground level). (Ord. 87-52 §1(part), 1988)

18.08.060 Building.

Building means a walled or roofed structure, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home on a permanent foundation. (Ord. 87-52 §1(part), 1988)

18.08.070 Channel.

Channel means a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel. (Ord. 87-52 §1(part), 1988)

18.08.080 Development.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. (Ord. 87-52 §1(part), 1988)

18.08.090 Engineering/Construction Department.

Engineering/Construction Department means the Utilities Department designated to administer and enforce these regulations and includes, among others, the Stormwater manager (sometimes referred to herein as the "Town Engineer") and his or her designees, assistant Town engineers, building and construction inspectors, and retained consultants, engineers and construction management personnel. (Ord. 2005-43 §1, 2005; Ord. 87-52 §1(part), 1988)

18.08.100 Flood.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters;

B. The unusual and rapid accumulation or runoff of surface waters from any source;

C. Any water from a river, stream, watercourse, lake or other body of standing water that temporarily overflows or inundates adjacent lands and which may affect other lands and activities through stage elevations, back water or increased groundwater level. (Ord. 87-52 §1(part), 1988)

18.08.110 Flood Insurance Rate Map.

Flood Insurance Rate Map or *FIRM* means an official map of the Town issued as part of the flood insurance study, on which FEMA has delineated both the areas of the one-hundred-year flood and the zones subject to risk premium rates. (Ord. 87-52 §1(part), 1988)

18.08.120 Flood Insurance Study.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency (FEMA) which contains flood profiles and the water surface elevation of a one-hundred-year flood. (Ord. 87-52 §1(part), 1988)

18.08.130 Floodplain.

Floodplain means the relatively flat or lowland area adjoining a river, stream, watercourse, lake or other body of standing water which has been or may be covered temporarily by floodwater. For the purpose of this Title, the *floodplain* is defined as the area that would be inundated by the base flood, and is used interchangeably with the term *one-hundred-year flood* and the term *special flood hazard area*. (Ord. 87-52 §1(part), 1988)

18.08.140 Floodproofing.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate flood damage; including utility and sanitary facilities, and which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. (Ord. 87-52 §1(part), 1988)

18.08.150 Flood protection elevation.

Flood protection elevation means an elevation one (1) foot above the base flood elevation. (Ord. 87-52 §1(part), 1988)

18.08.160 Floodway fringe.

Floodway fringe means that area of the floodplain, outside of the floodway, that would be inundated by the base flood. (Ord. 87-52 §1(part), 1988)

18.08.170 Floodway.

Floodway means the channel of a river or other watercourse and the adjacent portion of the floodplain that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. (Ord. 87-52 §1(part), 1988)

18.08.180 Floodway map.

Floodway map means an official map of the Town, issued by the FEMA as part of the Flood Insurance Study, which shows the boundaries of the floodway for the base flood. (Ord. 87-52 §1(part), 1988)

18.08.190 Lowest floor.

Lowest floor means the lowest floor of the lowest enclosed area (including basement) of a building or structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Title. (Ord. 87-52 §1(part), 1988)

18.08.200 Mudslide (mud flow).

Mudslide or *mud flow* describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of stabilizing cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. (Ord. 87-52 §1(part), 1988)

18.08.210 New construction.

New construction means structures for which the start of construction commenced on or after the effective date of this Title. (Ord. 87-52 §1(part), 1988)

18.08.220 Town.

Town refers to the Town of Castle Rock, a municipal home rule corporation of the State of Colorado. (Ord. 87-52 §1(part), 1988)

18.08.230 Variance.

Variance means a grant of relief from certain stated requirements of this Title by the Board of Adjustment which may be subject to conditions. (Ord. 87-52 §1(part), 1988)

18.08.240 Watercourse.

Watercourse means a channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake into which storm runoff and floodwaters flow. (Ord. 87-52 §1(part), 1988)

Chapter 18.12

Administration

18.12.010 Duties and responsibilities designated

18.12.020 Review of building permits, subdivision proposals and water and sewer systems

18.12.010 Duties and responsibilities designated.

The duties and responsibilities for administering and carrying out the provisions of this Title shall belong to the Town Engineering/Construction Department. The duties and responsibilities shall include, but not be limited to the following:

A. The review of permits for proposed development to determine whether proposed building sites will be reasonably safe from flooding by the one-hundred-year flood;

B. The review of permits for proposed development to assure that the required permits and documentation of this Title have been obtained from all applicable federal, state or local agencies;

C. The notification of Douglas County and the Colorado Water Conservation Board prior to any alteration or relocation of watercourse and the submittal of evidence of such notification to the Federal Emergency Management Agency;

D. The approval of certificates of occupancy for all uses and structures within lands located in the floodway district and the floodway fringe district upon verification that the premises and structures thereon conform with all of the requirements of this Title.

1. When there has been fill, excavation, erection or substantial improvement of a structure, or construction, the applicant shall provide certification by a registered professional engineer that the finished fill, excavation, building floor elevations floodproofing measures, or other flood protection measures were accomplished in compliance with the provisions of this Title. Certification of the adequacy of the floodproofing of a building may be provided by a registered architect in lieu of a professional engineer;

2. The certification provided by the professional engineer or architect shall include the elevation, in relation to mean sea level, of the lowest floor, including basement, of all buildings that have not been floodproofed. Where buildings have been floodproofed, the elevation of the floodproofing must be established by certification and thereafter maintained in compliance with this Title;

3. Records of all certificates provided by professional engineers or architects in compliance with this Title shall be maintained by the Town Engineering/Construction Department;

E. The maintenance of records of all variances granted from the requirements of this Title, including justification for the granting of the variances;

F. An annual inspection of all properties in the floodway district and the floodway fringe district to assure conformance to the provisions and all permits issued in accordance with this Title;

G. When a watercourse has been altered or relocated, to assure that such watercourse is maintained so that the flood-carrying capacity is not diminished;

H. To trim or remove, or have trimmed or removed, trees and other vegetation in areas of the one-hundred-year flood which, in the Town Engineer's judgment, would pose a hazard in time of flooding. Such trees and other vegetation shall include trees which are dead, fallen or not firmly rooted, and brush in the floodway which would impede the passage of floodwaters;

I. Submit, as required by federal regulations, an annual report to FEMA on the Town's participation in the National Flood Insurance Program. (Ord. 87-52 §1(part), 1988)

18.12.020 Review of building permits, subdivision proposals and water and sewer systems.

A. The Town Engineering/Construction Department shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement, including prefabricated and manufactured homes, must:

1. Be designed or modified, and anchored to prevent flotation, collapse or lateral movement of the structure;
2. Use construction materials and utility equipment that are resistant to flood damage; and
3. Use construction methods and practices that will minimize flood damage.

B. The Town Engineering/Construction Department shall review subdivision proposals and other proposed new developments to assure that:

1. All such proposals are consistent with the need to minimize flood damage;
2. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated, and constructed to minimize or eliminate flood damage;
3. Adequate drainage is provided so as to reduce exposure to flood hazards; and
4. Best management practices are being used to the greatest advantage.

C. The Town Engineering/Construction Department shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Ord. 87-52 §1(part), 1988)

Chapter 18.16

General Provisions

- 18.16.010 Jurisdiction**
- 18.16.020 Compliance**
- 18.16.030 Annexation**
- 18.16.040 Supplementary to zoning regulations**
- 18.16.050 Interpretation**
- 18.16.060 Warning and disclaimer of liability**

18.16.010 Jurisdiction.

The jurisdiction covered by the provisions of this Title shall apply to all lands within the corporate limits of the Town that would be inundated by a one-hundred-year flood as designated by the Flood

Insurance Rate Maps of the Town, or, as otherwise determined and designated by the Town Engineering/Construction Department. (Ord. 87-52 §1(part), 1988)

18.16.020 Compliance.

No person shall allow or cause any land within the municipal limits of the Town to be used, zoned or platted, or any structure to be constructed, located, converted, remodeled or altered without full compliance with the requirements of this Title and all applicable regulations. Any violation shall be considered a general code violation and shall be punishable as set forth in Section 1.08.010. (Ord. 87-52 §1(part), 1988)

18.16.030 Annexation.

When a petition is filed to annex property lying within a one-hundred-year floodplain but outside of the area of the Flood Insurance Study, the owners of the property shall provide to the Town a study establishing for that property the base flood elevation and the limits of the one-hundred-year flood and floodway. The study shall be certified by a registered professional engineer competent in open channel hydraulics. In preparing the study, the engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from other sources. The study shall be used as the basis for administering the provisions of this Title until other data has been provided by FEMA, or by other competent sources. (Ord. 87-52 §1(part), 1988)

18.16.040 Supplementary to zoning regulations.

The regulations of this Title shall be construed as being supplementary to the regulations imposed on the same lands by an underlying zoning category, or by any other regulations or requirements. Any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive than those of this Title. (Ord. 87-52 §1(part), 1988)

18.16.050 Interpretation.

In their interpretation and application, the provisions of this Title shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Colorado Statutes or the Charter of the Town. (Ord. 87-52 §1(part), 1988)

18.16.060 Warning and disclaimer of liability.

The degree of flood protection intended to be provided by this Title is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur upon occasion or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Section does not imply that the areas outside the floodway district and floodway fringe district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages, nor shall this Title create a liability on the part of or a cause of action against the Town or any officer employee or appointee thereof for any flood damages that may result from reliance up this Title or any administrative decision made thereunder. (Ord. 87-52 §1(part), 1988)

Chapter 18.20

Mapping

18.20.010 Establishment of districts

18.20.020 Mapping of district boundaries

18.20.030 Interpretation of district boundaries

18.20.010 Establishment of districts.

In order to carry out the provisions of this Title, the areas of the one-hundred-year flood are divided into the following overlay zoning districts:

A. Floodway District (FW). The floodway district shall be those areas identified as floodway on the Flood Insurance Study and the accompanying Flood Insurance Rate Map. In areas outside of the boundaries of the Flood Insurance Study, the floodway district shall be those areas identified as floodway in floodplain studies approved by the Town Engineering/Construction Department and FEMA.

B. Floodway Fringe District (FF). The floodway fringe district shall be those areas identified in studies approved by the Town Engineering/Construction Department as being within the boundaries of the one-hundred-year flood but outside of the floodway. (Ord. 87-52 §1(part), 1988)

18.20.020 Mapping of district boundaries.

The boundaries of the floodway district and the floodway fringe district as established in Section 18.20.010 shall be shown upon the Town's zoning district maps. The extent of this area shall be based upon the best available information, including:

A. The Flood Insurance Study for the Town dated September 30, 2005, and the accompanying series of Flood Insurance Rate Maps (FIRM), as amended, and produced by the Federal Emergency Management Agency (FEMA).

B. Flood hazard area delineation studies produced through the urban drainage and flood control district and approved by the Town Engineering/Construction Department.

C. Other one-hundred-year floodplain studies as approved by the Town Engineering/ Construction Department and accepted by the appropriate local, regional and national flood agencies. When base flood elevation data has not been provided in accordance with FEMA's Flood Insurance Study, the Town Engineering/ Construction Department may require additional base flood elevation and floodway studies to be generated. These elevations must be determined prior to the permitting of new construction, substantial improvements or other development in Zone A (the one-hundred-year floodplain on FEMA maps). The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Castle Rock, Colorado," dated September 30, 2005, the Flood Insurance Rate Map with the effective date of September 30, 2005 and any and all amendments to said FIRM are adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study and FIRM are on file at the Town Engineering/Construction Department. (Ord. 2005-43 §2, 2005; Ord. 87-52 §1(part), 1988)

18.20.030 Interpretation of district boundaries.

The boundaries of the floodway district and the floodway fringe district shall be changed on the Town zoning district maps by appropriate amendment procedures contained in the zoning regulations of the Town. Amendment of the district boundaries shall be subject to the following limitations:

A. In areas within the boundaries of the Flood Insurance Study, the boundaries of the floodway district and the floodway fringe district shall be amended only to conform with the changes previously approved by the Federal Insurance Administrator.

B. In areas outside of the boundaries of the Flood Insurance Study, the boundaries of the floodway district and the floodway fringe district shall be changed only upon the presentation of evidence, prepared by a registered professional engineer competent in open channel hydraulics, which shows clearly and conclusively that the boundaries of the districts as mapped are incorrect. The Town Engineer shall review the evidence presented and provide the Planning and Zoning Commission an opinion regarding the evidence presented. Where interpretation is needed as to the location of the boundaries of the floodplain district, the Town Engineering/Construction Department shall make the necessary interpretation of the boundary. Any person contesting the location of the district shall be given a reasonable opportunity to present evidence to the Town Engineer in rebuttal to the Town Engineer's interpretation. The decision of the Town Engineering/Construction Department is appealable to the Board of Adjustment. (Ord. 87-52 §1(part), 1988)

Chapter 18.24

Floodway District

18.24.010 Floodway district

18.24.020 Prohibitions

18.24.030 Permitted uses

18.24.040 Uses permitted with special use permit

18.24.010 Floodway district.

The floodway district is that portion of a river or watercourse which must be reserved in order to discharge the one-hundred-year flood without cumulatively increasing the water surface elevation of that flood more than one (1) foot at any point. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and create a great potential for erosion. Uses within the floodway must remain very low in intensity in order to allow unobstructed discharge of floodwaters. (Ord. 87-52 §1(part), 1988)

18.24.020 Prohibitions.

The following provisions, in addition to all others set forth in Chapter 18.36, shall apply to all uses within the floodway district:

A. No construction, placement or substantial improvement of any buildings shall be allowed, except as specifically approved in accordance with Section 18.24.030;

B. No filling or excavating shall be permitted except upon the issuance of a special use permit;

C. Storage of materials which are buoyant, flammable or explosive, or which in time of flooding could be injurious to human, animal or plant life, is prohibited;

D. No use shall be permitted which would result in any increase in the base flood elevation. (Ord. 87-52 §1(part), 1988)

18.24.030 Permitted uses.

The following uses which have a low flood damage potential and do not obstruct flood flow shall be permitted:

A. Industrial and commercial uses such as loading areas, parking areas and airport landing strips;

B. Private and public recreational uses such as parks, picnic grounds, golf courses, driving ranges, swimming areas, wildlife and nature preserves, fishing areas and trails for hiking, bicycling and horseback riding;

C. Accessory uses to residential dwellings such as lawns, gardens, parking areas and play areas. (Ord. 87-52 §1(part), 1988)

18.24.040 Uses permitted with special use permit.

The following uses may be permitted only upon the approval and issuance of a special use permit;

A. Accessory buildings necessary to the uses listed in Section 18.24.020;

B. Railroads, streets, bridges, dams, utility transmission lines and pipelines;

C. Uses similar in nature to those listed in Section 18.24.020 and subsections A and B of this Section, which are consistent with the purposes and provisions of this Title. (Ord. 87-52 §1(part), 1988)

Chapter 18.28

Floodway Fringe District

18.28.010 Floodway fringe district

18.28.020 Generally

18.28.030 Compliance with Chapter

18.28.040 Permitted uses

18.28.050 Uses permitted with special use permit

18.28.060 Uses permitted in floodway district

18.28.070 Storage of materials and equipment

18.28.010 Floodway fringe district.

The floodway fringe district or one-hundred-year floodplain is also known as the base flood area, and indicates an area where flood levels have a one-percent chance of being equaled or exceeded in any given year. Only low-intensity uses are allowed within the one-hundred-year floodplain, and structures appurtenant to allowable uses may be permitted pending the procurement of a floodplain development permit. (Ord. 87-52 §1(part), 1988)

18.28.020 Generally.

The provisions of this Chapter, in addition to the provisions of Chapter 18.36, shall apply to all uses within the floodway fringe district. (Ord. 87-52 §1(part), 1988)

18.28.030 Compliance with Chapter.

No construction, placement or substantial improvement of buildings shall be allowed, except as set forth in this Chapter. (Ord. 87-52 §1(part), 1988)

18.28.040 Permitted uses.

Any use which is permitted by the underlying zoning district and meets all other requirements of this Chapter is permitted. (Ord. 87-52 §1(part), 1988)

18.28.050 Uses permitted with special use permit.

Any use which is permitted by the underlying zoning district and involves fill, or construction or substantial improvement of a building, is permitted upon approval of a special use permit, subject to the following requirements:

A. All new construction and substantial improvement of residential buildings shall be constructed so that the lowest floor, including basement, is no lower than the flood protection elevation. The fill shall be at an elevation no lower than the flood protection elevation and shall extend at that elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon.

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

C. Where floodproofing is utilized for a particular building, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

D. No construction, placement or substantial improvement of manufactured homes or manufactured home parks shall be permitted under any circumstances within the floodway fringe district. (Ord. 87-52 §1(part), 1988)

18.28.060 Uses permitted in floodway district.

Any use permitted in the floodway district as a use by right or a use by permit shall be allowed in the floodway fringe district and in the identical manner as under the floodway district. (Ord. 87-52 §1(part), 1988)

18.28.070 Storage of materials and equipment.

A. The storage or processing of materials that are buoyant, flammable or which in times of flooding could be injurious to human, animal or plant life shall be at or above a point two (2) feet above the base flood elevation.

B. The storage of materials or equipment which are not subject to major damage by floods, which are firmly anchored to prevent flotation or are readily removable from the flood hazard area within the time available after flood warning, may be permitted below the flood protection elevation. (Ord. 87-52 §1(part), 1988)

Chapter 18.32

Special Use Permits

- 18.32.010 Intent**
- 18.32.020 Hearing by Town Council**
- 18.32.030 Considerations**
- 18.32.040 Conditions**
- 18.32.050 Recordkeeping**

18.32.010 Intent.

Certain uses may have an adverse impact when located in the floodplain because of their effect upon floods or because of the effect of floods upon them. The intent of the special use permit is to provide the means for review of such uses to assure that the purposes of this Title are met and the potential for adverse effects is minimized. (Ord. 87-52 §1(part), 1988)

18.32.020 Hearing by Town Council.

At a public hearing, the Town Council, after review and recommendation by the Planning and Zoning Commission, shall hear and decide all requests for special use permits and construction applications within the one-hundred-year floodplain. (Ord. 87-52 §1(part), 1988)

18.32.030 Considerations.

A. In passing upon any application, the Town Council shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Title and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The relationship and compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

B. Where the request for a special use permit includes an authorization for new construction or substantial improvement of a building, the following additional factors shall be considered:

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

2. Authorization shall not be issued within the one-hundred-year floodplain if any increase in flood levels during the base discharge would result.

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

4. Authorizations shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the authorization would result in exceptional hardship to the applicant; and

c. A determination that the granting of an authorization will not result in increased flood height, 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.

5. If the granting of an authorization would result in the lowest flood elevation of the structure being below the base flood elevation, the applicant to whom the authorization is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 87-52 §1(part), 1988)

18.32.040 Conditions.

The Town Council may attach any conditions to authorizing construction or the granting of a special use permit within the one-hundred-year floodplain that it deems necessary to further the purposes of this Title (Ord. 87-52 §1(part), 1988)

18.32.050 Recordkeeping.

The Town Council shall maintain through its building inspector the records of any application actions and report any decisions to the Federal Insurance Administration upon request. (Ord. 87-52 §1(part), 1988)

Chapter 18.36

Development Criteria

18.36.010 Generally

18.36.020 Floodplain development permits

- 18.36.030 Certificate of occupancy**
- 18.36.040 New construction and substantial improvements**
- 18.36.050 Channel capacity**
- 18.36.060 Subdivisions and other new developments**
- 18.36.070 Water and sewage systems**
- 18.36.080 On-site waste disposal systems**

18.36.010 Generally.

All uses and development in the floodway district and the floodway fringe district shall comply with the requirements set out in this Chapter. (Ord. 87-52 §1(part), 1988)

18.36.020 Floodplain development permits.

Any development on a site which is not authorized under a building permit or a special use permit shall be permitted only upon the issuance of a floodplain development permit.

A. The floodplain development permit procedure is as follows: The applicant will furnish the following information to the Town Engineering/Construction Department for determining the regulatory flood protection elevation, the location of the proposed use within the floodway or one-hundred-year floodplain area, and other factors necessary to render a decision on the suitability of the particular site for the proposed use:

1. The required submittal to the Town Engineering/Construction Department shall include plans in triplicate prepared by a registered engineer, drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood hazard mitigation measures, and the relationship of the above to the location of the channel. Plans must show the elevations in relation to mean sea level of the lowest floor (including basement) of all structures.
2. A typical valley cross-section, showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and high water information. Include a description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
3. A plan (surface view), showing elevations or contours of the ground, pertinent structures, fill or storage elevations, size, location and spatial arrangement of all proposed and existing structures on the site, location and elevation of all streets, water supply and sanitary facilities.
4. Photographs showing existing land uses and vegetation upstream and downstream.
5. A stream profile, showing the slope of the bottom of the channel or flow line of the stream and the one-hundred-year water surface profile.
6. A soils report and profile of any significant geological formation on or adjacent to the site.
7. Specifications for building construction and materials, flood hazard mitigation measures, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
8. Other information as required. Additionally, the Town Engineer may waive certain requirements hereunder deemed unnecessary.

B. Conditional Permits. Upon consideration of these provisions and the intent of this Section, the Town Engineering/Construction Department may require any of the following as conditions to the granting of a floodplain development permit:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls.
4. Bonds or other financial securities which may be required in order to assure that improvements will be made according to the provisions of the permit, and/or that adequate maintenance will be provided.
5. Implementation of flood hazard mitigation measures. Through the floodplain development process, the Town Engineering/Construction Department may require the applicant to submit a plan or document illustrating the flood hazard mitigation measures to be employed. These measures may include:
 - a. Anchorage to resist flotation and lateral movement;
 - b. Installation of watertight doors, bulkheads and shutters;
 - c. Reinforcement of walls to resist water pressures;
 - d. Use of paints, membranes or mortars to reduce seepage or water through walls;
 - e. Addition of mass weight to structures to resist flotation;
 - f. Installation of pumps to lower water levels in structures;
 - g. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters;
 - h. Pumping facilities for subsurface external foundation wall and basement floor pressures;
 - i. Construction to resist rupture or collapse caused by water pressure or floating debris;
 - j. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - k. Elevation of structures and uses to the base flood elevation plus one (1) foot.

The submitted plans for the flood mitigation measures must be certified by a registered professional engineer.

C. The Review Process. The Planning Department will review the proposed use to ascertain whether a floodplain development permit is required. If a permit is required, the Town Engineering/Construction Department will receive and review all submittal materials. When the application is complete, the Town Engineering/Construction Department will transmit one (1) copy of the information described above to any referral agency from which expert technical assistance may be requested. Referral agencies may assist in determining the regulatory flood protection elevation and in evaluating the proposed project in relation to flood heights and velocities, the seriousness of the flood damage to the use, the adequacy of the

plans for protection and other effective regulations. Any fees which may be assessed by referral agencies for this review shall be paid by the applicant.

D. Review Criteria. The following factors will be used in determining the issuance of a floodplain development permit:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
2. The danger that materials may be swept onto other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions, and maintain integrity;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the public health, safety and welfare;
5. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
6. The safety of access to the property in times of flood for ordinary and emergency vehicles;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
8. A determination of a particular site's suitability by:
 - a. Calculation of water surface elevations based on a hydraulic analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood;
 - b. Computation of the floodway required to convey the flood without increasing heights to an extent which would cause upstream or downstream damage to existing or reasonably anticipated future development; any increase in flood stages attributable to encroachments on the floodway or any river or stream shall not exceed one (1) foot;
 - c. An evaluation of the effects of the proposed use upon the public health, welfare and safety, in light of the purpose of this Title and the standards established herein.

E. Other Permits. The floodplain development permit is required in addition to other permits to review processes which may be associated with the underlying zone district. All applicable federal and state permits must be obtained prior to issuance of a floodplain development permit.

F. Building Permits. Prior to the construction, addition, alteration or change of use of any building or structure or portion thereof and prior to the change or extension of a nonconforming use located in a flood hazard district, a building permit must be received from the inspections division. Before applying for a building permit, the applicant must have received a floodplain development permit, the provisions of which shall be controlling upon the building permit.

G. Nonconforming Uses and Buildings. An existing lawful use of a structure or a lawful building which is not in conformity with the provisions of this Title may be continued according to the provisions found in this Chapter. Proposals to reconstruct nonconforming buildings must obtain a floodplain

development permit and illustrate the flood hazard mitigation measures to be employed. The Town Engineering/Construction Department may require the applicant to submit a plan or document illustrating the proposed flood hazard mitigation measures. (Ord. 87-52 §1(part), 1988)

18.36.030 Certificate of occupancy.

No land within the one-hundred-year floodplain shall be occupied or used and no building or manufactured home which is hereafter erected, placed, moved or structurally altered, shall be used or changed in use until the building inspector approves a certificate of occupancy stating compliance with the provisions of this Title. (Ord. 87-52 §1(part), 1988)

18.36.040 New construction and substantial improvements.

All new construction and substantial improvements within the one-hundred-year floodplain shall:

A. Be designed, modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure;

B. Be constructed with materials and utility equipment resistant to flood damage; and

C. Be constructed by methods and practices that minimize flood damage. (Ord. 87-52 §1(part), 1988)

18.36.050 Channel capacity.

No use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, any drainage ditch or any other drainage system or facility. (Ord. 87-52 §1(part), 1988)

18.36.060 Subdivisions and other new developments.

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

A. All such activities shall be consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage.

C. Adequate drainage shall be provided to reduce exposure to flood hazards.

D. All proposals shall include base flood elevation data.

E. The boundaries of the floodway district and floodway fringe district shall be shown upon preliminary and final subdivision plats. If a subdivision is located entirely within the floodway district or the floodway fringe district, that information shall be stated on the preliminary and final plats. (Ord. 87-52 §1(part), 1988)

18.36.070 Water and sewage systems.

New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. (Ord. 87-52 §1(part), 1988)

18.36.080 On-site waste disposal systems.

On-site waste disposal or treatment systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 87-52 §1(part), 1988)

Chapter 18.40

Variances

18.40.010 Intent

18.40.020 Considerations

18.40.030 Conditions governing grant of variance

18.40.040 Conditions attached by Board of Adjustment

18.40.010 Intent.

A variance is a modification of the literal provisions of this Title which the Board of Adjustment is permitted to grant when strict enforcement of the provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought. The intent of this Chapter is to establish standards which will guide the Board in advancing the purposes of this Title while providing relief from undue hardships. (Ord. 87-52 §1(part), 1988)

18.40.020 Considerations.

In passing upon requests for variances from the requirements and standards of this Title, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in this Title and:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- D. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- E. The compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;
- F. The relationship of the proposed use to the comprehensive plan and floodplain management program for the areas;
- G. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- H. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

I. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and

J. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that subsections A through I of this Section have been fully considered. As the lot size increases beyond one-half (½) acre, the technical justification required for issuing the variance increases. (Ord. 87-52 §1(part), 1988)

18.40.030 Conditions governing grant of variance.

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

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

C. Variances shall only be issued upon:

1. A showing of 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.

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

E. Any applicant to whom a variance is granted for construction below the base flood elevation shall be given a written notice, signed by the building inspector or his or her authorized representative, stating that:

1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of coverage;

2. Such construction below the base flood elevation increases risks to life and property. (Ord. 87-52 §1(part), 1988)

18.40.040 Conditions attached by Board of Adjustment.

Upon consideration of the factors listed in Sections 18.48.010 and 18.48.020, and the purposes of this Title, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Title. (Ord. 87-52 §1(part), 1988)

Chapter 18.44

Appeals

18.44.010 Board of adjustment

18.44.010 Board of adjustment.

All appeals and requests for interpretive decisions made by the Town Engineering/Construction Department concerning any provision of these regulations shall be submitted to the Board of Adjustment in accordance with its standard procedures. (Ord. 87-52 §1(part), 1988)