

## CHAPTER 18

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## ARTICLE I

### Primary Codes

#### Sec. 18-1. Adoption of primary codes.

(a) Pursuant to Section 31-16-201, et seq., C.R.S., the following codes (hereinafter the "primary codes") are adopted by reference, except as the same are specifically amended hereinafter, and all shall have the same force and effect as if set forth herein in every particular. All secondary publications referenced in the primary codes or this Article, and which are on file in the office of the Town Clerk, are hereby referred to, adopted and made a part hereof as if fully set out in this Article:

(1) International Building Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771;

(2) International Residential Code for One- and Two-family Dwellings, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771;

(3) International Mechanical Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771;

(4) International Plumbing Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771;

(5) International Fuel Gas Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771;

(6) National Electrical Code (ANSI/ NFPA 70), 2005 edition, published by the National Fire Protection Association, Inc., One Batterymarch Park, Quincy, MA 02169-7471;

(7) International Energy Conservation Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771.

(8) International Property Maintenance Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771;

(9) International Existing Building Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771; and

(10) International Fire Code, 2006 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5771.

(b) The primary codes, as amended and adopted by the Town, shall regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, maintenance, design, quality of material, installation, location, relocation, ventilating, cooling, refrigeration systems, incinerators or other miscellaneous heat-producing appliances in the Town. (Ord. 584 §1, 2003; Ord. 644 §1, 2007)

**Sec. 18-2. Amendments to primary codes.**

(a) Any provision of the primary codes adopted by Section 18-1 above to the contrary notwithstanding, wood-burning fireplaces, stoves and other similar devices shall be permitted within the Town.

(b) The International Building Code is modified by the following amendments:

(1) Section 101.1 is hereby amended to read as follows:

**"101.1 Title.** These regulations shall be known as the Building Code of the Town of Nederland, hereinafter referred to as 'this code.' "

(2) Section 101.4.1 is amended to read as follows:

**"101.4.1 Electrical.** The provisions of the adopted electrical code shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto."

(3) Section 101.4.4 is amended to read in its entirety as follows:

**"101.4.4 Plumbing.** The provisions of the International Plumbing Code shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system."

(4) Section 103 is amended to read in its entirety as follows:

**"103 BUILDING OFFICIAL**

**"103.1 Appointment.** The Town Board of Trustees shall appoint the building official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official. For the maintenance of existing properties, see the International Property Maintenance Code."

(5) Section 105.1 is amended to read as follows:

**"105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Town and obtain the required permit."

(6) Section 106.2 is amended by adding a new subsection 106.2.1, which shall read as follows:

**"106.2.1 Site plans in hillside areas.** When a building site is located in a hillside area and, in the opinion of the building official, is located in an area subject to geologic hazards, the building official may require that a detailed site plan be submitted as a prerequisite to the issuance of a building permit. Such site plan, when required, shall be prepared by an architect or a civil engineer, and shall be based on an accurate topographic map prepared by a land surveyor. The site plan shall bear the seal and signature of the responsible architect or civil engineer, and the land surveyor. The topographic map shall encompass the building site and shall be drafted at a scale no smaller than 1 inch equal to 20 feet (1:240) and at a contour interval less than or equal to two (2) feet. Such site plan, at a minimum, shall show:

"1. A grading plan showing existing and proposed contour lines reflecting the proposed grading as well as the locations and pertinent elevations of finished floors of all structures, basements, driveways, level areas, septic disposal fields and retaining walls.

"2. The locations of all water wells (whether on-site or off) within 250 feet of any septic disposal field.

"3. All property lines within 100 feet of the building site.

"4. Setbacks of cut slopes, fill slopes, retaining walls and structures from property lines.

"5. At least one critical cross-section oriented through the structural site and drafted at equal horizontal and vertical levels."

(7) Section 108.6 is amended to read as follows:

**"108.6 Refunds.** The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment."

(8) Chapter 1, Administration, is amended by the addition of a new section 109.7, which shall read as follows:

**"109.7 Inspections in hillside or geologic hazard areas.** At the completion of rough grading and/or foundation excavation, and prior to the construction of retaining walls, footings or bearing caissons, a soil engineer and/or an engineering geologist, within their respective fields of competency, shall inspect the site at the applicant's expense and render opinions, in writing, to the building official concerning the soil and geologic conditions actually

encountered and that all known geologic hazards or constraints have been taken into account in the design of the facility."

(9) Section 110.3 is amended to read as follows:

**"110.3 Temporary occupancy.** The Town may issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Town shall set a time period during which the temporary certificate of occupancy is valid."

(10) Section 112.1 is amended to read as follows:

**"112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there is hereby created a board of appeals. The board of appeals shall be comprised of the members of the Town Board of Trustees."

(11) In Chapter 1, Administration, section 112, Board of Appeals, subsection 112.3, Qualifications, is deleted.

(12) Section 113.4 is hereby amended to read in its entirety as follows:

**"113.4 Violation penalties.** Violations of this code shall be governed by Section 18-4 of the Nederland Municipal Code."

(13) Section 114.3 is amended to read as follows:

**"114.3 Unlawful continuance.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(14) Chapter 7, Fire-Resistance-Rated Construction, is amended by the addition of a new Section 722, which shall read as follows:

## **"722 REQUIREMENTS BASED ON LOCATION IN WILDFIRE ZONES**

**"722.1 General.** Unless other requirements such as site plan review or other more restrictive conditions apply, this section shall be applicable to all new buildings, additions and repairs.

**"722.1.1 Wildfire zones defined.** For the purpose of this code, the unincorporated portion of Boulder County is divided into wildfire zones, which shall be known and designated as Wildfire Zones No. 1 and No. 2. The wildfire zones shall include such territory or portions of the unincorporated county as shown in Figure No. 1, the Wildfire Zone Map, which is attached to and incorporated into this chapter by this reference.

**"722.1.2 Buildings located in more than one wildfire zone.** A building or structure that is located partly in one wildfire zone and partly in another shall be considered to be in the wildfire zone in which the more restrictive conditions apply.

**"722.1.3 Moved buildings.** Any building or structure moved within or into any wildfire zone shall be made to comply with all the requirements for new buildings in that wildfire zone.

**"722.1.4 Center lines of streets.** For the purposes of this chapter, the centerline of an adjoining street or alley may be considered an adjacent property line. Distance shall be measured at right angles to the street or alley.

## **"722.2 Restrictions in Wildfire Zone No. 1.**

**"722.2.1 General.** Buildings hereafter erected, constructed, enlarged, altered, repaired or moved into Wildfire Zone No. 1 shall comply with the following requirements:

### **"722.2.2 Location on property.**

**"722.2.2.1 Exterior wall construction.** Except where Table 602 requires greater protection, exterior walls of buildings or structures shall be not less than Class 1 Ignition-Resistant Construction (section 504.5) as described in the International Urban-Wildland Interface Code (UWIC) when less than 10 feet from property line and shall be not less than Class 2 Ignition-Resistant Construction (section 505.5) when less than 25 feet from the property line.

**"722.2.2.2 Openings in walls.** Openings in exterior walls shall conform to the requirements of sections 504.8 and 504.9 (UWIC).

**"722.2.3 Roof coverings.** Roofs shall have a Class A roof covering or a Class A roof assembly. For roof coverings where the profile allows a space between the roof covering and roof decking, the space at the eave ends shall be fire-stopped to preclude entry of flames or embers.

**"722.2.4 Vents.** Attic ventilation openings, foundation or underfloor vents, or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m<sup>2</sup>) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed ¼ inch (6.4 mm).

Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves or in other overhang areas. Gable end and dormer vents shall be located at least 10 feet (3048 mm) from property lines. Underfloor ventilation openings shall be located as close to grade as practical.

**"722.2.5 Protection of eaves.** Eaves and soffits shall be protected on the exposed underside by materials approved for a minimum 1-hour fire-resistance-rated construction. Fascias are required and must be protected on the back side by materials approved for a

minimum 1-hour fire-resistance-rated construction or 2-inch (51 mm) nominal dimension lumber.

**"722.2.6 Spark arrestors.** Chimneys serving fireplaces, barbecues, incinerators or decorative heating appliances in which solid or liquid fuel is used shall be protected with a spark arrester. Spark arresters shall be constructed of woven or welded wire screening of 12 USA standard-gauge wire (0.1046 inch) (2.66 mm) having openings not exceeding ½ inch (12.7 mm).

"The net-free area of the spark arrester shall not be less than four times the net-free area of the outlet of the chimney.

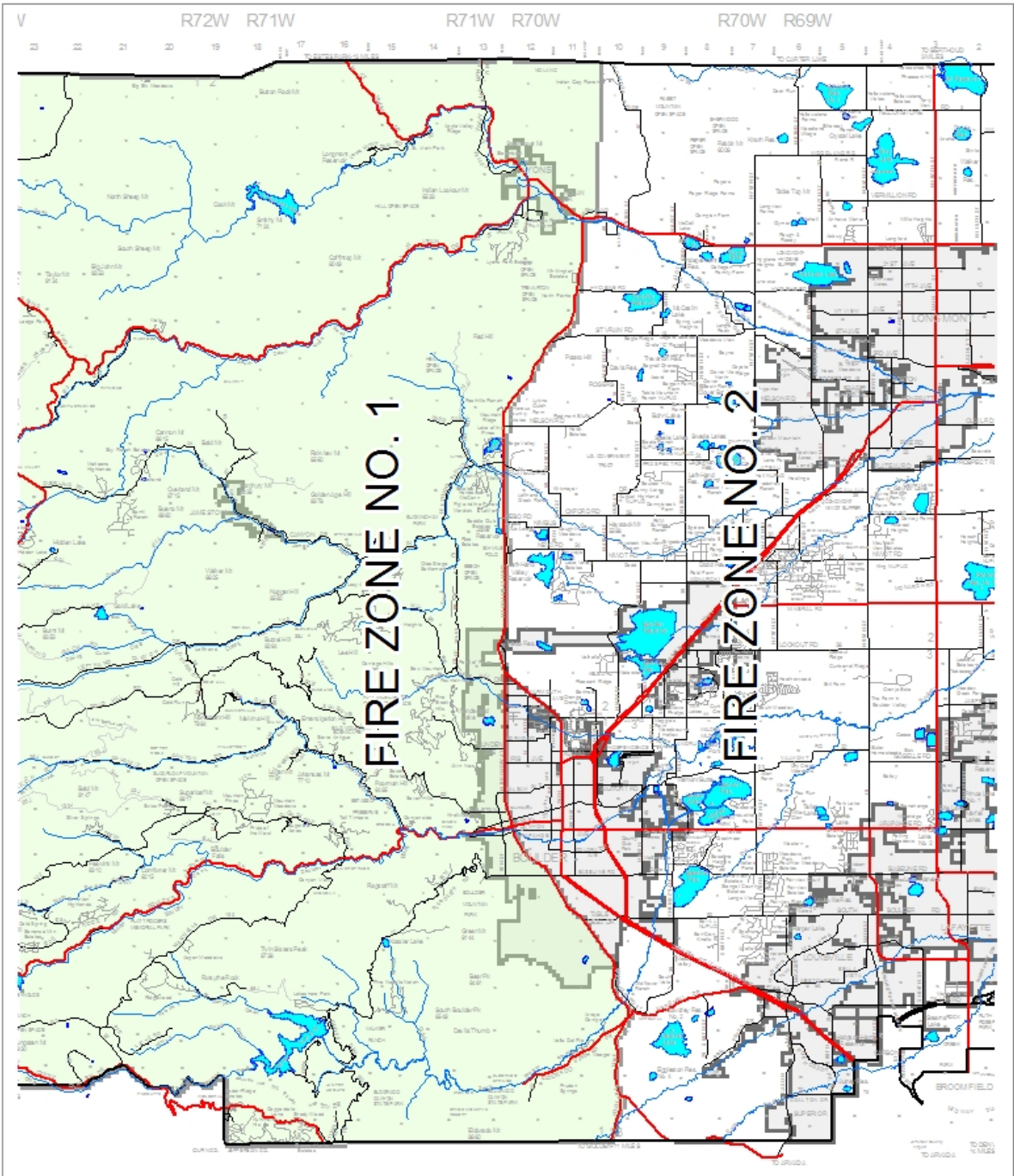
**"722.3 Restrictions in Wildfire Zone No. 2.** Buildings or structures hereafter erected, constructed, enlarged, altered, repaired, re-roofed or moved within or into Wildfire Zone No. 2 shall have roof coverings in accordance with section 722.4.1.

**"722.3.1 Roof coverings.** Except where section 1505 and Table 1505.1 require greater protection, roof coverings for new buildings or structures or additions thereto or roof coverings utilized for re-roofing shall be Class A, Class B or Class C in accordance with section 1505.

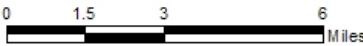
"Fire-retardant shakes and shingles as determined by section 1505.6 may be used in Wildfire Zone 2."



# WILDFIRE ZONE MAP



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(15) Section 1612.3 is amended to read as follows:

**"1612.3 Establishment of flood hazard areas.** To establish flood hazard areas, the Town shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in the most recent engineering report entitled, 'The Flood Insurance Study for the Town of Nederland, Colorado,' as amended or revised, with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data, along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section."

(16) Section 3401.3 is amended to read as follows:

**"3401.3 Compliance with other codes.** Alterations, repairs, additions and changes of occupancy to existing structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy in the International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Property Maintenance Code, International Residential Code and the adopted electrical code."

(c) The International Residential Code for One- and Two-family Dwellings is modified by the following amendments:

(1) Section R101.1 is amended to read as follows:

**"R101.1 Title.** These provisions shall be known as the Residential Code for One- and Two-Family Dwellings of the Town of Nederland, and shall be cited as such and will be referred to herein as 'this code.' "

(2) Section R103 is amended to read in its entirety as follows:

**"R103 BUILDING OFFICIAL**

**"103.1 Appointment.** The Town Board of Trustees shall appoint the building official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official."

(3) Section R105.1 is amended to read as follows:

**"R105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Town and obtain the required permit."

(4) Section R108.5 is amended to read as follows:

**"R108.5 Refunds.** The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment."

(5) Section R109.1.5 is amended by the addition of two (2) new subsections, which shall read as follows:

**"R109.1.5 Other inspections.**

**"R109.1.5.2 Insulation inspection.** Inspection of the structure shall be made following installation of the wall, ceiling, and floor insulation and exterior windows and before wall coverings are installed.

**"R109.1.5.3 Lath and gypsum inspection.** Inspection of all interior or exterior lathing and gypsum board shall be made after installation, but before any plaster is applied or before gypsum board joints and fasteners are taped and finished."

(6) Section R110.4 is amended to read as follows:

**"R110.4 Temporary occupancy.** The Town may issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Town shall set a time period during which the temporary certificate of occupancy is valid."

(7) Section R112.1 is amended to read as follows:

**"R112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there is hereby created a board of appeals. The board of appeals shall be comprised of the members of the Town Board of Trustees."

(8) In Chapter 1, Administration, section 112, Board of Appeals, subsection R112.3, Qualifications, is deleted.

(9) Section R113.4 is hereby amended to read as follows:

**"R113.4 Violation penalties.** Violations of this code shall be governed by Section 18-4 of the Nederland Municipal Code."

(10) Section R114.2 is amended to read as follows:

**"R114.2 Unlawful continuance.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(11) Table R301.2(1) is amended to read as follows:

**"Table R301.2(1)  
Climatic and Geographic Design Criteria**

"Ground Snow Load (psf)	Wind Speed <sup>d</sup> (mph)	Seismic Design Category	Subject to Damage From			Winter Design Temp <sup>e</sup>	Ice Barrier Underlayment Required <sup>b</sup>	Flood Hazards <sup>s</sup>	IAR Freezing Index <sup>i</sup>	Mean Annual Temp <sup>j</sup>
			Weath-ering <sup>a</sup>	Frost Line Depth <sup>b</sup>	Termite <sup>c</sup>					
55	130	B	Severe	48	Slight to Moderate	1	Yes	Per town ordinances	1000	45° "

(12) Section R401.2 is amended to read as follows:

**"R401.2 Requirements.** Foundation construction shall be capable of accommodating all loads according to section R301 and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations shall be designed, installed and tested in accordance with accepted engineering practice. Gravel fill used as footings for wood and precast concrete foundations shall comply with section R403. Foundations shall be designed and the construction drawings stamped by a Colorado-registered design professional. The foundation design must be based on an engineer's soils report. The drawings must be noted with the engineering firm name, specific location for design and soils report number. A site certification prepared by a State of Colorado-registered design professional is required for setback verification on all new Group R Division 3 occupancies."

(13) Section R405.1 is amended to read as follows:

**"R405.1 Concrete or masonry foundations.** Drains shall be provided around all concrete or masonry foundations that retain earth and enclose habitable or usable spaces located below grade. All foundation drains shall be designed and inspected by a State of Colorado-registered design professional. Drainage tiles, gravel or crushed stone drains, perforated pipe or other approved systems or materials shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into an approved drainage system. Gravel or crushed stone drains shall extend at least 1 foot (305 mm) beyond the outside edge of the footing and 6 inches (152 mm) above the top of the footing and be covered with an approved filter membrane material. The top of open joints of drain tiles shall be protected with strips of building paper, and the drainage of washed gravel or crushed rock at least one sieve size larger than the tile joint opening or perforation and covered with not less than 6 inches (152 mm) of the same material.

**"Exception:** A drainage system is not required when the foundation is installed on well drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group I Soils, as detailed in Table R405.1."

(14) Section P2603.6.1 is amended to read as follows:

**"P2603.6.1 Sewer depth.** Building sewers that connect to private sewage disposal systems shall be a minimum of 12 inches (305 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches (305 mm) below grade."

(15) In Chapter 31, Vents, section 3103, Vent Terminals, subsection P3103.1, Roof extension, is deleted.

(d) The International Mechanical Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the Mechanical Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) Section 103 is amended to read in its entirety as follows:

**"103 CODE OFFICIAL**

**"103.1 Appointment.** The Town Board of Trustees shall appoint the code official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the code official shall have the authority to appoint a deputy code official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the code official."

(3) Section 106.5.2 is amended to read as follows:

**"106.5.2 Fee schedule.** The fees for mechanical work shall be as indicated in section 4-151 of the Nederland Municipal Code."

(4) Section 106.5.3 is amended to read as follows:

**"106.5.3 Fee refunds.** The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment."

(5) Section 108.4 is amended to read as follows:

**"108.4 Violation penalties.** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(6) Section 108.5 is amended to read as follows:

**"108.5 Stop work orders.** Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(7) Section 109.2 is amended to read as follows:

**"109.2 Membership of board.** The Town Board of Trustees shall act as the board of appeals."

(8) In Chapter 1, Administration, section 109, Means of Appeal, subsections 109.2.1 through and including 109.2.6 are deleted.

(e) The International Plumbing Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the International Plumbing Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) Section 103 is amended to read in its entirety as follows:

### **"103 CODE OFFICIAL**

**"103.1 Appointment.** The Town Board of Trustees shall appoint the code official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the code official shall have the authority to appoint a deputy code official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the code official."

(3) Section 106.6.2 is amended to read as follows:

"**106.6.2 Fee schedule.** The fees for mechanical work shall be as indicated in section 4-151 of the Nederland Municipal Code."

(4) Section 106.6.3 is amended to read as follows:

"**106.6.3 Fee refunds.** The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment."

(5) Section 108.4 is amended to read as follows:

"**108.4 Violation penalties.** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(6) Section 108.5 is amended to read as follows:

"**108.5 Stop work orders.** Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(7) Section 109.2 is amended to read as follows:

"**109.2 Membership of board.** The Town Board of Trustees shall act as the board of appeals."

(8) In Chapter 1, Administration, section 109, Means of Appeal, subsections 109.2.1 through and including 109.2.6 are deleted.

(9) Section 305.6.1 is amended to read as follows:

"**305.6.1 Sewer depth.** Building sewers that connect to private sewage disposal systems shall be a minimum of 12 inches (305 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches (305 mm) below grade."

(10) In Chapter 9, Vents, section 904 Vent Terminals, subsection 904.1, Roof extension, is deleted.

(f) The International Fuel Gas Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the Fuel Gas Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) Section 103 is amended to read in its entirety as follows:

**"103 (IFGC) CODE OFFICIAL**

**"103.1 Appointment.** The Town Board of Trustees shall appoint the code official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the code official shall have the authority to appoint a deputy code official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the code official."

(3) Section 106.5.2 is amended to read as follows:

**"106.5.2 Fee schedule.** The fees for mechanical work shall be as indicated in section 4-151 of the Nederland Municipal Code."

(4) Section 106.5.3 is amended to read as follows:

**"106.5.3 Fee refunds.** The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment."

(5) Section 108.4 is amended to read as follows:

**"108.4 Violation penalties.** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(6) Section 108.5 is amended to read as follows:



**"108.5 Stop work orders.** Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(7) Section 109.2 is amended to read as follows:

**"109.2 Membership of board.** The Town Board of Trustees shall act as the board of appeals."

(8) In Chapter 1, Administration, section 109 (IFGC), Means of Appeal, subsections 109.2.1 through and including 109.2.6 are deleted.

(g) The National Electrical Code is modified by the following amendments:

(1) Appendix G of the 2005 National Electrical Code is adopted.

(2) Appendix G, Section 80.13(13), is amended to read as follows:

"(13) Whenever any installation subject to inspection prior to use is covered or concealed without having first been inspected, the authority having jurisdiction shall be permitted to require that such work be exposed for inspection. The authority having jurisdiction shall be notified when the installation is ready for inspection and shall conduct the inspection, if reasonably possible, within three (3) days of such notification."

(3) Appendix G, Section 80.15, is amended to read in its entirety as follows:

"(A) Board of Appeals. The Town Board of Trustees shall act as the board of appeals.

"(B) Appeals:

"(1) Review of decisions. Any person, firm or corporation may register an appeal with the Board of Appeals for a review of any decision of the Electrical Inspector, provided that such appeal is made in writing within fifteen (15) calendar days after such person, firm or corporation shall have been notified. Upon receipt of such appeal, the Board of Appeals shall, if requested by the person making the appeal, hold a public hearing and proceed to determine whether the appeal has merit.

"(2) Conditions. Any person shall be permitted to appeal a decision of the Electrical Inspector to the Board of Appeals when it is claimed that any one or more of the following conditions exist:

"a. The true intent of the codes or ordinances described in this code has been incorrectly interpreted.

"b. The provisions of the codes or ordinances do not fully apply.

"c. A decision is unreasonable or arbitrary as it applies to alternatives or new materials.

"(3) Submission of appeals. The written appeal must outline the code provision from which relief is sought and the remedy proposed."

(4) Appendix G, Section 80.19(F)(3), is amended to read as follows:

"(3) When any portion of the electrical installation within the jurisdiction of the Electrical Inspector is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the equipment shall notify the Electrical Inspector, and such equipment shall not be concealed until it has been approved by the Electrical Inspector, provided that on large installations, where the concealment of equipment proceeds continuously, the person, firm or corporation installing the equipment shall give the Electrical Inspector due notice in advance, and inspections shall be made periodically during the progress of the work."

(5) Appendix G, Section 80.19(H), is amended to read as follows:

"(1) Applications for permits shall be made to the Town on forms provided by the Town and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the Town, such as plans and specifications, location and so forth. The fees for work performed under this code shall be as indicated in section 4-151 of the Nederland Municipal Code.

"(2) An application for a permit for any proposed work shall be deemed to have been abandoned ninety (90) days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not to exceed 90 days. The extension shall be requested in writing and justifiable cause demonstrated.

"(3) The Town shall review all applications submitted and issue permits as required. If an application for a permit is rejected by the Town, the applicant shall be advised of the reasons for such rejection. Permits for activities requiring evidence of financial responsibility by the Town shall not be issued unless proof of required financial responsibility is furnished.

"(4) Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within ninety (90) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of ninety (90) days after the time the work is commenced. In no event shall a permit remain active longer than two (2) years. In the event a permit expires under either of these conditions, a new permit will be required to complete the work. The new permit fee will be calculated using the Town's current fee calculation methods."

(6) Appendix G, Section 80.23(B), is deleted, and section 80.23(A) is amended to read as follows:

**"80.23(A) Violations:** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(7) Appendix G, Section 80.27, is deleted in its entirety.

(8) Appendix G, Section 80.29, is amended to read as follows:

**"80.29 Liability for damages.** Article 80 shall not be construed to affect the responsibility or liability of any party owning, designing, operating, controlling or installing any electric equipment for damages to persons or property caused by a defect therein, nor shall the Town or any of its employees be held as assuming any such liability by reason of the inspection, reinspection or other examination authorized."

(h) The International Energy Conservation Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the International Energy Conservation Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) All references to the "ICC Electrical Code" shall be replaced with "the adopted electrical code."

(3) Table 301.1, at page 11 of the International Energy Conservation Code, is amended by adding "Town of Nederland" to the list of Colorado counties in Climate Zone 7.

(i) The International Property Maintenance Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the Property Maintenance Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) Section 103 is amended to read in its entirety as follows:

### **"103 CODE OFFICIAL**

**"103.1 Appointment.** The Town Administrator is hereby appointed as the code official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the code official shall have the authority to appoint as deputy code officials the building inspector and law enforcement officers of the Town. Such deputies shall have those powers delegated by the code official."

(3) Section 106.4 is amended to read as follows:

**"106.4 Violation penalties.** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(4) Section 107.4 is amended to read as follows:

**"107.4 Penalties.** Noncompliance with orders and notices shall be deemed to be violations of this code, which shall be governed by section 18-4 of the Nederland Municipal Code."

(5) Section 111.2 is amended to read as follows:

**"111.2 Membership of board.** The Town Board of Trustees shall act as the board of appeals."

(6) In Chapter 1, Administration, section 111, Means of Appeal, sections 111.2.1 through and including 111.2.6 are deleted.

(j) The International Existing Building Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the Existing Building Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) Section 103 is amended to read in its entirety as follows:

**"103 CODE OFFICIAL**

**"103.1 Appointment.** The Town Board of Trustees shall appoint the code official.

**"103.2 Deputies.** In accordance with the prescribed procedures of the Town and with the concurrence of the Town Board of Trustees, the code official shall have the authority to appoint a deputy code official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the code official."

(3) Section 113.4 is amended to read as follows:

**"113.4 Violation penalties.** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(4) Section 114.3 is amended to read as follows:

**"114.3 Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(5) Section 1201 is amended to read in its entirety as follows:

**"1201 GENERAL**

**"1201.1 Conformance.** Structures moved into or within the Town shall comply with the provision of this code for new structures."

(6) All references to "the ICC Electrical Code" shall be replaced with "the adopted electrical code."

(k) The International Fire Code is modified by the following amendments:

(1) Section 101.1 is amended to read as follows:

**"101.1 Title.** These regulations shall be known as 'the Fire Code of the Town of Nederland,' hereinafter referred to as 'this code.' "

(2) Section 103 is amended to read in its entirety as follows:

**"103 DEPARTMENT OF FIRE PREVENTION**

**"103.1 General.** The Nederland Fire Protection District provides fire protection services for the Town. It operates under the direction of its fire chief (the 'fire code official'). Nederland Fire Protection District (the 'fire department'), working in conjunction with the Town, is charged with the implementation, administration and enforcement of the provisions of this code."

(3) Section 108.1 is amended to read as follows:

**"108.1 Board of appeals.** The board of appeals shall hear and decide appeals or orders, decisions or determinations made by the fire code official or the Town Administrator or his or her designee relative to the application and interpretation of this code. The Town Board of Trustees shall act as the board of appeals."

(4) In Chapter 1, Administration, Section 108, Board of Appeals, Subsection 108.3, Qualifications, is deleted.

(5) Section 109, Violations, is amended to read in its entirety as follows:

**"109.1 Violations.** Violations of this code shall be governed by section 18-4 of the Nederland Municipal Code."

(6) Section 111.4 is hereby amended to read as follows:

**"111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed to be in violation of this code."

(Ord. 420 §7, 1996; Ord. 435 §1, 1996; Ord. 513 §1, 1999; Ord. 584 §1, 2003; Ord. 644 §2, 2007; Ord. 651 §1, 2008)

**Sec. 18-3. Code possession.**

At least one (1) copy of the codes and amendments thereto, each certified by the Mayor and Town Clerk to be a true copy, shall be maintained in the office of the Building Inspector. The Town Clerk

shall maintain a reasonable supply of copies of these codes for purchase by the public. (Ord. 420 §9, 1996; Ord. 584 §1, 2003)

**Sec. 18-4. Violations and penalties.**

Any person doing any act or omission in violation of these codes shall be subject to prosecution in the Municipal Court and subsequent penalty, if any, subject to a maximum fine of one thousand dollars (\$1,000.00), one (1) year imprisonment or both such fine and imprisonment, with each day such violation continues to constitute a separate offense. (Ord. 420 §8, 1996; Ord. 584 §1, 2003)

**Sec 18-5. Supplemental building permit requirements.**

In addition to any other requirements for a building permit provided in this Code or by any applicable law, all of the following is required prior to issuance of any building permit for construction of any new buildings in excess of seven hundred fifty (750) square feet, and for alteration, enlargement or improvement of any existing building that increases the footprint of the existing building by more than twenty percent (20%).

- (1) Design standards review certificate pursuant to this Chapter;
- (2) A recent survey of the property or improvement location certificate, dated within five (5) years of the date of application, including:
  - a. Existing utility facilities;
  - b. Existing drainage ditches, including culverts; and
  - c. Existing stream courses, both annual and perennial.
- (3) A site development plan (may be a separate map or imposed upon the area map) including:
  - a. For residential uses:
    1. Building plan showing layout of existing and proposed buildings, noting zoning and densities allowed, number and type of dwelling units proposed, decks and patios.
    2. Building elevations showing front, side and rear views.
    3. Location of off-street parking.
    4. Locations of ingress and egress with the directions of traffic flow into, out of and within parking and loading areas, turning and maneuvering areas and emergency vehicle access lanes.
    5. Site grading and drainage plan, stamped by a land surveyor, including disposition of surface drainage on and off the site to maintain historical flows, snow removal and storage areas. Best management techniques are to be used including, but not limited to, detention areas. If historical drainage flows cannot be maintained on site, off-site improvements shall be required, at the property owner's expense, and approved by the Town.

6. A wildfire mitigation plan approved by the Town and the Nederland Fire Protection District for all areas of the Town outside of the Nederland Urban Fire Mitigation Area. This requirement shall not apply until the boundaries of the Nederland Urban Fire Mitigation Area and the requirements for the fire mitigation are adopted by ordinance. All construction and landscaping shall reasonably minimize fire danger to improvements and inhabitants and reasonably enhance the ability to fight fires on the property.

7. A landscape plan which shall encourage the use of native plant species.

8. A signed consultant fee agreement in the form approved by the Town.

b. For all nonresidential uses:

1. All requirements listed above for residential uses, and the building plan shall include existing and proposed canopies, fences, signs, service areas, storage facilities, walks and driveways, off-street parking and loading facilities, trash storage and removal facilities, and percent of lot coverage.

2. A plan depicting landscaping and screening of off-street parking and loading areas.

3. A statement regarding expected excavating requirements and compliance with the Town excavating ordinance.

4. A special review certificate for all nonresidential uses of more than three thousand (3,000) square feet.

5. Payment of all fees due to the Town.

6. A signed consultant fee agreement in the form approved by the Town. (Ord. 483 §1, 1998; Ord. 584 §1, 2003)

#### **Sec. 18-6. Relocation of structures.**

(a) It shall be unlawful for any person or entity to relocate any existing structure from a location within or outside the Town into the Town.

(b) For purposes of this Section, an existing structure which cannot be relocated in the Town includes any structure constructed or erected with a fixed location, regardless of whether it is on a permanent foundation, including but not limited to dwelling units, manufactured homes, sheds, garages and principal and accessory buildings, but does not include poles, lines, cables or other transmission or other distribution facilities of public utilities, and does not include structures that are one hundred twenty (120) square feet or less and structures that do not require a building permit.

(c) This Section shall not apply if both of the following occur:

(1) A person or entity seeks to move a structure that has been designated as an historical landmark in the State, or the person or entity applies to the Board of Trustees for a determination that the structure would enhance the Town; and

(2) The Board of Trustees determines at a public hearing that the structure would enhance the Town, and the Board of Trustees and the applicant enter into an agreement specifying the terms under which the applicant is permitted to move the structure. Such agreement shall include but need not be limited to:

- a. A detailed description of the structure.
- b. The property, and location on the property, on which the structure will be placed.
- c. Any other conditions the Board of Trustees deems appropriate. (Ord. 512 §1, 1999; Ord. 605 §1, 2005)

**Sec. 18-7. Fees.**

Where any code adopted by this Article requires a fee, said fee shall be as set forth in Section 4-151 of this Code. (Ord. 641 §2, 2007)

**Secs. 18-8—18-20. Reserved.**

**ARTICLE II**

**Reserved**

**Secs. 18-21—18-40. Reserved.**

**ARTICLE III**

**Reserved**

**Secs. 18-41—18-60. Reserved.**

**ARTICLE IV**

**Reserved**

**Secs. 18-61—18-80. Reserved.**

**ARTICLE V**

**Signs**

**Sec. 18-81. Purpose.**

The intent of this Article shall be to define the types of signs which will be permitted in the various zoning districts and those which will be prohibited, the manner in which sign areas and dimensions will be measured, and exempting certain types of signs from this Article. It is further the intent of this Article to encourage the erection of signs which are attractive and compatible with the adjacent property, which will preserve and enhance property values within the community, which will



provide for the public convenience, health and welfare and which will protect the public safety. (Ord. 348 §102, 1992)

### **Sec. 18-82. Enforcement.**

The Zoning Administrator is hereby authorized and directed to enforce all provisions of this Article. He or she shall appear for and on behalf of the Town in all matters regarding the interpretation and application of this Article, and shall resist and oppose any deviations from the provisions of this Article and in accordance with other provisions of the law. Upon presentation of proper credentials, the Zoning Administrator may enter at reasonable times any building, structure or premises in the Town to perform any duty imposed by this Article. (Ord. 348 §103, 1992)

### **Sec. 18-83. Definitions.**

The words and terms used, defined, interpreted or further described in this Article shall be construed as follows:

*Accessory* means subordinate or incidental to, and on the same lot or on a contiguous lot in the same ownership and zone as the building or use being identified or advertised.

*Architectural projection* means any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including arcades, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters, fascias and the like, but not including signs.

*Attention-getting device* means any sign, banner, pennant, valance, awning, canopy or advertising display, including those constructed of cloth, canvas, fabric or other light material, with or without frames, which may or may not be permanently fixed to a supporting structure.

*Awning* means a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of the supporting building.

*Canopy* means a permanently roofed shelter covering a sidewalk, driveway or other similar area, which may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

*Development complex sign* means a freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, or the individual business in the complex, which is controlled by a single owner or landlord.

*Electric signs* means any sign containing electrical wiring, but not including signs illuminated by exterior light sources.

*Externally illuminated sign* means lighting by means of a light source which is directed at the reflective surface of a sign, or a light source which is primarily designed to illuminate the entire building facade upon which a sign is displayed.

*Flashing or moving sign* means a sign which flashes, rotates, moves or animates with moving lights or signs which create the illusion or movement.

*Freestanding sign* means a sign which is supported by one (1) or more columns, uprights, braces or movable bases, upon the ground and also includes a monument sign and pole sign, but does not include a sign attached to a structure.

*Frontage, building* means the horizontal, linear dimension of that side of a building which abuts a street, a parking area, a mall or other circulation area open to the general public, and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts, a building side with an entrance open to Industrial employees shall also qualify as a building frontage.) Where more than one (1) use occupies a building, each such use having a public entrance or main window display for its exclusive use shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use.

*Frontage, street* means the linear frontage of a lot or parcel abutting on a private or public street which provides principal access to, or visibility of, the premises.

*Height of sign* means the vertical distance from average ground level at the base of or below the sign to the highest element of the sign to the uppermost point on the sign or sign structure.

*Illumination, direct* means light by means of a light source which is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

*Illumination, indirect* means lighting by means of a light source which is directed at a reflecting surface in such a way as to illuminate the sign from the front, or a light source which is primarily designed to illuminate the entire building facade upon which a sign is displayed.

*Illumination, internal* means lighting by means of a light source which is within a sign having a translucent background, silhouetting opaque letters or designs which are themselves made of a translucent material.

*Interim sign* means a sign designed to be utilized only while awaiting installation or reconstruction of a permanent sign.

*Light source* includes florescent or similar tube lighting, the incandescent bulb (including the light-producing elements therein) and any reflecting surface which, by reason of its construction and/or placement, becomes in effect the light source.

*Lot* means a portion or parcel of land, whether part of a platted subdivision or otherwise, occupied or intended to be occupied by a building or use of its accessories, together with such yards as are required under the provisions of Chapter 16 of this Code. A lot must be an integral unit of land held under unified ownership in fee or in co-tenancy, or under legal contract.

*Maintenance* means the replacing, repairing or repainting of a sign or a portion of the sign structure; periodic changing of bulletin board panels; or renewing of copy which has been made unusable by ordinary wear and tear, weather or accident.

*Marquee* means a permanently roofed structure attached to and supported by a building and projecting from the building.

*Multi-tenant building* means any building which has separate units for the purposes of separating multiple uses of businesses.

*Multi-tenant nonresidential building* means a building under the same ownership which contains or has the potential to contain more than one (1) business and/or enterprise and which does not primarily serve as a residence.

*Owner* means a person recorded as such on the records of the County Clerk and Recorder, including a duly authorized agent or attorney, a purchaser, devisee, fiduciary or person having a vested or contingent interest in the property in question.

*Permanent sign* means, except where otherwise noted within this Article, all signs attached in any manner on the exterior of or adjacent to any building, lot or property.

*Political sign* means a noncommercial, temporary sign which has the approval of the owner or occupant of the appurtenant property regarding political topics of public interest.

*Projecting sign* means a double-faced sign which projects more than twelve (12) inches over private property, and which uses a building wall as its main source of support.

*Roof* means the cover of any building, including the eaves and similar projections.

*Roof line* means the highest point on any building where an exterior wall encloses usable floor space, including floor area for housing mechanical equipment. The term roof line shall also include the highest point on any parapet wall, provided that said parapet wall extends around the entire perimeter of the building.

*Roof sign* means a sign erected upon or above a roof of a building and which is wholly or partially supported by said building.

*Sign* means any writing, pictorial representation, decoration (including any material used to differentiate sign copy from its background), form, emblem, trademark, flag, banner or any other figure of similar character which:

- a. Is a structure or any part thereof (including the roof or wall of a building); or
- b. Is written, printed, projected, painted, constructed or otherwise placed or displayed upon or designed into a building, board, plate, canopy, awning, vehicle or upon any material object or device whatsoever; and
- c. Which by reason of its form, color, wording, symbol, design, illumination, motion or otherwise, attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement or announcement.

*Sign Administrator* means the officer or person charged by the Zoning Administrator with the administration and enforcement of this Article.

*Sign face* means the surface of a sign upon, against or through which the message is displayed or illustrated.

*Sign, illegal nonconforming* means a sign which was in violation of any of the laws of the Town, governing the erection or construction of such sign at the time of its erection, and which sign has never been erected or displayed in conformance with all such laws, including this Article, and which shall include signs which are pasted, nailed, painted on or otherwise unlawfully displayed upon structures, utility poles, trees, fences and other signs.

*Sign, legal nonconforming* means any sign which was lawfully erected and maintained prior to the enactment of this Article and any amendments thereto, and which does not conform to all the applicable regulations and restrictions of this Article, this shall include those signs granted a legal variance to this Article.

*Sign site plan* means a drawing required from a sign applicant prior to issuance of a sign permit, which contains location and dimensions of existing and proposed signs, as well as elevation, lettering and illumination of proposed signs.

*Structure* means anything constructed or erected with a fixed location on the ground above grade, but not including poles, lines, cables or other transmission or distribution facilities of public utilities.

*Subdivision*, for the purposes of this Article, shall include a subdivision as defined in Chapter 17 of this Code.

*Suspended sign* means a sign suspended from the ceiling of an arcade, marquee or canopy.

*Temporary sign* means a sign, banner or similar device or display which is intended for a temporary period of time. For the purposes of this Article, any political signs, internal window signs, construction signs, project signs, signs, banners or decorations associated with a special event, real estate or rental signs, cooperative commercial signs or business announcement signs shall be the only temporary signs recognized. Any other sign placed on the exterior of a building shall be deemed a permanent sign.

*Total surface area* includes all finished sign faces and that portion of a sign structure that is an integral part of the sign or background of the sign except as otherwise noted. For the purposes of this Article, if both faces of a sign are finished, only one (1) face will be used to determine total square footage.

*Variance* means a legal modification of applicable sign code regulations granted due to the peculiar conditions existing within a single circumstance.

*Variance criteria* means conditions which the Board of Zoning Adjustment must address in order to grant a variance to the sign code to an applicant who was denied a sign permit due to the requirements or restrictions of this Article.

*Vehicular sign* means a sign painted or mounted on a vehicle which is not being operated in the normal course of business for the transport of persons, goods or services; or a sign painted on a vehicle indicating the name of the owner, business and location which is the primary purpose of the vehicle.

*Vision clearance area* means a triangular area on a lot at the intersection of two (2) streets or a street and a railroad, two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in the regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. Where the lot lines and intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection.

*Wall sign* means a sign which is in any manner affixed to any exterior wall, building or structure.

*Zoning Administrator* means the duly authorized deputy of the sign code with the authority to delegate said authority to a Sign Administrator. (Ord. 348 Art. IV, 1992; Ord. 435 §1, 1996; Ord. 639 §1, 2007)

#### **Sec. 18-84. Permits.**

It is unlawful to display, erect, modify, change, alter or relocate a sign without first filing with the Zoning Administrator an application in writing and obtaining a sign permit. When a sign permit has been issued, it shall be unlawful to modify, change, alter or otherwise deviate from the terms or conditions of said permit without prior approval of the Zoning Administrator. A written record of such approval will be entered upon the original application form and maintained in the files of the Zoning Administrator. The Zoning Administrator may submit the permit application for an advisory opinion of any disputed or ambiguous term of this Article. This submission shall not alter the finality of the decision of the Zoning Administrator, Building Inspector or the process of appeal stated herein. (Ord. 348 §201, 1992; Ord. 639 §2, 2007)

#### **Sec. 18-85. Application requirements.**

An application for a sign permit shall be submitted to the Zoning Administrator and shall be accompanied by the following plans and specifications:

- (1) The name, address and telephone number of the owner or person entitled to possession of the sign and of the sign contractor or erector.
- (2) The location by street address of the proposed sign structure.
- (3) A site plan, drawn to scale, showing the location of existing or proposed buildings or other structures on the lot, the location of existing signs and proposed signs on the premises, the location of public rights-of-way on or adjacent to the property, and the location of vehicular entrances and exits on the property, unless otherwise approved by the Zoning Administrator.
- (4) Elevation drawings of the proposed sign, drawn to scale, showing major dimensions of the proposed sign, including height, clearance above sidewalks and distance of projection from the building and proposed sign copy.
- (5) Nature, layout and dimension of lettering.
- (6) Type and location of proposed illumination.

(7) Any additional information which the applicant feels may support the request.

(8) A permit fee as set forth in Section 4-151 to cover processing and inspection costs. (Ord. 348 §202, 1992; Ord. 435 §1, 1996)

**Sec. 18-86. Processing of application.**

The applicant shall submit the complete application to the Zoning Administrator.

(1) Upon finding the application complete and in compliance with this Article, the Zoning Administrator shall issue a sign permit.

(2) In the event the application is found not to be in compliance with this Article, the Zoning Administrator shall so inform the applicant. The applicant shall either revise the application so that it meets the requirements of this Article or request a variance.

(3) Should the applicant request a variance, the variance application shall include the following:

- a. The complete application;
- b. A hardship statement explaining the reasons for the variance request; and
- c. A variance application fee as set forth in Section 4-151 to cover processing and publication costs.

(4) After receiving the application, the Board of Zoning Adjustment shall set a reasonable hearing date, and a public notice of the variance request shall be published in a newspaper of general circulation within the Town at least fifteen (15) days prior to such hearing.

(5) Within a reasonable time from the hearing, the Board of Zoning Adjustment shall render its written decision.

(6) An approved variance shall not be conducted until the Zoning Administrator has issued a variance certificate. (Ord. 348 §203, 1992; Ord. 435 §1, 1996)

**Sec. 18-87. Variance criteria and conditions.**

In every case in which a request for a variance from the requirements of the sign code has been filed, the Board of Zoning Adjustment shall not grant a variance unless it specifically finds that each of the following conditions exist:

(1) There are special circumstances or conditions such as the existence of buildings, topography, sign structures or other matters on adjacent lots or within the adjacent public right-of-way which would substantially restrict the effectiveness of the sign in question. Such special circumstance or conditions, however, must be peculiar to the particular business or enterprise to which the applicant desires to draw attention and do not apply generally to all businesses or enterprises.

(2) The variance would be in general harmony with the purposes of this Article and would not be injurious to the neighborhood in which the business or enterprise to which the applicant desires to draw attention is located.

(3) The variance is the minimum one necessary to permit the applicant to reasonably draw attention to his or her business or enterprise. (Ord. 348 §204, 1992)

**Sec. 18-88. Inspections required.**

All signs shall be subject to inspections by the Zoning Administrator, and in some cases the Building Inspector, to determine compliance with all aspects of this Article. The owner or authorized agent shall inform the Zoning Administrator when the sign is complete and ready for final inspection. All freestanding signs are further required to have footing inspections. Electrical inspections are required on all illuminated signs. (Ord. 348 §205, 1992)

**Sec. 18-89. Interim signs.**

Following the issuance of a sign permit, the applicant may request approval of an interim sign by the Zoning Administrator. Upon finding the requested interim sign in compliance with this Article, the Zoning Administrator shall authorize installation or reconstruction of the interim sign for a period of thirty (30) days, or until the permanent sign is installed, whichever occurs first. A thirty-day extension may be requested in writing and approved by the Zoning Administrator. (Ord. 348 §206, 1992)

**Sec. 18-90. Revocation of permits for nonuse and abandonment.**

(a) If actual work, either on or off the site, is not commenced under any permit issued within sixty (60) days of issuance of such permit, the permit shall automatically become null and void.

(b) Delays which are not the result of a willful act or neglect of the contractor, owner or person obtaining the permit shall be excluded from the terms of Subsection (a) above, and the Zoning Administrator may grant an extension of time in which to start or resume operations. All requests for extensions shall be in writing.

(c) A sign shall be deemed to be abandoned and shall be removed within thirty (30) days after the activity, product, business, service or other use which is being advertised has ceased or vacated the premises. A sign shall also be deemed to be abandoned and shall be removed if it has ceased to be used for display of sign copy. The provisions of this Subsection shall not apply to signs officially designated as landmarks or to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is a clear intent to continue operation of the business. After thirty (30) days and notice to the permit holder, a sign may be removed by the Zoning Administrator, and the costs of such action may be collected from the permittee. Upon the expiration of such thirty-day period, the sign permit shall be deemed revoked and of no further force or effect. (Ord. 348 §207, 1992; Ord. 624 §1, 2006)

**Sec. 18-91. General measurement requirements.**

(a) Measurement of the total surface area per wall sign or other attention-getting device shall include:

(1) All finished sign faces and that portion of a sign structure that is an integral part of the sign or background of the sign.

(2) For computing the area of any wall sign which consists of letters mounted or painted on a wall, that area deemed to be the smallest rectangular figure which can encompass all of the letters shall be included.

(b) The total surface area of a freestanding, projecting or suspended sign shall include:

(1) Only one (1) finished sign face shall be measured against the total allowed surface area, provided that both sign faces are finished.

(2) All other applicable sign faces and that portion of a sign structure that is an integral part of the sign or background of the sign. (Ord. 348 §301, 1992)

**Sec. 18-92. Total sign surface area.**

(a) The total surface area of all signs accessory to a commercial building shall not exceed one (1) square foot per lineal foot of building frontage of the principal access.

(b) The total surface of a sign accessory to a residential building shall not exceed eight (8) square feet except that a residential subdivision, project, complex or other such overall area shall be permitted two (2) entrance signs which shall not exceed thirty-two (32) square feet. (Ord. 348 §302, 1992; Ord. 639 §3, 2007)

**Sec. 18-93. Sign size.**

No single sign shall exceed the following maximum size restrictions per zoning district:

(1) F, NC: twenty-four (24) square feet.

(2) MR, LDR, MDR and HDR:

a. Individual unit: eight (8) square feet.

b. Entrance sign: thirty-two (32) square feet.

(3) CBD, GC and I: thirty-two (32) square feet.

a. Wall signs. The maximum allowed size of a wall sign shall be determined by measuring the linear feet of the applicant's building frontage. No wall sign shall project more than twelve (12) inches from the building and shall not project above the eaves or building facade.



b. Projecting, freestanding or suspended signs. If both sides of a projecting or suspended sign are visible, all sign faces must be finished.

1. Only one (1) face of a sign shall be measured and counted against the applicant's sign number, size or surface area.

2. No projecting or suspended sign shall be larger than twenty-four (24) square feet.

3. Not more than one (1) such sign shall be permitted per single tenant building face adjacent to a street.

4. If the end panel of such a sign is more than one (1) foot in width, it shall be included in the measurable area of said sign.

5. Projecting or suspended signs shall have a minimum clearance of eight (8) feet above ground.

6. Freestanding signs shall be allowed a height of no greater than fifteen (15) feet.

c. Window signs. All signs on the interior of a window, whether temporary or permanent in nature, shall be exempt from the requirements of this Article, provided that not more than twenty-five percent (25%) of the display window is covered by signs. (Ord. 348 §303, 1992; Ord. 639 §4, 2007; Ord. 725 §20, 2013)

**Sec. 18-94. Number of signs.**

The following number of signs shall be permitted in every zoning district: one (1) identification sign per street frontage. (Ord. 348 §304, 1992)

**Sec. 18-95. General requirements.**

(a) All signs must conform to the regulations and design standards of the Building Code of the Town and all other applicable codes. Wiring of all electrical signs must conform to the State Electrical Code.

(b) All signs, both currently existing and those constructed in the future, and all parts thereof, shall be maintained in a safe condition and the owner or lessee of any sign shall take all reasonable actions so that any sign will be maintained in like-new condition.

(c) The supporting members of a sign shall appear to be free of any extra bracing angle iron, guy wires, cables, etc. The supports shall appear to be an architectural and integral part of the building and/or sign. Supporting columns of record, square or shaped steel members may be erected if required bracing, visible to the public, is minimized or covered.

(d) No sign shall be attached to a tree or utility pole, whether on public or private property.

(e) No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, nor may it interfere with, mislead or confuse traffic.

(f) No portion of any sign located in a vision clearance area shall be lower than ten (10) feet from the average ground level, and supporting members of such signs shall not obscure views of pedestrians or vehicles.

(g) Signs shall be permitted only on the same lot or lots of the permitted advertised use, and only where clearly incidental, customary or commonly associated with the operation of the permitted use.

(h) Development complex signs. Every multiple-occupancy development complex shall be entitled to one (1) freestanding sign to identify the businesses in the complex, whose individual signs shall be no greater than fifteen (15) inches by seventy (70) inches. The anchor business shall be entitled to a sign that is thirty (30) inches by seventy (70) inches. (Ord. 348 §305, 1992; Ord. 639 §5, 2007)

#### **Sec. 18-96. Requirements for specific types of signs.**

(a) Externally lighted signs shall be lit with downcast lighting to avoid casting bright light upon property located in any residential district or area or upon any public street, park, public facility or hospital facility.

(b) Internally illuminated signs must avoid concentration of illumination. The maximum wattage for sign illumination shall be 10w per square foot of sign area distributed evenly over the surface of the sign or a maximum of 240w. Illumination of signs shall be arranged in such a manner as to be reflected away from residential properties and motorists' vision. Internally illuminated signs shall be restricted to the Neighborhood-Commercial, General Commercial and Central-Business Districts.

(c) Neon signs shall be allowed only inside buildings in the NC, GC or CBD districts. Businesses shall be allowed more than one (1) neon sign as long as the total square footage of all signs does not exceed six (6) square feet.

(d) Flashing or moving signs. No flashing, rotating, moving or animated signs, signs with moving lights or signs which create the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign.

(e) Freestanding signs. No portion of any freestanding sign shall be located closer than ten (10) feet to any property line, and shall be designed and constructed to withstand wind pressures and receive dead loads as required.

(f) Roof signs shall not be allowed in any district.

(g) Decorative murals. Decorative murals shall not be considered a sign and shall be subject to approval by the Town Administrator to the extent they contain commercial content.

(h) Electronic signs that display time and/or temperature shall function properly and not be in disrepair for more than thirty (30) days.

(i) Signs for sexually oriented businesses. In addition to complying with all other sign regulations of this Code, a sexually oriented business shall display a sign, clearly visible and legible

at the entrance to the business, that gives notice of the adult nature of the sexually oriented business and of the fact that the premises are off-limits to minors or those under the age of twenty-one (21) years, as the case may be. No sign for a sexually oriented business shall contain flashing lights, words, lettering, photographs, silhouettes, drawings or pictorial representations that emphasize specified anatomical areas or specified sexual activities.

(j) Signs for retail marijuana stores and medical marijuana dispensaries. In addition to complying with all other sign regulations of this Code, retail marijuana stores and medical marijuana dispensaries shall display a six-inch by six-inch sign, purchased from the Town, clearly visible and legible at the entrance to the business, that gives notice that it is a retail marijuana store or medical marijuana dispensary, and of the fact that the premises are off-limits to minors or those under the age of twenty-one (21) years for retail stores, eighteen (18) years for dispensaries, as the case may be. No sign for a marijuana establishment business shall be lit with flashing lights or advertise marijuana or pictorial representations of marijuana other than the one provided by the Town. (Ord. 348 §306, 1992; Ord. 639 §6, 2007; Ord. 720 §4, 2013)

### **Sec. 18-97. Temporary signs.**

The following temporary signs are permitted in all zoning districts without a sign permit, subject to the following specific requirements:

(1) Construction site identification signs. Signs advertising construction or other improvements on a property. Said signs shall be removed prior to issuance of a Certificate of Occupancy.

(2) Project signs. Signs announcing the sale of lots and/or houses in a subdivision. Said signs shall be removed when eighty percent (80%) of the lots and/or houses in the subdivision have been sold.

(3) Political signs. Political signs shall be permitted in every zoning district, subject to the restrictions set forth in this Article. The person or organization responsible for the distribution of any political signs, or the owner of the property upon which such signs are located, shall remove such signs within forty-five (45) days of installation.

(4) Real estate signs. Signs containing the message that the real estate on which the sign is located (including building) is for sale, lease or rent, together with information identifying the owner or agent. Such signs may not exceed six (6) square feet in area and shall be removed within thirty (30) days after sale, lease or rental. For lots of less than five (5) acres, a single sign on each street frontage may be erected. For lots of five (5) acres or more in area and having a street frontage in excess of four hundred (400) feet, a second sign not exceeding six (6) square feet in area may be erected.

(5) Off-premises signs advertising an open house shall be allowed beginning twenty-four (24) hours before the open house and shall be removed immediately following the open house.

(6) Special event signs, banners and decorations may be permitted for holidays, grand openings or similar occasions and shall be allowed to be displayed a maximum of thirty (30) consecutive days from the date installed, provided that such signs are taken down no later than one

(1) week after the conclusion of the advertised event, holiday or occasion. (Ord. 348 §307, 1992; Ord. 505 §1, 1999; Ord. 725 §21, 2013)

**Sec. 18-98. Exemptions.**

(a) The following signs shall be exempt from the requirements of this Article, except for requirements relative to public safety:

(1) Flags or emblems of government, political, civic, philanthropic, educational or religious organizations, displayed on private property, as long as such flag or emblem does not exceed sixty (60) square feet.

(2) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, hazard, parking, swimming, dumping, etc.

(3) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign does not exceed the requirements of such law, order, rule or regulation.

(4) Small signs, not exceeding six (6) square feet in area, displayed on private property for the convenience of the public, including signs identifying in-home occupations, signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and the like.

(5) Scoreboard in athletic stadiums.

(6) Real estate signs not exceeding six (6) square feet.

(b) The following signs are exempt from the requirement of obtaining a permit, but shall comply with all other regulations imposed by this Article:

(1) Memorial signs and tablets displayed on private property.

(2) Nameplate signs not exceeding two (2) square feet in gross surface area accessory to a single-family or two-family dwelling.

(3) Identification signs not exceeding ten (10) square feet in gross surface area accessory to a church, school, public or nonprofit institution.

(4) Open and closed signs, not to exceed two (2) square feet in gross surface area accessory to a business or nonprofit organization displayed in a window or on a door only. (Ord. 348 §308, 1992; Ord. 725 §22, 2013)

**Sec. 18-99. Nonconforming signs.**

(a) Whenever one (1) or more of the following conditions occur, all signs which are nonconforming to the regulations of this Article shall be brought into conformance or shall terminate:

(1) Whenever there is a change in ownership of the property on which the nonconforming sign is located.

(2) Whenever there is a change in business or use to which the sign pertains.

(3) Whenever there is a change in the copy on a sign, other than on reader panels.

(4) Whenever a request is made for a permit to change the sign.

(5) If any such sign or nonconforming portion thereof is destroyed by any means to an extent of more than fifty percent (50%) of its appraised value for tax purposes at the time of said destruction, it shall be reconstructed only in conformity with this Article.

(6) Whenever the location of the sign is moved or altered.

(b) All signs, except those that have been granted a variance by the Board of Zoning Adjustment must conform to the regulations of this Article five (5) years from the adoption date of the ordinance codified herein.

(c) Any business or establishment which has existed in the Town longer than ten (10) years and believes that its sign is of historical or landmark significance may request the Board of Zoning Adjustment to grant a "grandfather variance." Such proof of significance shall reside with the business or establishment. A grandfather variance shall not supersede any other requirement of this Article except the compliance deadline. (Ord. 348 §309, 1992)

#### **Sec. 18-100. Violation.**

It shall be a violation of this Article for any person to perform or order the performance of any act which is contrary to the provisions of this Article or fail to perform an act which is required by the provisions of this Article. In the case of a continuing violation, each twenty-four-hour period in which the violation exists shall constitute a separate violation. (Ord. 348 §104, 1992)

#### **Sec. 18-101. Penalties.**

The following penalties, set forth in full herein, shall apply to this Article:

(1) It is unlawful for any person to violate any of the provisions stated or adopted in this Article.

(2) Every person convicted of a violation of any provision stated or adopted in this Article shall be punished by a fine as set forth in Section 1-72 of this Code. (Ord. 348 §§105, II, 1992; Ord. 435 §1, 1996)

#### **Sec. 18-102. Liability for damage.**

This Article shall not be construed to hold the Town responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or by reason of issuing a sign permit as herein provided. (Ord. 348 §106, 1992)

**Sec. 18-103. Application.**

This Article shall apply to all property within the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. (Ord. 348 §III, 1992)

**Sec. 18-104. Property address signs required.**

It shall be unlawful for any residence in the Town to fail to have the numerical address of the property posted on the property in compliance with the requirements of this Section at any time after June 30, 1998. Address signs shall meet the following requirements:

(1) Specifications and location of address signs.

a. Property address signs shall be located on the residence, or on a separate pole not more than ten (10) feet from the driveway to the residence and not more than ten (10) feet from the street which the driveway accesses. The signs shall be at least four (4) feet above the grade of the street, but not more than six (6) feet above such grade. The address signs shall be placed in such a manner as to be clearly visible at the driveway entrance independent of vehicle approach via the public street.

b. Property address signs shall consist of the numbers of the address in reflective material visible during the day and at night with each letter at least one (1) inch high.

c. The numbers used for the address sign shall be the numbers of the address for the property on record with the Town. The addressing system used by the Town shall be that adopted by the Nederland Volunteer Fire Department.

(2) Town posting of address signs. Unless the property owner advises the Town that the property owner desires to post its own signs, the Town shall post all of such signs at the expense of the Town.

(3) Property owner posting of address sign. In the event the property owner desires to post the address sign, the owner must submit a request to the Town for approval. (Ord. 475 §1, 1998; Ord. 514 §1, 1999; Ord. 639 §7, 2007; Ord. 648 §6, 2008)

**Secs. 18-105—18-120. Reserved.**

**ARTICLE VI**

**Design Standards**

**Sec. 18-121. Definitions.**

The words and terms used, defined, interpreted or further described in this Article shall be construed as follows: The phrase used for includes arranged for, designed for, intended for, maintained for and occupied for. (Ord. 355 Art. IX, 1993; Ord. 435 §1, 1996; Ord. 476 §1, 1998)

**Sec. 18-122. Interpretation and application.**

(a) No construction of any new nonresidential buildings or multifamily residential buildings in excess of seven hundred fifty (750) square feet, or alteration, enlargement or improvement of any existing nonresidential building or multifamily residential building that increases the square footage or footprint of the existing building by more than twenty percent (20%) or change in the exterior of any existing nonresidential building or multifamily residential building or removal or demolition of any existing nonresidential building or multifamily residential building shall occur without first obtaining a design review certificate in accordance with the procedures and requirements of this Article, unless exempted from the certificate requirements under this Article. Nothing in this Article shall be construed to require a certificate for the ordinary maintenance, painting or repair of any building, structure or sign which does not require a building permit; nor the alteration or remodeling of the interior of a building where no exterior changes will occur; nor for the demolition of any structure which the Building Inspector certifies in writing is required for public safety because of an unsafe or dangerous condition.

(b) When a design review certificate is required for improvement of a building, nothing in this Article shall be used to require conformance with this Article for any portion of the building not integral to such improvement. (Ord. 355 Art. I, 1993; Ord. 476 §1, 1998; Ord. 533 §1, 2000; Ord. 541 §1, 2001)

**Sec. 18-123. Application procedures.**

(a) The application for a design review certificate shall be submitted on forms provided by the Town, along with the application of the building permit.

(b) The application shall be granted by the Zoning Administrator if it complies with all requirements of this Article.

(c) In the event of a denial of an application, the Zoning Administrator will notify the applicant in writing of the reasons for such denial, and the applicant will be provided an opportunity to submit a supplemental application within thirty (30) days of such denial which may address or correct the deficiencies set forth in the letter of denial.

(d) Any material or substantial change in the plans of a project for which a certificate has been issued shall require a supplemental application.

(e) The application shall include the following items:

(1) Any statements or reports describing or in support of the project.

(2) A complete list of exterior materials and colors proposed.

(3) At least two (2) copies of all plans shall be submitted at the time of application.

(f) Demolition bond.

(1) In the case of building permits for new commercial purposes of over one hundred thousand dollars (\$100,000.00), no certificate shall be issued until a demolition bond and a landscaping bond have been posted in form acceptable to the Town.

(2) If a demolition bond is required, it shall be equal in value to the estimated cost of demolishing the proposed improvement and restoring the site to its previous condition. The bond may be paid in cash to the Town or, in lieu of cash, adequate security therefor, including a letter of credit or a corporate performance bond. The form of the letter of credit or performance bond shall be subject to approval by the Town. Release of the bond shall not be made until a certificate of occupancy for said improvement has been issued, or in some cases where a schedule for proposed improvement has been submitted to the Town, portions of the bond may be released upon completion of specific stages of construction. Any interest earned on a cash deposit shall be paid to the permit holder. If demolition and restoration costs exceed the amount posted in the bond, the excess, together with interest at the Norwest prime interest rate plus two percent (2%) per annum shall be a lien against the property and may be collected by civil suit or may be certified to the Town Treasurer to be collected in the same manner as delinquent ad valorem taxes levied against such property. (Ord. 355 Art. II, 1993; Ord. 476 §1, 1998)

**Sec. 18-124. Establishment of areas/design standards.**

For the purposes of this Article, the Town shall be divided into three (3) areas.

(1) First Street – Central Business District. This area shall include the entire lots fronting on both sides of First Street between Snyder and Jackson Streets, and for purposes of this Article, this area will be referred to as the "First Street District."

(2) Neighborhood Commercial District (NC), General Commercial (GC) and the remainder of Central Business District (CBD). This Section shall include all of the NC district and that part of the CBD district as shown in Chapter 16 of this Code, which is not part of the First Street District described in Paragraph (1) above. For purposes of this Article, this area will be referred to as the "Business District."

(3) Industrial District. This shall include Industrial (I) district as shown in Chapter 16 of this Code. For purposes of this Article, this area will be referred to as the "Industrial District." (Ord. 355 Art. III, 1993; Ord. 459 §1, 1997; Ord. 476 §1, 1998)

**Sec. 18-125. Applicability of Nederland Design Standards and Guidelines.**

No certificates shall be issued unless the proposed construction complies with the standards set forth in the Nederland Design Standards and Guidelines as currently adopted and subsequently amended by the Town, copies of which area available at the Town Hall. (Ord. 533 §1, 2000)

**Secs. 18-126—18-128. Reserved.**

**Sec. 18-129. Exceptions.**

(a) Nothing in this Article shall be construed to prevent the ordinary maintenance, painting or repair of any building, structure or sign which does not require a building permit; nor to prevent the



alteration or remodeling of the interior of a building or structure where no exterior changes will occur; nor to prevent the demolition of any structure which has been appropriately certified as a health or safety nuisance because of an unsafe or dangerous condition.

(b) In addition to those exceptions listed in Subsection (a) above, the following listed items are exempted from the application, review and certificate provisions of this Article:

(1) Replacement of exterior materials and repainting of structures with like materials and colors if the structure is in conformity with all applicable statutes, ordinances and regulations on the date of the ordinance codified herein.

(2) Replacement of plant materials existing on the date of the ordinance codified herein, including trees, shrubs, plants, grasses and sod. (Ord. 355 Art. V, 1993; Ord. 370, 1994; Ord. 533 §1, 2000)

**Sec. 18-130. Preexisting nonconforming structures.**

In the event a structure in existence at the time of the passage of the ordinance codified herein does not comply with the provisions of this Article, it shall not be required to comply, unless and until the structure is rebuilt, modified or reconstructed in such a manner that the proposed construction affects forty percent (40%) of the building value as established by the County Assessor for property tax purposes at the beginning of the construction. In any such event, the construction shall be required to comply with the provisions of this Article. (Ord. 355 Art. VI, 1993; Ord. 435 §1, 1996)

**Sec. 18-131. Design regulations.**

After public hearing within at least fourteen (14) days' notice, the Board of Zoning Adjustment may adopt design rules and regulations to further define, illustrate and promote the purposes of this Article. Any such design rules and regulations shall be consistent with this Article. (Ord. 355 Art. VII, 1993)

**Sec. 18-132. Appeals.**

In the event an applicant is dissatisfied with the decision of the Building Inspector or Zoning Administrator or the standards, rules or regulations, the applicant may appeal to the Board of Zoning Adjustment by making written application to appeal the decision of the Zoning Administrator or Building Inspector, stating specifically the action requested on appeal and the reasons the applicant believes the decision was in error. The appeal shall be held before the Board of Zoning Adjustment which shall have the discretion not to hear the appeal based upon the application for appeal submitted. (Ord. 355 Art. VIII, 1993; Ord. 370, 1994)

**Sec. 18-133. Violations.**

Any person violating the provisions of this Article shall be subject to prosecution in the Municipal Court and may be fined as set forth in Section 1-72 of this Code. In addition, the Board of Zoning Adjustment may initiate a civil action in the District Court against any person violating this Article for a restraining order and other injunctive relief against the violator. The Town shall not be required to post a bond to secure injunctive relief. (Ord. 355 Art. X, 1993; Ord. 435 §1, 1996)

**Sec. 18-134. Applicability.**

(a) This Article shall apply to all buildings, structures, improvements and land within the corporate limits of the Town now or hereafter established.

(b) All existing trash receptacles including grease traps shall be screened from view within eighteen (18) months of the adoption of the ordinance codified herein.

(c) This Article shall not annul or abrogate any lawful permit issued prior to the effective date of the ordinance codified herein. Any use lawfully established prior to the effective date of the ordinance codified herein shall be allowed to continue as a nonconforming use, subject to the provisions of this Article. (Ord. 355 Art. XII, 1993; Ord. 533 §1, 2000)

**Secs. 18-135—18-150. Reserved.**

**ARTICLE VII**

**Floodplain Regulations**

**Sec. 18-151. Statement of purpose.**

It is the purpose of this Article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is located in a flood hazard area.  
(Ord. 712 §1, 2012)

**Sec. 18-152. Methods of reducing flood loss.**

In order to accomplish its purposes, this Article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. 712 §1, 2012)

### **Sec. 18-153. Definitions.**

Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

*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 (100) 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 two-tenths-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 (500) 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.

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

*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.

*Area of shallow flooding* means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*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 sides.

*Basement* means any area of a building having its floor sub-grade (below ground level) on all sides.

*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.

*Code of Federal Regulations (CFR)* means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into fifty (50) titles that represent broad areas subject to federal regulation.

*Community* means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

*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.

*Critical facility* means a structure or related infrastructure, but not the land on which it is situated, as specified in Section 18-170 of this Article, 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 18-170 of this Article.

*Development* means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*DFIRM database* means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

*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.

*Elevated building* means a nonbasement 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

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.

*Existing manufactured home park or subdivision* 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* 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).

*Federal Register* means the official daily publication for rules, proposed rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

*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 water from channels and reservoir spillways;
- b. The unusual and rapid accumulation or runoff of surface waters from any source; or
- c. 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).

*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 Insurance Rate Map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

*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.

*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 Town Administrator, or his or her designee.

*Floodplain development permit* means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management Article.

*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 zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and/or 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.

*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 more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

*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.

*Functionally dependent use* means a use 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, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* 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:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior; or
  2. Directly by the Secretary of the Interior in states without approved programs.

*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 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.

*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 nonelevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

*Manufactured home* means a structure transportable in one (1) 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* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*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.

*Mean sea level* means, for the purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*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.

*New manufactured home park or subdivision* 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.

*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 registered 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).

*Physical Map Revision (PMR)* means FEMA's action whereby one (1) 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.

*Recreational vehicle* means a vehicle which is:

- a. Built on a single chassis;



b. Four hundred (400) square feet or less when measured at the largest horizontal projections;

c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

*Special Flood Hazard Area (SFHA)* 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.

*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 one hundred eighty (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.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

*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 fifty percent (50%) of the market value of the structure just prior to when the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*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.

*Town* means the Town of Nederland, Colorado.

*Variance* means a grant of relief to a person from the requirement of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations).

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 712 §1, 2012)

**Sec. 18-154. Lands to which this Article applies.**

This Article shall apply to all 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) within the Town. (Ord. 712 §1, 2012)

**Sec. 18-155. Basis for establishing special flood hazard area.**

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Boulder County, Colorado and Incorporated Areas," dated December 18, 2012, with accompanying Flood Insurance Rate Maps (FIRMs) and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Board of Trustees. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs and FIRMs on file and available for public inspection. (Ord. 712 §1, 2012)

**Sec. 18-156. Establishment of floodplain development permit.**

A floodplain development permit shall be required to ensure conformance with the provisions of this Article. (Ord. 712 §1, 2012)

**Sec. 18-157. Penalties for noncompliance.**

No structure shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. Violation of the

provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined as set forth in Section 1-72 of this Code and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 712 §1, 2012)

**Sec. 18-158. Abrogation and greater restrictions.**

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 712 §1, 2012)

**Sec. 18-159. Interpretation.**

In the interpretation and application of this Article, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 712 §1, 2012)

**Sec. 18-160. Warning and disclaimer of liability.**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the special flood hazard area, or uses permitted within such areas, will be free from flooding or flood damages. This Article shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 712 §1, 2012)

**Sec. 18-161. Duties and responsibilities of Floodplain Administrator.**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 18-162 below.
- (2) Review, approve or deny all applications for floodplain development permits required by this Article.
- (3) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Inspect all developments at appropriate times during the period of construction to ensure compliance with all provisions of this Article, including proper elevation of the structure.

(6) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.

(7) When base flood elevation data has not been provided in accordance with Section 18-155 of this Article, 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, in order to administer the provisions of this Article.

(8) For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ( $\frac{1}{2}$ ) foot at any point within the community.

(9) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in Zones AI-30, AE and AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half ( $\frac{1}{2}$ ) foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

(10) Notify, in riverine situations, adjacent communities and the State coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(11) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. (Ord. 712 §1, 2012)

#### **Sec. 18-162. Permit procedures.**

(a) Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to special flood hazard areas. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 18-165 below; and

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(b) Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this Article 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; and

(10) The relationship of the proposed use to the comprehensive plan for that area. (Ord. 712 §1, 2012)

**Sec. 18-163. Variance procedures.**

(a) The Board of Zoning Adjustment shall hear and render judgment on requests for variances from the requirements of this Article.

(b) The Board of Zoning Adjustment 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 Article.

(c) Any person aggrieved by the decision of the Board of Zoning Adjustment may appeal such decision in a court of competent jurisdiction.

(d) 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.

(e) 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 the relevant factors in Section 8-162 above have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

(f) Upon consideration of the factors noted above and the intent of this Article, the Board of Zoning Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article.

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

(h) 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.

(i) Prerequisites for granting variances:

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

(2) Variances shall only be issued upon:

a. Showing a good and sufficient cause;

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

c. A determination that the granting of 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.

(3) 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.

(j) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

- (1) The criteria outlined in Subsections (a) through (h) of this Section are met; and
- (2) 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. (Ord. 712 §1, 2012)

**Sec. 18-164. General standards.**

In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:

- (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 water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 712 §1, 2012)

**Sec. 18-165. Specific standards.**

In all special flood hazard areas where base flood elevation data has been provided as set forth in: (i) Section 18-155; (ii) Paragraph 18-161(7); or (iii) Section 18-170 of this Article, the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(2) Nonresidential construction. With the exception of critical facilities, outlined in Section 18-171 below, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado professional engineer or architect 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 accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in Section 18-162 above.

(3) Enclosures.

a. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one (1) 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.

(4) Manufactured homes.

a. 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 is elevated to one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.



b. 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 Subparagraph a. above, shall be elevated so that either:

1. The lowest floor of the manufactured home is one (1) 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 thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) Recreational vehicles.

a. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;

2. Be fully licensed and ready for highway use; or

3. Meet the permit requirements of Section 18-162 of this Article and the elevation and anchoring requirements for manufactured homes in Paragraph (4) above.

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. (Ord. 712 §1, 2012)

### **Sec. 18-166. Floodways.**

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see the definition of *floodway* in Section 18-153 of this Article). Located within special flood hazard areas established in Section 18-155 of this Article, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.

(2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 18-164 through 18-171 of this Article, inclusive.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA. (Ord. 712 §1, 2012)

**Sec. 18-167. Alteration of 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 registered Colorado professional engineer or certified professional hydrologist.

(5) All activities within the regulatory floodplain shall meet all applicable federal, State and Town 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 registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions 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 Paragraph (3) above.

(7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished. (Ord. 712 §1, 2012)

**Sec. 18-168. Properties removed from 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 (1) 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 (1) 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 (1) 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 effects of buoyancy. (Ord. 712 §1, 2012)

**Sec. 18-169. Standards for subdivision proposals.**

(a) 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.

(b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of Sections 18-156 and 18-162 and the provisions of Sections 18-164 through 18-171 of this Article, inclusive, as applicable.

(c) 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 fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Section 18-155 or Section 18-161 of this Article.

(d) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) 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. (Ord. 712 §1, 2012)

**Sec. 18-170. Standards for critical facilities.**

(a) A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

(b) Classification of critical facilities. Critical facilities are classified under the following categories: essential services; hazardous materials; at-risk populations; and vital to restoring normal services.

(1) 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:

- a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
- b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and nonambulatory surgical structures, but excluding clinics, doctors' offices, and nonurgent care medical structures that do not provide these functions);
- c. Designated emergency shelters;
- d. 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);
- e. Public utility plant facilities for generation and distribution (hubs, treatment plants, 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
- f. 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).

(2) Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable 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 Board of Trustees 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 Board of Trustees on an as-needed basis upon request.

(3) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- c. Refineries;
- d. Hazardous waste storage and disposal sites; and

e. Aboveground gasoline or propane storage or sales centers.

(4) 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 chemicals are 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 five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 CFR Section 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (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 CFR Section 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 CFR Section 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 CFR Section 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Article, but exclude later amendments to or editions of the regulations. Specific exemptions to this category include:

a. Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.

b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the Board of Trustees 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.

c. 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.

(5) At-risk population facilities include medical care, congregate care and schools. These facilities consist of:

a. Elder care (nursing homes);

b. Congregate care serving twelve (12) or more individuals (day care and assisted living); and

c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving twelve (12) or more children.

(6) Facilities vital to restoring normal services, including government operations.

a. 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); and

2. Essential structures for public colleges and universities (dormitories, offices and classrooms only).

b. These facilities may be exempted if it is demonstrated to the Board of Trustees 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 Article, 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 Board of Trustees on an as-needed basis upon request.

(c) 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 (1) of the following:

- (1) Location outside the special flood hazard area; or

- (2) Elevation or floodproofing of the structure to at least two (2) feet above the base flood elevation.

(d) Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the Board of Trustees, have continuous noninundated access (ingress and egress for evacuation and emergency services) during a one-hundred-year flood event. (Ord. 712 §1, 2012)

**Secs. 18-171—18-180. Reserved.**