

Rico Planning Commission Memorandum

Date: April 3, 2025

TO: Town of Rico Planning Commission
FROM: Chauncey McCarthy, Rico Town Manager
SUBJECT: April Planning Commission meeting

Rico Land Use Code global revision

The Planning Commission will continue its review of the Rico Land Use Code (RLUC) global revision, with a focus on the redline copy of Articles V through X. This discussion is part of the Commission's ongoing effort to refine the redlined draft in preparation for the upcoming joint meeting with the Board of Trustees scheduled for May 14. The packet includes the redlined version of Articles V through X, as well as planner memo and all past planner memos related to these sections. Planning Commission members should review the documents in advance and come prepared to identify any areas of the code that may have been inaccurately updated or that require further clarification.

PLANNING COMMISSION MEETING MINUTES

Date: March 12, 2025

Call to order

Chairman Mike Contillo called the meeting to order at 6:02PM.

Present: Chairman Mike Contillo
Andrew Romanyshyn
Kiplynn Smith
Skip Zeller
Todd Gillman (arrive 6:06)

Absent:

Staff Present. Chauncey McCarthy, Jen Stark (zoom), Anna Wolf (Zoom)

Approval of the Agenda

Motion

To approve the agenda.

Moved by Kiplynn Smith, seconded by Andrew Romanyshyn.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Todd Gillman not present to vote.

Approval of the Minutes

Motion

To approve the minutes.

Moved by Kiplynn Smith, seconded by Chairman Mike Contillo.

Vote. A roll call vote was taken and the motion was approved, 4-0.

Todd Gillman not present to vote.

Public Comment:

Discussion Items:

Rico Land Use Code global revision

Town Manager Chauncey McCarthy gives summary for upcoming joint meeting with Board of Trustees on May 14.

Land Use Code revision was discussed.

Motion

To approve adjourn.

Moved by Andrew Romanyshyn, seconded by Todd Gillman.

Vote. A roll call vote was taken and the motion was approved, 5-0.

Anna Wolf
Rico Town Clerk

Michael Contillo
Chairman



TOWN OF RICO

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To: Rico Planning Commission 4.1.2025
 From: Town Staff
 RE: Application for Amendment to the Rico Land Use Code (RLUC) Articles V-X

Commissioners

You will find included in your packet a track changes and collection of planner memos regarding discussions by the Planning Commission on those changes for the RLUC, Articles V-X.

This meeting of the Commissioners is an opportunity to discuss those items for some final thought and decision up through Article V-X of the RLUC.

You will see there are places where comments have been left in for your review. As well there are some general clean up items the staff are aware of, examples include:

- Needing to ensure the correct PO Box 9 for the Town is uniformly found throughout the document where the address of the town is mentioned,
- Uniformity in public hearing dates throughout the RLUC for the Board of Trustees to review the Planning Commission decisions in 45 days instead of 60,
- Align throughout the document whether the number or the word is in parenthesis (five) 5 or (5) five,
- Change all submission requirements to one (1) electronic copy with the Town reserving the right to request two (2) hard copies including full size plats, maps, surveys and other documents as needed for public review.

Below you will find some general information on changes in each Article to help you outside of simple editing and or word-smithing work within the RLUC.

Article V

1. Condominiums: We did some preliminary work around adding a streamline process for condominiums. This has not been flushed out but it likely will end up in Article V: 504.8 and 515 Condominium Applications. Also, condominiums will be added to definitions potentially along with Condominium Conversions.
2. The combination of PUD and Subdivision in the same Article V will occur after reformatting of the word documents.

Article VII Planning Commission:

1. Staff has taken the suggestion from the Planning commission to look at using Article I of the Global Revisions documents as some guiding component to the purpose, membership, and operations of the Planning Commission.

Article VIII-

1. This will primarily require attorney review.
2. Additionally, there has been a request to ensure the following words have corresponding definitions in the RLUC: Environmental Hazard, Environmental Development permit, Avalanche Hazard area, Flood Plains Area, Wetlands Area, Wildfire Hazard Area, Wildlife Habitat.
3. Changing outer buffer Zone 824.3 from 100 to 75 feet mentioned throughout.

Article IX is all definitions and will not be addressed at this time

Article X: Public Property is also subject to Attorney review.

Finally, please remember there is a proposal you will not see until formatting is complete to re-organize the RLUC to the following order:

Article I: General Information

Article II: Zone Districts

Article III: Application Procedures and Standards (Formerly Article iV)

Article IV: Environmental Development Permits (Formerly Article VIII)

Article V: Subdivisions and Planned Unit Developments (essentially combine Formerly Article V subdivisions and Article III Planned Unit Developments)

Article VI: Annexation

Article VII: Public Property (Formerly Article X)

Article VIII: Authority and Enforcement (formerly Article VII)

Article IX: Definitions

There is also a proposal to add a simple solar component and fence application component for any fences in town.

Please feel free to send comments to the manager prior or come prepared to the meeting with any questions or concerns you have about the content or process. If you need anything printed prior to this meeting, please let the town manager know early in the process so it can be completed in a timely manner.

Thank you so much to the Commissioners in planning and attending this meeting. This will help the staff be clear on any specific changes the Commission believes is important for the RLUC.



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RLUC Review

Date: 7.10.2024

Segment: 504.1

Start: Article V

Notes:

- In this section being able to keep residential but condominiums as a use by right and available to develop in other zones.
- 506.1 is where we could start to introduce condominium process to allow for the streamline to be in RLUC instead of pushing the application to a waiver request with the way the current RLUC is set up.
- Segment 515: creating the condominium streamline process in this area.
- Segment 538.2: Changing the timeline for review by the town staff or representative to 60 days.
- Segment 560.2 was totally deleted
- Segment 560.3 modified to get rid of the 30 minutes and added Planning Commission and or Town Board Chairperson.
- 562.3 posting place of record change to website
- Request for a tree ordinance or a tree commission to aid in retaining quality trees in residential areas.
- Staff will use Article I of the GLBV to fix Article VII and will provide a vocabulary sheet for any additional vocabulary we may feel is needed.
- Planning is interested in paying into either a system for septic or water. There is currently an impact fee in place for the water system. This is a tap and an additional amount for reacting the initial primary water source. A development would pay a higher amount. This can also be determined by tap size based on a single-family residential tap. There is a possibility to have PUD applicants pay for a % of the treatment plant.
- Planning Commission took a break from RLUC review to discuss a public comment submitted.
 Some notes around that.
 - A. Staff thinks the driveway width should remain because of many geographical features that make the width advantageous such as drainage, snow removal/storage, fire, and public safety.
 - B. PUD zoning: most PUD zoning currently does not have utilities in it.
 - C. The loss of flexibility in an overall blanket process is not necessarily advantageous to the property owner. Particularly if there are no utilities.

Worksession ended: 7:45 p.m.

Stopping point: End of Article VI with Article VII to be modified by Staff



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RLUC Review

Date: 8.14.2024

Start: Article VIII

Stopping point: end of Article VIII

Notes:

- We talked extensively about Areas of State Interest. Rural areas like Rico are currently recognizing that engineering is in a space to provide opportunities for some of the more difficult lots to be developed.
- On site wastewater treatment is all handled by the state. Rico enforces what the state has put into place.
- If there was an ability to adopt a map that took into consideration of Wildlife habitat, then it might be nice to incorporate if wildlife was considered a value to the character and development of the Town of Rico.
- The Planning Commission is considering the aesthetics of having a river buffer. Monitoring or limiting to some extent development in the flood plain. A potential river center line policy. Discussion about maintaining the 100-year flood plain.
- Staff is supportive the concept of consolidating the flood plain requirements. Maybe looking at concepts like a flood way or having it defined to aid in flood plain regulation. Commission thinks it is wise that construction up and over the river on private residential lots needs to have some regulation. Maybe identifying what is the water course and defining channel for a setback to occur. Overall, to some extent, you want to regulate how close building can occur in proximity to the river.
- Attorney to provide the review, maybe CDOT updated avalanche, staff to provide some wetlands examples.

Worksession ended: 7:52 p.m.

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RLUC Review

Date: 11.13.2024

Start: RLUC Review Supplemental discussion items

Stopping point:

Notes:

-Basement: There is a clarification that the basement will be part of the maximum floor area of the house. Livable space for this area is considered 7 feet or higher.

-Visiting Corner Visibility- Fencing; Street, Alley, and Driveway Intersections: The proposal: No walls, buildings or other obstruction to view in excess of 4 feet in height shall be placed on any corner lot within a triangular area formed by the property line and a line connecting them at points 30 feet from the intersection of the property lines.

Discussion: Corner lots that have street frontage can create visibility issues. Particularly if they abut two streets. You could technically distinguish between alleys and roads. Building fencing on a road and road intersection may require a different fencing structure than property abutting alleys. Also, a concept that fencing needs to be permitted that would not block visibility of a driver on a designated roadway.

Using the design criteria that will do a proposal for fencing in the town of Rico that is also applicable to residential. The staff will draft something for the Planning Commission for this baseline permitting process. Also, if the Planning Commission can serve as the design review entity. Also triggering the ability for a sample material that may not be listed to be given consideration.

-Solar regulations- Some baseline guidelines: Likely the square footage of the solar panel on a flat plane, the array. The highest point of the array can only be 8ft in height regardless of ground or post mount.

Considerations for ground mount and the impact versus incentivizing roof mount. Another consideration is making sure there are permit applications regardless and that any panels on a structure are mounted on a permanent structure. Requiring a setback and then potentially a greater setback for pole mount solar systems. Complete utility application for permit required.

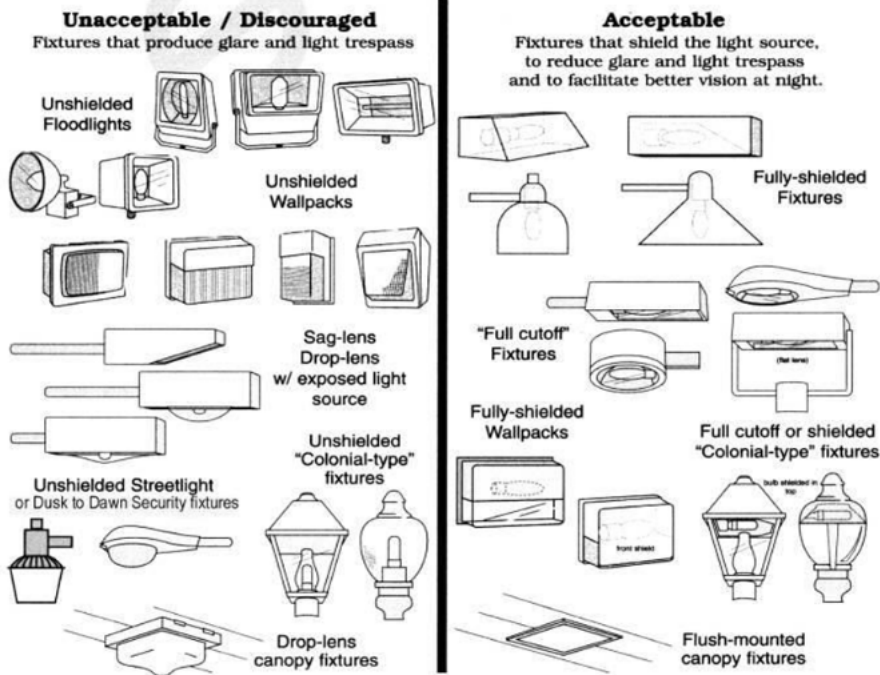
-Tree proposals or tree retention plans- Currently in subdivisions and review of subdivisions with excessive cut and fill of trees along with a constraints map that takes the diameter of trees into account. Potentially limit a property owner from clear cutting a lot with out an approved development plan of an unimproved lot that will include any proposed vegetative improvements or modifications that could impact 50% or more to the existing vegetative landscape.

-Lighting at fully shielded/ zero uplight. A light fixture with an opaque shield above the lamp, so that, as designed and installed, the light fixture projects all its light below horizontal plane through the lowest light emitting part of the fixture. Proposal: Sign lighting shall be mounted above the sign, lamped so that the footcandle maximum on the face of the sign does not exceed 2 footcandles (fc). Also to think a little bit about

□

structures that do not have a door that may have an interior light that shines

Examples of Unacceptable/Acceptable Fixture Types



out. Diagrams courtesy of Bob Crelin

Some items that are also interesting around lighting that might help people understand:

2. Direct light downward by choosing the correct type of light fixtures. (See Appendix 3).

Specify IES (Illuminating Engineering Society) "Zero Uplight" or "fully shielded" fixtures, so that no light is emitted above the lowest light emitting part of the fixture. Top mounted sign lighting is recommended with "RLM" (dish) type shields, and aimed so that the light falls entirely on the sign and positioned so that the light source (bulb) is not visible from any point off the property or into the roadway to reduce glare. For each one square foot of sign, usually no more than 200 lumens is necessary for good visibility.

4. Utilize "shut off" controls such as sensors, timers, motion detectors. Automatic controls turn off lights (or sections of lights) when not needed. Interior and exterior lights should be extinguished no later than one half hour after the close of business. Additional motion sensor activated lighting can be used for emergency access. Avoid "dusk-to-dawn" sensors without a middle-of-night shut off control. Lights alone will not serve to "protect" property and are a poor "security" device. Examine other means of protecting property to discourage criminal activity. Let your local police know that you have a "lights out" policy so that they can investigate if they see lights "on" after hours.

5. Limit the height of fixtures. Locate fixtures no closer to the property line than four times the mounting height of the fixture, and not to exceed the height of adjacent structures. (Exceptions may be made for larger parking areas, commercial zones adjacent to highways, or for fixtures with greater cut off shielding behind the pole mount in commercial zones.)

6. Limit light crossing property lines, i.e. "light trespass". Limit spill light across the property lines. Light levels at the property line should not exceed 0.1 footcandles (fc) adjacent to business properties, and 0.05 fc (the brightest moonlight is 0.01 fc) at residential property boundaries. Utility leased floodlight fixtures mounted on public utility poles in the public right-of-way or on property lines shall not be used for private property due to excessive light trespass "spill light".

7. Use the correct amount of light. Light levels and uniformity ratios should not exceed recommended values, per IESNA RP-33 or 20. (See Appendix 5, Recommended Illumination Levels for

3

various tasks). "Lumen cap" recommendations for areas to be illuminated should not exceed: commercial properties in non-urban commercial zones = 25,000 lumens per acre; for projects in residential and LBO zones = 10,000 lumens per acre. For residential properties: for suburban: 50,000 lumens per acre cap, and in urban areas: 100,000.

10. Design interior lighting so that it does not illuminate or project glare to the outdoors.

Provide interior lighting photometrics for the building's perimeter areas, demonstrating that the interior lighting falls substantially within the building and not through the windows. When glass or windows on a commercial use property face a public right of way or a residential property, a lighting plan shall be submitted that demonstrates that all interior light fixtures shall be located, aimed, or shielded so that the light source and all parts of the fixture which transmit light shall not be visible at the property line or into the right of way. Shield glare from bare bulbs. After closing, interior lighting needs to be extinguished by the use of shut off timers. Avoid "wall washing" (upwardly directed lighting to illuminate the building).

Worksession ended: 8:00 p.m.

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RLUC Review

Date: 12.11.2024

Start: Potential Solar Panel Regulation in the Town of Rico

Stopping point: Finished discussion of Solar Panels and Fencing regulations

Notes:

- Solar: Proposal for solar in RLUC. Solar farms are not a use by right. Permit requirement which will aid in showing that San Miguel power was involved. A site plan to show where the solar is located along with height for roof top mounting. Along with some sort of check that an inspection is occurring by an electrician. This would maybe have an electrical permit or utility permit.
- Application for Historic Commercial. Planning Commission does review. This will likely occur in several areas in the RLUC that Planning Commission will review. Height restriction of 5 feet from the roof to aid in tilt and also to not exceed height.
- Some regulation around metal border adding a reflective component that will not affect view shed of others
- Pole/ Ground Mount: 20 ft. Setback, height, 8 feet, square footage may have to comply. Area restriction could be: allow a square foot maximum. This is a consideration because of the way the houses are located that would not aid in optimal solar gain for roof mount. There is currently some sort of option to have a pole/ ground mount or a roof mount. Installation should minimize visual impact to public rights of way. This may be alleviated by the 20-foot set back. The pole/ ground mounted would be subject to public hearing and review from Planning Commission (Design and Review Board). We would need to solidify the review standards that could stand up to a legal challenge.
- Solar a panel limiting, and development of any storage structure under 200 square feet or less.
- Potential Tiered fee cost- roof mount versus pole/ ground mount.
- Low glare panels with no silver or reflective border

Fences

- Proposed change height on corner lots
- Parallel and perpendicular to lot lines
- 15 feet for visibility on a corner lot as a consideration instead of 4 feet.
- Generally permitting fences to help navigate a property owner to help them mitigate visibility when a major street corner and a street corner exist.
- Change to the language of fences in the street view fence rather than front yard fence.
- Other proposals in the Town manager memo were reviewed and most agreed with proposed changes.

Worksession ended: 7:30 p.m.

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RLUC Review

Date: 1.8.2025

Start: Article VIII- Areas of State Interest

Stopping point:

Notes:

- 800: There was a question about the Areas and Activities of State Interest and explained by staff that this idea is that maps and regulations assist town in ensuring that areas that could present a hazard were evident and correct engineering could be conducted to ensure no life or property were unnecessarily impacted due to unknown areas of State Interest.
- 808.2 Debris flow and fans mapping will be updated soon. Planning Commission will see new mapping in the upcoming year.
- 808.3 Discussion of having Wildfire Habitat Areas recommend partnership with entities such as the Wildfire Adapted Partnership in the application showing mitigation for defensible space. Here is a sample advisory organization that can help property owners pursue wildfire mitigation. <https://www.wildfireadapted.org/>
- 808.4 Wildlife: Input from CPW on Wildlife regulation recommendations.
- 820: Wetlands: Proposal from the manager to limit the overall buffer to 25 feet. The Planning Commission has difficulty visualizing what might be a most effective distance without mapping or a visual to work with. Minimum is currently 25 feet and a maximum of one hundred (100) feet as a limitation to the town on overreach. The Planning Commission is proposing reducing that max buffer zone to seventy-five (75) feet.
- Some discussion of the development of a River corridor management plan for both Silvercreek and Dolores River.

Worksession ended: 8:15 p.m.

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RLUC Review

Date: 2.12.2025

Start: Article VIII- Areas of State Interest any final comments on Areas of State Interest

Stopping point: Information to come back to the Planning Commission on Article IX and X

Notes:

- Thoughts to moving the Areas of Environmental Concern up in the RLUC Articles. Maybe up toward Article III. Not necessary if preface exists. Trying to clean up Areas of Environmental Concern (Article VIII) to make sure that if it mentions maps the maps are there or if there are no maps removing maps.
- Introduction preface or paragraph that aids property owners in understanding to come in and consult with the Town staff. Permitting and zoning does exist and is required within Town Limits.
- Brief discussion on the order. Keep Article I the same, Keep Zoning the same, bump environmental development permits up, or application standards up and then environmental development permits after it. Putting subdivision activity all together. Staff to put together a proposed shuffle of the articles for review next meeting.
- Wetland delineation: we have a variable outer buffer zone and ensure it is incorporated in their review. Maybe have a checklist developed that is available from the town. Staff to make the checklist. Maybe guarantee that these items do NOT exist rather than what exists.
- Article X: Town manager is proposing to redo before you review.

Worksession ended: 7:30 p.m.

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RLUC Review

Date: 3.12.2025

Start: Global revision; Definitions and discussion items

Stopping point: end of Definitions and next process steps

Notes:

- covered a timeline for final revision including solar, fencing and then the joint meeting, document clean up and return for review.
- Master Plan will be the upcoming year for work with a consultant. Town will seek funds for assistance with that process.
- Some discussion on the moratorium on subdivisions. Whether that gets lifted in time for this building season or if there are now some complexities to get in place with the passing of the VCUP before it is lifted.
- Manager recommends striking development credits from definitions and the code overall.

Article I: general information

Article II: Zoning

Article III: Procedures

Article IV: Environmental permits

Article V: Combine PUD and Subdivisions

Article VI: Annexation

Article VII: Public Properties

Article VIII: Authority and Enforcement

Article IX: Definitions

- The manager closed that next month will have a redline and there will be some time spent on the review of the revisions.

Worksession ended: 6:40 p.m.

**ARTICLE V
SUBDIVISIONS AND REPLATS**

500. SUBDIVISION REGULATIONS

These regulations set forth the procedures and standards for the review of subdivision applications.

Commented [GU92]: In Article V there is some discussion about condominiums and what level of review needs to occur.

504. PURPOSE

This Article establishes procedures and standards for the subdivision of land and structures, re-subdivision of land and structures, and replat of recorded plats. The procedures are intended to facilitate the preparation of a subdivision application for final plat approval by informing the applicant of necessary information required for proper review and setting forth review schedules. The standards are intended to promote the health, safety, and welfare of the Rico community, which includes the following specific purposes:

Commented [GU93]: Allow condominiums to have a streamline process in all zone except for single family residential.

504.1 Proper Arrangement and Size of Streets, Lots, and Easements: Promoting the proper and efficient arrangement and size of streets, lots, and easements in relation to existing or planned streets, lots, and utility lines and in relation to the Rico Regional Master Plan, for the intended land use and anticipated future land uses.

Commented [GU94]: This is where we would want to add this condominium regulation process within the subdivision area to articulate what steps need to actually be followed.

504.2 Provision of Municipal Services and Water Supply: Promoting the proper and efficient access of municipal services to each lot and adjacent lots and property and providing for public water supplies to serve the potable water, fire protection, and other water needs of intended land use.

Commented [GU95]: In this move the lot line process to a staff level and part of the building permit process, but the single family residential needs to stay all on one lot. We would also want this to be articulated in the single family development use by right in Article 2

504.3 Provision of Open Space and Avoidance of Congestion: Promoting adequate and convenient open space for traffic, utilities, recreation, light, air, and avoidance of congestion.

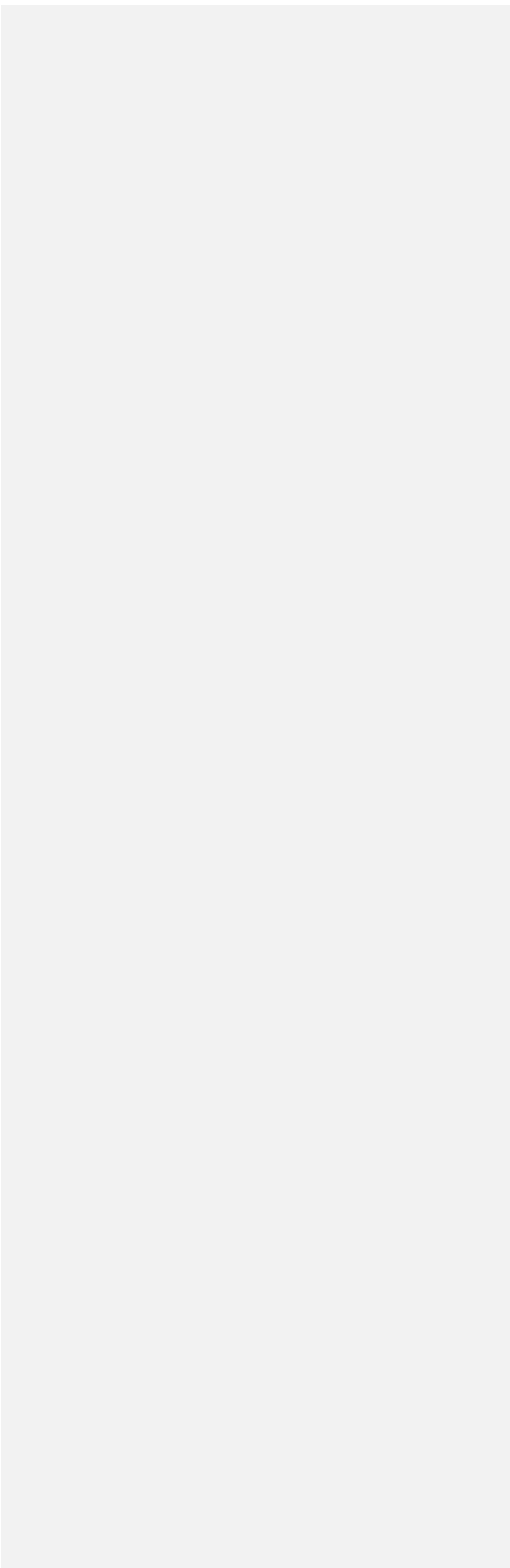
504.4 Avoidance of Unsuitable Lands: Discouraging and restricting development-activities on unsuitable lands and promoting an efficient system for the monitoring of any development activities on unsuitable lands.

504.5 Apportionment of Public Service Costs: Requiring the apportionment of the costs of public services and facilities serving subdivision residents through payment of fees, provision of facilities, and dedication of land and rights-of-way to the Town in order to assure that new development pays its way and does not burden the Town's fiscal resources.

504.6 Coordination of Public Improvements and Programs: Encouraging the efficient coordination of inter-jurisdictional public improvements, plans and programs.

504.7 Promoting Accurate and Complete Subdivisions: Requiring that the property is accurately surveyed, that the separate interests created and conveyed by the

subdivision are of permanent public record, that the subdivider owns the land



proposed to be sold, and that necessary access, improvements and utilities are provided to each property and lot.

- 5048** Promotion of Master Plan: Promoting the implementation and realization of the Goals and Objectives of the Rico Regional Master Plan.

506. JURISDICTION AND APPLICABILITY

- 506.1** The Rico Subdivision Regulations shall apply to the subdivision activities listed below within the municipal boundaries of the Town of Rico and limited only to control with reference to the Major Street Plan, all land within three miles of the municipal boundary of the Town of Rico. In the event that two or more parcels of land, previously separately conveyed, described, granted, patented, or otherwise created, are or come under single ownership, the division of such land into two or more lots, tracts, sites, parcels, separate interests, interests in common, or other division, even if divided along the line of previously described or conveyed parcel, shall constitute a subdivision of land. Nothing herein shall be deemed to apply to a lot shown on a recorded subdivision plat, unless such subdivision plat has not received the required approvals by state or local law.
- A. The division of a lot, tract, or parcel into two or more lots for the purpose of sale or of building development.
 - B. The division of land subject to annexation by the Town of Rico.
 - C. The re-subdivision of a subdivision, re-platting of recorded lots and the vacation of an existing lot line or lines.
 - D. The division of contiguous parcels of land held in common ownership into tracts, lots or parcels less than thirty-five (35) acres; and,
 - E. The division of any structure, dwelling unit, condominium unit, apartment unit, or unit in a multi-family structure, which creates a greater number of separately owned units than previously existed.

- 506.2** The following divisions of land are exempt from application of the RLUC:

- A. Any division of a tract of land that creates parcels of land each of which comprises thirty-five or more acres of land;
- B. Any division of land pursuant to a judicial partition;
- C. Any division of land that creates a cemetery lot; or,
- D. Any division of land occurring from the foreclosure of a deed of trust.

Commented [GU96]: check condominium notes to see where this streamline process might most appropriately fit.

510. SUBDIVISION APPROVAL PROCEDURES**512. OVERVIEW OF SUBDIVISION PROCEDURES**

The subdivision approval process consists of Conceptual Plan Approval, Preliminary Plat Approval, and Final Plat Approval.

514. MINOR SUBDIVISION APPLICATIONS**514.1** Minor Subdivisions include:

- A.** The division of one lot or parcel of land which creates not more than three lots;
- B.** The replatting of lots which are currently served by Town water and other public utilities, and which abut a public right-of-way improved to the Town's minimum street standards provided that not more than three additional lots are created;
- C.** The replatting of lots which does not result in the creation of any additional lots or which has the primary purpose of correcting survey errors.

514.2 Minor Subdivisions Applications may consolidate the Conceptual Plan, Preliminary Plat, and Final Plat review stages if the application does not require the extension of water lines or street improvements. Minor Subdivision Applications which require the extension of water lines or street improvements may consolidate the Conceptual Plan and Preliminary Plat review stages only.

Commented [GU97]: 515 add condominium process in zones.

516. APPEALS TO BOARD OF TRUSTEES

Any final decision of the Planning Commission may be appealed to the Board of Trustees for their review by the Applicant, any property owner in the Town of Rico, or any citizen registered to vote in the Town of Rico. A final decision is defined as an approval, approval with conditions, or denial decision at any review stage of the subdivision process. Written notice of intent to appeal the decision of the Planning Commission shall be hand delivered or sent by first class mail to the Town Clerk, Town of Rico, P.O. Box 956, Rico, CO 81332, within (fifteen) 15 days after the date of the decision of the Planning Commission. Failure to file a Notice of Appeal shall be deemed to be a waiver of any right to challenge the decision of the Planning Commission. The Notice of Appeal shall state any and all reasons for appealing the decision of the Planning Commission.

Commented [GU98]: All P.O. Box is changed to 9

The Board of Trustees shall set a public hearing date to review the Planning Commission decision within (forty-five) 45 days of receiving the Notice of Appeal. Copies of all subdivision application materials, any and all information, reports, and comments which were made part of the Planning Commission record, and minutes of the Planning Commission meeting shall be provided to the Board of Trustees at least (ten) 10 days prior to the public hearing date. The Board of Trustees shall review all such materials and consider all comments from the Applicant,

Planning Commission, relevant agencies, and the public, before rendering a decision based on compliance with the relevant subdivision review standards.

518. GENERAL APPLICATION DISCRETION.

Certain application submittal requirements may not be necessary for an informed and meaningful review of the application by the Town Planner and Planning Commission. The Town **Manager and Town Planner each have has** the discretion to provide guidance to an Applicant regarding certain application submittal materials that may be waived; however, such submittal requirement waivers shall be specifically requested by the Applicant and shall include a statement by the Applicant explaining the rationale for such waiver. The Planning Commission and Town Board shall have the authority to approve waivers of any specific submittal requirements as part of their respective review of the application and the waiver by one board shall not be deemed to be a waiver by the other board. Any grant of a waiver in the required submittal materials shall not be deemed to create a precedence for waiver of application submittal materials for other applications or other Applicants.

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520. CONCEPTUAL PLAN REVIEW PROCESS

**522. OVERVIEW OF CONCEPTUAL PLAN PROCEDURES
(ORD. NO. 2022-06, § 522.2, 522.3 06-15-22)**

522.1 Overview. The Conceptual Plan Review Process is the first stage of the subdivision approval process. The Conceptual Plan Review Process is intended to determine the overall feasibility and compatibility of the proposed subdivision in relation to the Town's service ability and capacity and in relation to the Rico Regional Master Plan. Approval at the Conceptual Plan stage generally approves the proposed density, use, and general layout of the subdivision.

522.2 Sitewalk, Work session. After a Conceptual Plan application is submitted to the Town Planner, the Town Planner shall review and determine within ~~(thirty)~~ 30 days whether the application is complete. If the application is incomplete, the Applicant shall be required to resubmit a complete application. After the Town Planner determines that the Conceptual Plan application is complete, the Planning Commission Chairperson and Town Planner shall schedule a date for receipt and review of the Conceptual Plan application on the next available Planning Commission agenda. Review of the Conceptual Plan may involve a site walk and work session with the Applicant. An initial work session may be requested by the Town Planner, Planning Commission Chairperson, or the Applicant. A public hearing and review decision action item will be scheduled within ~~(thirty-five)~~ (35) days after an initial work session unless a later date or general continuance is mutually agreed upon by the Applicant. If a work session is not desired, then a public hearing for Conceptual Plan review may be scheduled for the first meeting with the Planning Commission. The public hearing and review decision action item may be continued for an additional period not to

exceed sixty (60) days after the initial work session, or determination that a work session

is not desired, if the Town Planner or Planning Commission determines that additional time is necessary to incorporate comments from review agencies pursuant to Section **522.3**.

522.3 Review by Other Agencies. At the work session, the Planning Commission or Town Planner may decide to send the Application to any appropriate review agency, including, but not limited to: Colorado Department of Health, Division of Minerals and Geology, Colorado Geologic Survey, Division of Wildlife, Department of Transportation, U.S. Forest Service, the U.S. Army Corps. of Engineers, and the Town Engineer. If a work session is not desired, the Town Planner may send the Application to any appropriate review agency after determining whether the application is complete.

522.4 Required Information. The Applicant must supply ~~one electronic and (five)eleven (511)~~ **one electronic and (five)eleven (511)** copies of all required information. Required information includes the Subdivision Application, Conceptual Plan Map, Location Map, Slope Study Map, and Constraints Map. Maps may be consolidated, or separate maps may be used to convey the required information as long as the information is clearly delineated. See **560** and **562** for the scheduling and timing of application submittal materials and notices.

524. SUBDIVISION APPLICATION

The Applicant shall complete a "Subdivision Application" form provided by Town.

526. REQUIRED MAPS

All maps listed below in **526.1** through **526.4** shall include the Applicant's name and subdivision name and may appear as a single map. The Planning Commission, if it deems necessary, may require separate maps for any and all of the required information.

- 526.1** Conceptual Plan Map: The Applicant shall submit a Conceptual Plan Map showing the following information:
- A. Conceptual lot, street, and utility access layout;
 - B. Approximate layout of individual lots, access to lots, and square footage of proposed lots;
 - C. Existing plat or lot lines for replat, re-subdivision, and vacation applications;
 - D. Proposed land dedications, rights-of-way, easements, and open space reservations and dedications, and identification of areas reserved for future public acquisition;
 - E. Proposed off-street parking spaces;
 - F. Existing utility lines, rights-of-way, and easements; and,
 - G. Contour intervals at 2 feet if the slope is less than 10 percent or contour intervals of 10 feet if the slope is equal to or greater than 10 percent.

- 526.2** Location Map: The Applicant shall submit a Location Map showing the following information:
- A. Location of the proposed subdivision;
 - B. All adjacent lands within 200 feet from the boundary of the subdivision in which the Applicant has an ownership interest or option to acquire an ownership interest;
 - C. Zone districts, taxing districts and any other special districts in which the proposed subdivision is located and ~~Z~~Zone ~~S~~District classifications extending 200 feet, including public rights-of-way, from the boundary of the proposed subdivision.
 - D. Commonly known ~~land marks~~landmarks;
 - E. Buildings and structures within the proposed subdivision area and within 50 feet of the boundaries of the proposed subdivision area.
- 526.3** Slope Study Map: The Applicant shall submit a Slope Study Map if any land exceeds seven (7%) percent slope angle within the proposed subdivision area, or within 50 feet of the proposed subdivision area. The Slope Study Map shall show the following information:
- A. Areas with zero through seven percent slope angle (0% - 7%);
 - B. Areas with eight through fifteen percent slope angle (8% - 15%);
 - C. Areas with sixteen through thirty percent slope angle (16% - 30%); and,
 - D. Areas greater than thirty percent slope angle (>30%).
- 526.4** Constraints Map: The Applicant shall submit a map, or maps if necessary to convey all distinctive characteristics which may affect the feasibility and appropriateness of the proposed development activity within the proposed subdivision area and within 50 feet of the boundaries of the proposed subdivision area. The Constraints Map shall include the following information:
- A. Known landmarks and contour lines sufficient to show topography and location for reference;
 - B. Streams, ponds, and ~~water ways~~waterways;
 - C. Natural or man-made drainages;
 - D. Location of any road or trail grades and estimate of average grade;
 - E. Description of vegetation types, designation of general vegetation type areas, and

location of all trees of at least 20" caliper for all areas not proposed for Open Space or Park Dedications;

- F. Identification of all Areas of State and Local Interest as defined in **ARTICLE IV**; and,
- G. Irrigation ditches, bridges, and culverts.

528. CONCEPTUAL PLAN REVIEW (ORD. NO. 2022-06, § 528.1, 06-15-22)

528.1 Planning Commission Review: The Rico Planning Commission shall review the Conceptual Plan and all supporting documents and information and shall review all comments taken at the public hearing and all comments taken from other reviewing agencies. The Planning Commission shall approve, approve with conditions, or deny the Conceptual Plan Application based upon compliance with standards in this Section and other applicable laws of the Town of Rico, State of Colorado, or United States of America. The Planning Commission may continue its review decision if mutually agreed upon by the Applicant and the Planning Commission, or if in the judgment of the Planning Commission and Town Staff the issues presented in the Conceptual Plan require additional time for review.

528.2 Standards: This paragraph sets forth the standards for Conceptual Plan Review. The Planning Commission shall cite specific standards when imposing conditions on approval, or denying, any Conceptual Plan Approval Application.

- A. The proposed land use shall be consistent with the underlying zoning.
- B. All lots shall meet the subdivision design standards as defined in **550**.
- C. All lots shall have building sites and access that are not in any known hazards or constraints to development.
- D. All roadways and utility routes shall avoid Areas of State and Local Interest as defined in **ARTICLE IV**.
- E. All roads and driveways shall comply with the subdivision design standards.
- F. The proposed subdivision layout shall not cause excessive cut and fill excavation or removal of trees and vegetation in relationship to feasible alternatives.
- G. The proposed subdivision shall not exceed or overburden the capacity of any existing Town facilities or services unless the Applicant expands the Town facilities or service capacity to meet the increased demand of the proposed subdivision.
- H. The proposed subdivision shall be consistent with the Rico Regional Master Plan.
- I. The proposed subdivision shall not violate any laws of the Town of Rico, State of Colorado, or United States of America.
- J. Proposed deviation from the standards in this paragraph shall include the following

findings prior to approval:

- (1) Reasonable alternative subdivision plans (at least two) have been presented and considered;
- (2) The proposed plan represents a better overall design in relationship to the purposes set forth in **104** and **504** than that allowable under strict application of the subdivision design standards; and,
- (3) Proposed deviations from the subdivision design standards can be mitigated and the preparation of a suitable mitigation plan is a condition to approval.

530. PRELIMINARY PLAT APPROVAL

**532. OVERVIEW OF PRELIMINARY PLAT APPROVAL PROCEDURES
(ORD. No. 2022-06, § 532, 06-15-22)**

The Preliminary Plat Approval process is the second stage of the subdivision approval process. The Preliminary Plat Approval process is intended to review and approve technical drawings, surveys, and engineering plans in relation to Town standards and existing Town utilities, facilities, and other services. Approval at the Preliminary Plat stage generally approves the technical aspects of the proposed subdivision.

After the Conceptual Plan is approved and a Preliminary Plat Approval application is submitted to the Town, the Town Planner shall review and determine within thirty (30) days whether the application is complete. If the application is incomplete, the Applicant shall be required to resubmit a complete application. After the Town Planner determines that the Conceptual Plan application is complete, copies of the Preliminary Plat Approval application shall be forwarded to all appropriate agencies for their review and comment and the Town Manager and/or Planner shall schedule a date for official receipt and review of the Preliminary Plat on a Planning Commission agenda within the next sixty (60) days. The Planning Commission review date may be continued for an additional period if in the judgment of the Planning Commission and Town Staff additional time is required to address comments from reviewing agencies pursuant to Section **538.2**.

The Applicant must supply all required information and meet all required review standards for approval of the Preliminary Plat. Required information includes: revised reports from the Conceptual Plan stage if any changes were made or required when the Conceptual Plan was approved, a Preliminary Plat and any other required materials.

534. PRELIMINARY PLAT, MAPS AND OTHER REQUIRED MATERIALS

- 534.1** Required Materials and Copies: The Applicant shall submit copies of the Preliminary Plat and Improvements Survey of a scale sufficient to be clearly legible and useful for review purposes, and copies of other required materials according to the following schedule:

- A. One mounted Preliminary Plat and one copy of other required materials for public presentation and inspection.
- B. ~~Eleven (11) One electronic and (five) 5~~ copies of the Preliminary Plat and other required materials ~~during the active application timeframe. [seven copies for Planning Commission members, one copy for Town Planning Staff, one copy for Town Attorney, one copy for Town Engineer, one copy for Town Clerk.]~~
- C. ~~One electronic and T(three) 3~~ copies of the Improvement Survey and Engineering Plans, if any improvements are proposed ~~[one copy for Town Engineer, one copy for Town Clerk, one copy for Town Planning Staff].~~
- D. Additional copies of the Preliminary Plat, Improvements Survey, Engineering Plans, and other required materials as determined at the Conceptual Plan Approval stage for the purpose of obtaining necessary or appropriate review and comment from other agencies.

534.2 Preliminary Plat Requirements: The accuracy of location of alignments, boundaries, and monuments on the Preliminary Plat shall be certified by a registered landsurveyor licensed to do such work in the State of Colorado. All plats and maps shall indicate true north line, name of subdivision, name of Applicant, USGA township, range, section and quarter section, block, and lot number. A workman like execution of the plan shall be made in every detail. A poorly drawn or illegible plan shall be a sufficient cause for its rejection.

The Preliminary Plat shall contain the following data:

- A. Contour intervals at 2 feet if the slope is less than ~~(ten) 10~~ percent or contour intervals of ~~(five) 5~~ feet if the slope is equal to or greater than ~~(ten) 10~~ percent.
- B. Block, lot, and street layout with consecutive numbering of lots and blocks, and dimensions of all lots, street rights-of-way, roadways, and street drainages.
- C. Location, identification, and dimensions of all existing and proposed public and private easements.
- D. Existing and proposed street names.
- E. Abutting property lines and the respective owners' name.
- F. Designation of zoning or uses other than detached single family residential on and adjacent to the proposed subdivision.
- G. Additional information as determined at the Conceptual Plan Approval stage.

534.3 Improvements Survey and Engineering Plans: The Applicant shall submit an Improvements Survey and any Engineering Plans if any improvements are proposed, or engineering plans are required for review of proposed mitigation, as determined at the Conceptual Plan Approval stage. The Improvements Survey and Engineering

Plans shall meet the following specifications and contain the following information:

- A. The Improvements Survey shall be signed and sealed by a registered land surveyor and shall be at the same scale as the Preliminary Plat, depicting existing and recorded section lines, streets, easements, utilities, watercourses, improvements, and any other major feature in and adjacent to the proposed subdivision area.
 - B. Any Engineering Plans shall provide sufficient detail for review by the Town Engineer and shall meet the minimum standards of certified engineers in the State of Colorado.
- 534.5 Other Materials:** The Applicant shall submit other materials associated with the Preliminary Plat Approval application including, but not limited to:
- A. Background studies and reports supporting the Preliminary Plat Approval application or addressing anticipated concerns from other agencies; and,
 - B. Revised Location Map, Slope Study Map, Features Map, and Subdivision Information Report if changes have been made; and,
 - C. Additional information as determined at the Conceptual Plan Approval stage.

538. PRELIMINARY PLAT REVIEW (ORD. NO. 2022-06, § 538.1, 538.3, 06-15-22)

538.1 Planning Commission Review and Board of Trustees Approval: The Rico Planning Commission shall review the Preliminary Plat and all supporting documents and information at a public hearing and shall review all comments taken at the public hearing and all comments taken from other reviewing agencies. The Planning Commission ~~Board~~ shall recommend that the Board of Trustees approve, approve with conditions, or deny the Preliminary Plat Application based upon compliance with standards in this Section and other applicable laws of the Town of Rico, State of Colorado, or United States of America. The Planning Commission may continue its review if mutually agreed upon by the Applicant and the Planning Commission, or if in the judgment of the Planning Commission and Town Staff the issues presented in the Preliminary Plat require additional time for review. After the Planning Commission issues its recommendation on the Preliminary Plat application, the Board of Trustees shall review the application at a regularly scheduled Board of Trustees meeting within the next forty-five (45) days. The Board of Trustees shall hold a public hearing on the application and shall approve, approve with conditions, or deny the Preliminary Plat application based upon compliance with standards in this Section and other applicable laws of the Town of Rico, State of Colorado, or United States of America.

538.2 Reviewing Agencies: All reviewing agencies may make recommendations within ~~sixty (60) thirty (30)~~ days after ~~correspondance~~ ~~mailing~~ by the Town or its authorized representative, ~~unless a necessary extension of not more than ninety (90) days has been consented to by the Applicant and the Planning Commission.~~

Commented [GU99]: PLEASE CONSIDER 45 DAYS INSTEAD OF 60. 60 CAN EFFECTIVELY PUSH AN APPLICATION OUT THREE MONTHS IF THE REVIEWING AGENCY TAKES THE FULL 60 DAYS

- 538.3** Standards: This paragraph sets forth the standards for Preliminary Plat Review. The Planning Commission and Board of Trustees shall cite specific standards when recommending or imposing conditions on approval, or denying, a Preliminary Plat application.
- A.** The Preliminary Plat shall conform in all major respects to the Conceptual Plan as previously reviewed and approved by the Planning Commission and shall address any conditions imposed at the Conceptual Plan stage.
 - B.** The Preliminary Plat and other engineering related materials, including proposed mitigation plans, are reviewed, and approved, or approved with reasonable modifications by the Town Engineer.
 - C.** The Preliminary Plat Shall meet the Minimum Subdivision Standards for subdivision design in Section 550, including standards for landscape preservation (550.1), Lots (550.2) and streets (552.1).
 - D.** All comments from other reviewing agencies have been reviewed by appropriate Town Staff, Planning Commission, and the Board of Trustees. All comments are addressed and resolved by the Planning Commission and the Board of Trustees.

540. FINAL PLAT APPROVAL

**542. OVERVIEW OF FINAL PLAT APPROVAL PROCESS
(ORD. NO. 2022-06, § 542, 06-15-22)**

The Final Plat process is the final stage of the subdivision approval process. The Final Plat process is intended to produce the final plats, agreements, covenants, restrictions, and other required materials for approval by the Planning Commission, final adoption by the Board of Trustees, and recording in the office of the Town Clerk and in the office of the Dolores County Clerk and Recorder.

After Preliminary Plat Approval has been obtained and a Final Plat Approval Application is submitted to the Town's Planning Staff, the Town Planner shall review and determine within 30 days whether the application is complete. If the application is incomplete, the Applicant shall be required to resubmit a complete application. After the Town Planner determines that the Final Plat application is complete, the Planning Commission Chairperson and the Town Planning Staff shall schedule a date for receipt and review of the Final Plat on the next available Planning Commission agenda.

The Applicant must supply all required information and meet all required review standards for approval of the Final Plat. Required information includes the Final Plat and all accompanying materials.

544. FINAL PLAT – REQUIRED MATERIALS

544.1 Final Plat Materials and Copies: The Applicant shall submit copies of the Final Plat in the same scale as the Preliminary Plat. The Final Plat shall be twenty-four (24) inches

by thirty-six (36) inches. Contiguous parcels owned by different parties may be embraced in one Plat, provided that all owners join in the dedication and acknowledgement; however, non-contiguous parcels or multiple plats are not allowed on a single sheet. The Final Plat may be submitted in sections provided the first section contain an index map indicating the sections designated for the entire tract.

The following copies shall be submitted:

- A. One copy of the Final Plat on mylar or other permanent type material that is reproducible. Copies for permanent filing with the Town of Rico, Dolores County Clerk and Recorder, and other agencies shall be either blue or black reproductions with the supporting certificates signed in original for each copy; and,
- ~~B. (Five) Eleven 5(11) copies of the Final Plat and other required materials [seven copies for Planning Commission members, one copy for Town Planning Staff, one copy for Town Clerk, one copy for Town Attorney, and one copy for Town Engineer].~~

544.2 Final Plat Requirements: The Final Plat shall be prepared and certified as to its accuracy by a registered land surveyor licensed to do such work in the State of Colorado. A work-man like execution of the Final Plat shall be made in every detail. A poorly drawn or illegible plat shall be a sufficient cause for its rejection.

The Final Plat shall meet the following requirements:

- A. The Final Plat shall conform in all major respects to the Preliminary Plat as previously approved and shall incorporate all modifications required in the Preliminary Plat Approval stage.
- B. All blocks, and all lots within each block shall be consecutively numbered;
- C. On curved boundaries and all curves on the plat, sufficient data should be given to enable the re-establishment of the curves. Any curves should include: Points of curvature, points of tangency, radius of curve, arc length, and angle or curve by arc definition.
- D. Excepted parcels shall be marked "Not included in this plat" and the boundary completely indicated by bearings and distances.
- E. All streets, walkways and alleys shall be designated as such, and bearings and dimensions shall be given.
- F. All streets shall be named.
- G. All easements shall be designated as such, and bearings and dimensions given.

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- H.** All dedications of land to the Town or other agencies shall be designated as such and bearings and dimensions shall be given.
- I.** All lands within the boundaries of the Plat shall be accounted for either by lots, walkways, streets, alleys, or excepted parcels.
- J.** All dimensions of irregularly shaped lots shall be indicated in each lot.
- K.** Bearings shall be given for all lot lines, except that bearings need not be given for interior lot lines where the bearings are the same as those of both exterior lot lines.
- L.** Other information on the Plat shall include:
- (1) Name of subdivision, true north line and date;
 - (2) Name of owner or owners of record and address;
 - (3) Total acreage of tract and total number of lots;
 - (4) Township, Range, Section and Quarter-Section, block and lot numbers; and,
 - (5) Graphic scale.
- M.** Permanent reference monuments shall be located and set in compliance with state laws, except that there shall be at least one permanent monument located no more than six hundred (600) feet apart along any straight boundary line.
- N.** The surveyor making a Plat shall certify on the Plat that it is correct and that the monuments described in it have been placed as described and shall affix his name and seal.
- O.** All utilities and easements shall be shown on the Plat along with a certificate from all utility companies showing their approval.
- 544.3** Other Materials: The Applicant shall submit final copies of all supporting documents required at the Preliminary Plat Approval stage with any changes, modifications, and revisions required as a condition to approval at the Preliminary Plat Approval stage. In addition, the Applicant shall submit the following:
- A.** Improvements agreement for all on-site or off-site improvements ~~and mitigation~~ and mitigation measures required by the Application; and,
 - B.** Covenants and restrictions on any property required by the Application.
- 546. FINAL PLAT REVIEW (ORD. NO. 2022-06, § 546, 06-15-22)**
- 546.1** Review: The Rico Planning Commission shall review the Final Plat, all supporting documents, information, and public comments taken at a public hearing and within thirty-five days of the Town's determination that the Final Plat application is complete. The

Planning Commission shall approve, approve with conditions, or deny the Final Plat based upon compliance with the standards in this Section and other applicable laws of the Town of Rico, State of Colorado, or United States of America. The Planning Commission may continue Final Plat review if mutually agreed upon by the Applicant and the Planning Commission, or if in the judgment of the Planning Commission and Town Staff the issues presented in the Final Plat require additional time for review.

546.2 Standards: This paragraph sets forth the standards for Final Plat review. The Planning Commission shall cite specific standards when imposing conditions on approval, or denying, a Final Plat Application.

- A. The Final Plat shall conform in all major respects to the Preliminary Plat as previously reviewed and approved by the Planning Commission or Board of Trustees of Trustees;
- B. The Final Plat shall meet all the Final Plat Requirements in 544.; and,
- C. The Final Plat, any agreements, covenants, restrictions, and other accompanying legal documents shall be approved, or approved with reasonable modifications, by the Town Attorney.

548. BOARD OF TRUSTEES APPROVAL (ORD. NO. 2022-06, § 548, 06-15-22)

Review: After the Planning Commission approves, or approves with conditions, the Final Plat, the Board of Trustees of the Town of Rico shall act on the Final Plat within ~~(thirty-five)~~ (35) days of the later of the Planning Commission approval or date of receiving revised Final Plat materials from the Applicant that are determined by the Town Planner to be complete. The Board of Trustees shall approve, approve with conditions, or deny, the Final Plat based upon compliance with the standards in 546.2. The Board may continue Final Plat review if in the judgment of the Board and Town Staff the issues presented in the Final Plat require additional time for review.

549. FINAL PLAT RECORDING

549.1 Recording Final Plat: The Applicant shall provide two copies of all materials for recordation with such revisions as are determined by the Town Board approval. The Town shall record one copy of the Final Plat with the Dolores County Clerk and Recorder within ten (10) working days of receiving completed Final Plat materials in compliance with the approval by the Board of Trustees.

549.2 Certified Copy Returned to Town Planner: One copy of completed final plat materials for recordation shall be filed in the Town by the Town Planner.

550. MINIMUM SUBDIVISION STANDARDS

This Section sets forth the standards for subdivision design.

550.1 Preservation of Landscape: The design and development of subdivisions shall preserve, insofar as it is technically and economically feasible, the natural terrain, natural drainage, existing topsoil, trees, and vegetation.

550.2 Lots: All lots shall meet each of the following standards:

- A. Access routes for vehicles, utilities, and trails should avoid hazardous areas, wetlands and waterways, and wildlife habitat areas.
- B. All building lots shall abut a public dedicated roadway. Each lot in the R, MU, RPUD Zone Districts shall have a minimum of fifty (50) feet of street frontage. Each lot in the HC, CM, or CPUD Zone Districts shall have a minimum of twenty-five (25) feet of street frontage. All non-building lots shall abut a public right of way with a minimum frontage of twenty (20) feet.
- C. All building lots shall meet the minimum size requirements for the permitted use.
- D. All building lots shall be arranged to accommodate the permitted use within the setbacks required by the zoning district.
- E. Each building lot shall provide at least one feasible building site that is suitable for the permitted use which is not in an avoidable or un-mitigatable hazardous area.
- F. All building lots shall have adequate space for off-street parking with a maximum 4% grade and driveway access with a maximum 12% grade.

550.3 Streets: All streets and roadways shall meet the Road Design Standards in **478**.

554. IMPROVEMENTS (ORD. NO. 2008-3, § 554, 03-19-08)

The Applicant shall provide a Subdivision Improvements Agreement in a form supplied by Town for the construction of any improvements required by the Application. The Applicant shall post a bond in the amount of 125% of the cost of the improvements in favor of the Town at the time the Subdivision Improvements Agreement is executed.

556. LAND DEDICATIONS AND DEVELOPMENT CHARGES

Usable land in the amount of ten percent ~~(10%)~~ of the total land area proposed for development shall be dedicated to the Town for public purposes, including but not limited to Parks, Public Facility Areas, and Schools. The land dedication calculation shall not include proposed Open Space areas, road rights-of-way, or the proposed land for dedication. Additional land dedications may also include sites inappropriate for development and buffer areas around such sites, parks for recreation, open space for recreation and view corridor protection, green belts for view corridor protection and separation of incompatible uses, and trails for non-motorized access through and around Town. The Town may accept a payment in lieu of a land dedication where the Applicant's property does not offer practical, beneficial, or useful land

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dedication areas.

558. OWNERS' ASSOCIATIONS

- 558.1** Applicability. When a subdivision contains any physical facilities, structures, improvements, systems, areas or grounds held in common and necessary or desirable for the welfare of the area or subdivision, or that are of common use or benefit and that are not or cannot be satisfactorily maintained by the Town or another public agency, the Town may require the establishment and creation of a mandatory owners' association to assume and be responsible for the continuous and perpetual operation, maintenance and supervision of such facilities, structures, improvements, systems, areas or grounds.
- 558.2** Approval. If the establishment and creation of a mandatory owners' association is required by the Town, a copy of the agreements, covenants and restrictions establishing and creating the association must be approved by the Town Attorney and Board of Trustees prior to the approval of the final plat of the subdivision and must be filed of record with said final plat in the Map and Plat Records of Dolores County, Colorado. Said final plat shall clearly identify all facilities, structures, improvements, systems, areas, or grounds that are to be operated, maintained and/or supervised by said association.
- 558.3** Responsibilities. Such mandatory owners' associations shall be responsible for the continuous and perpetual operation, maintenance and/or supervision of landscape systems, features or elements located in parkways, common areas, between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainageways or drainage structures, or at subdivision entryways. Subdivision entryway treatments or features shall not be allowed unless a mandatory owners' association as required herein is established and created.
- 558.4** Dedications to Association. All facilities, structures, improvements, systems, areas, or grounds that are to be operated, maintained and/or supervised by a mandatory owners' association, other than those located in public easements or rights-of-way, shall be dedicated by easement, or deeded in fee simple ownership interest to said association. Such easements or ownership shall be clearly identified on the final plat of the applicable subdivision.

560. SCHEDULING OF SUBDIVISION APPLICATIONS

- 560.1** Due to the necessity for site walks and site analysis, the Planning Commission

Chairperson, or the Planning Commission if it decides to act, may delay Conceptual Plan review, or Preliminary Plat review, if snow cover or inclement weather restricts site walks and analysis.

560.2 ~~In the event that the Planning Commission agenda is full for one or more months, an Applicant may submit a written request with an application fee to reserve a space on the next available Planning Commission agenda.~~

560.3 The Planning Commission ~~and or Town Board~~ Chairperson shall ~~cover each provide at least 30 minutes on the Planning Commission agenda for each~~ stage of Application review ~~material. The Chairperson may increase the time on the Planning Commission agenda which is necessary to review the Application based upon the size of the proposed subdivision and proposed deviations from subdivision standards.~~

**562. TIMING FOR APPLICATION MATERIALS AND NOTICES
(ORD. NO. 2022-06, § 562, 06-15-22)**

562.1 The Applicant shall submit all required subdivision application materials according to the schedules below.

- A.** Conceptual plan materials shall be submitted at least forty-five (45) days prior to a regular meeting of the Planning Commission.
- B.** Preliminary Plat materials shall be submitted at least sixty-five (65) days prior to a regular meeting of the Planning Commission.
- C.** Final Plat materials shall be submitted at least forty-five (45) days prior to a regular meeting of the Planning Commission.
- D.** Final Plat materials shall be submitted at least thirty-five (35) days prior to a regular Board of Trustees meeting.

562.2 Notice of a public hearing to review the Conceptual Plan shall be sent by first class mail by the Applicant to all property owners according to the county assessor's records within two hundred (200) feet, including public rights of way at least twenty (20) days prior to a hearing and shall be posted at the regular places of posting and published in the designated official paper of record at least ten (10) days prior to the date of the Public Hearing. The notice shall be in the form acceptable to Town. The Applicant shall provide the Town of Rico with a certification of mailing.

562.3 Notices of Preliminary Plat and Final Plat review shall be mailed to all property owners ~~within 200 feet of the subject property and posted on the official Town website~~

~~published in the designated official paper of record~~ at least 10 days prior to the public hearing review date.

570. EXPIRATION OF APPROVALS:

Applicants are required to diligently process subdivision applications to a final decision. Any decision by the Planning Commission or by the Board of Trustees for Conceptual Plan, Preliminary Plat or Final Plat must proceed to the next review stage in the review process within four (4) months of the date of the last action by the Planning Commission or Board of Trustees. If the Applicant fails to provide the information required to be submitted for the next stage of subdivision review within four (4) months of the last Planning Commission or Board of Trustee action, then sufficient grounds for denial for failure to diligently pursue a subdivision **applicant application** shall be deemed to exist. The Town Board may elect to deny the application for failure to diligently pursue a subdivision application and shall provide ten (10) days prior written notice to the Applicant of the Town Board’s consideration of denial on such grounds. The Applicant may request an extension of time in writing prior to the expiration of the four (4) month period and the Town Board may approve an extension of such time as it deems appropriate based on the complexity and scope of the application **and any other reasonable grounds for delay**. The Town Board may also approve a longer timeframe for processing subdivision applications by ordinance in conjunction with providing vested rights for a conceptual, preliminary, or final subdivision plan.

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**ARTICLE VI
ANNEXATION****600. ANNEXATION**

All annexations shall meet the substantive and procedural requirements of the Municipal Annexation Act of 1965, Colorado Revised Statutes title 31, Article 12, in addition to any other requirements imposed by this RLUC, any other law of the Town of Rico, or other requirements which the Board of Trustees deem appropriate for proposed annexations.

602. PROCEDURES

Prior to the filing of an annexation petition, the Applicant is encouraged to meet with the Town Manager and/or Planner to discuss application submittal materials, pre-annexation agreement, review procedures, and financial and community development issues. An initial joint work session with the Planning Commission and Board of Trustees should be scheduled to review procedures and submittal requirements. Annexation applications should generally follow at a minimum the subdivision application requirements for conceptual plan review in **ARTICLE V**. The Board of Trustees shall refer all annexation applications to the Planning Commission for review and recommendation prior to conducting a public hearing and considering any ordinance to annex property into the Town of Rico. Applicants for annexation shall pay all costs for Town review of annexation applications unless this requirement is waived by the Board of Trustees (see Appendix A. for application fee).

604. REVIEW

Annexations should be compatible with the Rico Regional Master Plan and should not create a financial burden for the existing residents, property owners or businesses in the Town of Rico.

606. INTERGOVERNMENTAL AGREEMENTS

Annexations shall be subject to any existing Intergovernmental Agreements with Dolores County concerning annexations, subdivisions, and development applications within the Rico Growth Boundary, and other agreements which may concern or be affected by potential annexations.

**ARTICLE VII
AUTHORITY AND ENFORCEMENT**

700. PLANNING AND ZONING COMMISSION

Sections 700 through 709 establishes the organization, authority, and duties of the Rico Planning Commission

Commented [GU102]: Use Article 1 of the Global revision for the Planning Commission

701. INTENT

The Planning and Zoning Commission (RPC) for the Town, which shall be known as the Rico Planning Commission, or RPC, is governed by the standards set forth in this Section.

702. MEMBERSHIP

7021 Composition. The RPC shall consist of five regular members and first and second alternate members who shall be appointed by the Board of Trustees.

7022 Terms. Members shall be appointed for two-year staggered terms commencing on January 1st. The term for 3 regular members and the second alternate shall commence on even numbered years and the term for 2 regular members and the first alternate shall be commence on odd numbered years.

Vacancy: In the event of the death, resignation, removal or end of a planning commission term, vacancy announcements will be open until the vacancy is filled. Vacancies shall be filled by appointment of the Town Board of Trustees for the unexpired term. The announcement of vacancy will be reposted to fill the vacant at-large planning commission seat.

Vacancies occurring otherwise than through the expiration of terms shall be filled by appointments. Upon resignation of a member, the Board of Trustees shall appoint a new member after advertising notice of the vacancy in accordance with State and Local legal notice publication laws.

7023 Removal. Members may be removed after public hearing before the Board of Trustees on grounds of inefficiency, neglect of duty, inability to properly perform required duties, or intentional disregard of duties. Three (3) unexcused absences of a member from properly noticed meetings of RPC shall constitute good cause for removal on the grounds of neglect of duty.

7024 Qualifications. Members of the RPC shall be bona fide residents and qualified electors of the Town prior to the time of appointment. If a member ceases to reside in the Town his membership on the RPC shall terminate immediately.

7025 Compensation. Members shall serve without compensation, except reimbursement for reasonable out-of-pocket expenses may be approved by the Board of Trustees.

7026 Officers. The RPC shall annually elect from its membership a Chairperson and Vice Chair during the first meeting of the calendar year or as soon thereafter as possible, with eligibility for re-election. The Chairperson shall be responsible for setting meeting agenda and conducting the meeting. The Town Clerk shall act as the RPC Secretary, unless otherwise determined by the RPC or Board of Trustees. The secretary shall have the responsibility of taking meeting minutes and maintaining the official records of the

RPC.

~~702.7~~ Conflict of Interest. When reviewing applications, members of the Planning Commission are obliged to declare a conflict of interest and abstain from voting on an application if they have a financial interest.

~~702.6~~702.8

703. MEETINGS

- 7031** Regular Meeting. The RPC shall meet in regular session at a time and place to be designated by the RPC and noticed in accordance with state and local laws.
- 7032** Special Meetings. Special meetings may be called by the RPC upon the request of the Chairperson or any three members of the RPC. Each member shall be personally notified at least 24 hours prior to the meeting.
- 7033** Quorum. Three members of the RPC shall constitute a quorum.
- 7034** Record. The RPC shall keep a public record of its meeting minutes.

704. STAFF AND CONTRACT PROFESSIONALS

- 7041** Hiring. The RPC may contract with professional planners, consultants, and employees provided that expenditures for these positions have been authorized by the Board of Trustees, ~~or the Mayor.~~ The hiring of professional staff, consultants, or employees shall require ~~the approval of four RPC members or the~~ approval of the Board of Trustees. The RPC shall advise the Board of Trustees of all such appointments.
- 7042** Attorney and Planner. With prior approval of the Board of Trustees or the Mayor, the Town Attorney or the Town Planner shall, when requested by the RPC, attend any meetings of the RPC. With the prior approval of the Board of Trustees, the Mayor or the Town Manager, any member of the RPC may call upon the Town Attorney for an oral or written opinion relating to any question of law involving matters of planning or zoning.

705. POWERS AND DUTIES: MASTER PLAN

- 7051** Purpose. It is the function and duty of RPC to make, adopt and then recommend to the Board of Trustees a master plan for the physical development of the Town plus a regional plan for land use including a street plan for any area located within 3 miles of the town boundary of Rico.
- 7052** Content. The master plan shall show RPC's recommendations and may include, among other things, the general location, character and extent of streets, parks, parkways, playgrounds, and public spaces; the general location and extent of utilities and terminals, whether publicly or privately owned; the acceptance, widening, removal, extension, relocations, narrowing, vacation, abandonment or change of use of any of the foregoing; and the general location, character, layout and extent of community centers.
- 7053** Zoning Plan. RPC shall also make, adopt and recommend to the Board of Trustees a zoning plan which shall include zoning maps and all other matters pertaining to zoning, including but not limited to the control of height, area, bulk, location and use of buildings and premises.
- 7054** Public Hearing. Before the adoption of the Plan or any such part, amendment,

extension or addition, the RPC shall hold at least one (1) public hearing, notice of the time and place of which shall be given in the official newspaper of record.

706. POWERS AND DUTIES: DEVELOPMENT APPLICATIONS

- 706.1** The RPC shall have full power and authority to act on matters granted to it by statutes of the State, and as they may be amended from time to time, and, to the extent not inconsistent therewith, matters granted to it by this RLUC and any ordinances of the Town. In general, the RPC shall have such powers as may be necessary to enable it to perform its functions, promote municipal planning, and review development applications.
- 706.2** Grant approval to uses or activities permitted on review.
- 706.3** Make recommendations to the Board of Trustees to approve or deny applications for zoning amendments.
- 706.4** Initiate amendments to the text of this RLUC or to the Rico Regional Master Plan.
- 706.5** Make recommendations to the Board of Trustees to approve or deny amendments to the text of this RLUC, the Official Zone District map of the Town or to the Rico Regional Master Plan.
- 706.6** To make recommendations to the Board of Trustees to approve, deny, or approve with conditions, preliminary and final annexations, subdivisions, and planned unit developments.

720. BOARD OF ADJUSTMENTS

720 through 729 establishes the organization, authority, and duties of the Rico Board of Adjustments, or 'BOA'.

722. MEMBERSHIP

- 722.1** Composition. The Board of Trustees shall act as the BOA.
- 722.2** Terms. The terms shall correspond with the terms for the Board of Trustees.
- 722.3** Qualifications. Qualifications shall be the same as those for the Board of Trustees.
- 722.4** Compensation. Members shall serve without compensation, except reasonable out-of-pocket expenses.
- 722.5** Officers. The BOA shall elect from its membership a chairperson, whose term shall correspond with his BOA term, with eligibility for re-election.
- 722.6** Attorney, Planner, Consultants. With prior approval of the Board of Trustees or the Mayor, the Town Attorney, the Town Planner, or other consultant shall, when requested by the BOA, attend any meetings of the BOA. With the prior approval of the Board of Trustees or the Mayor, any member of the BOA may call upon the Town Attorney or Town Planner for and oral or written opinion relating to any question of

law or planning involving matters of the BOA.

723. MEETINGS

723.1 Meetings. Meetings shall be held by the BOA as applications for BOA review or appeals to the BOA are submitted and may be held on the same night as meetings of the Board of Trustees. Meetings may be called by the BOA upon the request of the Chairperson or any four members of the BOA. Each member shall be personally notified at least 24 hours prior to the meeting.

723.2 Quorum. Four members of the BOA shall constitute a quorum.

723.3 Record. The BOA shall keep a public record of its meetings.

724. POWERS AND DUTIES

724.1 The BOA shall have full power and authority to act on matters granted to it by statutes of the State, and as they may be amended from time to time, and, to the extent not inconsistent therewith, matters granted to it by this RLUC and any ordinances of the Town. In general, the BOA shall have such powers as may be necessary to enable it to perform its functions, promote municipal planning, and review development applications.

724.2 The BOA shall have the authority to hear and decide appeals from, and review, any order, requirement, decision, or determination made by an administration official charged with the enforcement of this RLUC.

724.3 The BOA shall have the authority to hear and decide upon the granting of adjustments, variances, modifications or exceptions to the regulations and requirements of this RLUC relating to the construction or alteration of buildings or structures, setbacks, and design regulations.

724.4 The BOA shall have the authority to render interpretations of this RLUC, including any uncertainty as to boundary location or meaning of words and phrases, provided that such interpretation is not contrary to the purpose and intent of this RLUC.

730. ENFORCEMENT OF RLUC

730 through **742** establish the authority for enforcement, and penalties for violations, of this RLUC.

732. ENFORCING OFFICIAL

The provisions of this RLUC shall be enforced and administered by the Town Manager acting as the Enforcement Official of the Town of Rico or another person that is appointed by the Board of Trustees of the Town.

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734. RIGHT TO INSPECT

The Enforcement Official or any duly authorized person with reasonable belief of that a violation of this RLUC exists shall notice the property owner or tenant and establish an agreed upon time to inspect the premises within two (2) days of the notice.

736. LIABILITY

The Enforcement Official or any employee charged with the enforcement of this code, or any member of the Planning Commission or any other public body of the Town of Rico, acting in good faith and without malice for the Town in the discharge of his duties, shall not thereby render himself or herself personally liable and is hereby relieved of all personal liability for any damage which may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the Enforcement Official, his or her employee, or any member of a public body of the Town when acting in his or her official capacity, shall be defended by the Town.

738. STOP WORK ORDERS

Whenever any development activity is being done contrary to the provisions of this RLUC or the authorized development permit, the Enforcement Official may order the work stopped by serving written notice on any such person engaged in doing or causing such work to be done; or, by mailing the notice by certified mail to the property owner of record according to the Dolores County Assessor's office and posting the notice in a conspicuous place on the property. Any such person shall immediately stop such work until authorized by the Enforcement Official or the Board of Trustees to resume work.

740. PENALTY

Violation of any provision of this RLUC is hereby deemed to be a misdemeanor and any person found guilty hereunder shall be fined not less than forty dollars (\$40.00) nor more than one thousand dollars (\$1,000) and/or sentenced to jail for a term of not more than one (1) year. Every day the RLUC is violated shall constitute a separate offense. The Town may withhold any building or development permit, stop the review of any pending development application, or issue a stop work order for any pending construction or development activity by a person who is in violation of this RLUC.

742. COMPLAINTS

Any person aggrieved by violation, or apparent violation, of this RLUC shall file a written complaint with the Enforcement Official, who shall immediately investigate such complaint and take legal action to have the violation penalized and removed if such a violation is found to exist.

ARTICLE VIII
ENVIRONMENTAL DEVELOPMENT PERMITS**800. AUTHORITY**

The Environmental Development Permit regulations in this Article VIII are adopted pursuant to the general police powers and home rule charter authority of the Town of Rico, C.R.S. §24-65.1-101 Areas and Activities of State Interest, and C.R.S. §31-23-301 Grant of Power.

801. PURPOSE

The Town of Rico is located in a high alpine mountainous environment which presents a variety of natural conditions that can impact development and where development can impact significant natural resources. This Article VIII regulates development of areas where natural conditions present unique environmental considerations in order to balance private property rights with safety and preservation of natural resources.

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

- 801.1.** To protect human life and health;
- 801.2.** To protect valuable natural resources and minimize the potential impact and loss of natural resources that can occur by development activities; and,
- 801.3.** To minimize expenditure of public money for costly environmental hazards and/or natural resource mitigation projects;
- 801.4.** To minimize the need for rescue and relief efforts associated with environmental hazards generally undertaken at the expense of the general public;
- 801.5.** To minimize prolonged business interruptions;
- 801.6.** To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of environmental hazards;
- 801.7.** To help maintain a stable tax base by providing for the sound use and development of areas of special environmental hazard so as to minimize future flood blight areas;
- 801.8.** To promote the awareness of property owners and potential buyers of the impacts,

constraints and unique considerations of development and property ownership in areas that contain environmental hazards and natural resources; and,

801.9. To ensure that those who occupy the areas of natural hazard assume responsibility for their actions.

802. DECLARATION OF AREAS OF STATE INTEREST

This Article VIII establishes additional regulations for development activities in Areas of State Interest, including but not limited to: The Areas of State Interest are intended to define hazardous areas which threaten the health and safety of persons and property, and to define other areas where development activity is a state interest; and to require development to avoid these areas or to sufficiently mitigate hazards or impacts in those areas to protect the health and safety of persons and property and the natural values of environmentally sensitive areas. Unless otherwise specified, all development in areas potentially affected by naturally occurring hazards must be designed for one hundred (100) year hazard events.

The following areas are hereby designated Areas of State Interest:

- 802.1.** Avalanche Hazard Areas; and,
- 802.2.** Flood Plain Areas; and,
- 802.3.** Geologic Hazard Areas; and,
- 802.4.** Steep Slopes; and,
- 802.5.** Wetland Areas; and,
- 802.6.** Wildfire Hazard Areas; and,
- 802.7.** Wildlife Habitat.

803. GENERAL PROVISIONS

8031 Definitions. The definitions used in C.R.S. §24-65.1-101 *et seq.*, are hereby incorporated herein. Where a definition in this RLUC differs or is inconsistent with a definition in the state statutes, the definition in this RLUC shall apply and supersede other definitions which are in conflict.

8032 Interpretation. In the interpretation and application of this Article VIII, all provisions shall be considered as minimum requirements; shall be liberally construed in favor of the governing body; and, deemed neither to limit nor repeal any other powers granted under State statutes. This Article is not intended to repeal, abrogate, or impair any existing easements,

covenants, or deed restrictions. However, where this Article, other ordinance, regulation, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

803 Warning and Disclaimer of Liability. The degree of protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger hazard events can and will occur on rare occasions. Hazard events may be increased by man-made or natural causes. This Article does not imply that land outside the areas of natural hazards or uses permitted within such areas will be free from damages caused by hazard events. This Article VIII shall not create liability on the part of the Town of Rico, any officer or employee thereof, the Federal Emergency Management Agency, or any state agency for any damages caused by natural hazard events that result from reliance on this Article VIII or any administrative decision lawfully made hereunder.

804. PERMIT REQUIRED

An Environmental Development Permit shall be obtained prior to commencement of any development activities for the following Areas of State Interest, except that a Environmental Development Permit is not required for building permits in the Geologic Hazard areas:

- 804.1.** Avalanche Hazard Areas; and,
- 804.2.** Flood Plain Areas; and,
- 804.3.** Geologic Hazard Areas; and,
- 804.4.** Steep Slopes; and,
- 804.5.** Wetland Areas; and,
- 804.6.** Wildfire Hazard Areas; and,
- 804.7.** Wildlife Habitat.

805. APPLICATION SUBMITTAL REQUIREMENTS

The Applicant shall file 5 paper and 1 electronic copy ~~eleven (11) copies~~ of an application requesting an Environmental Development Permit. The application shall be accompanied by or show the following:

- 805.1** The street address and legal description of the subject property;
- 805.2** A legible site plan and any/ all other information necessary to clearly demonstrate the proposed development activity in relationship to the Area, or Areas, of State and Local Interest; and,
- 805.3** For development in Areas of State Interest that pose potential hazards to property and persons, the Applicant and property owner must indemnify the Town of Rico from

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any liability associated with granting a development permit with a signed agreement approved by the Town Attorney; and,

805.4 For development in Areas of State Interest that pose potential hazards to property and persons, the Applicant and property owner must submit a written report analyzing the potential hazards and the potential physical forces created on the proposed improvements or structure for the subject property. The report must be prepared and signed by an engineer licensed in the State of Colorado; and,

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805.5 For development in Areas of State Interest that pose potential hazards to property and persons, the Applicant shall provide certification from an engineer licensed in the State of Colorado stating that the proposed improvement or structure is designed to withstand the potential hazards, or that the recommended mitigation is feasible and adequate to protect persons and property from the potential hazards; and,

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805.6 An application fee as set forth in Appendix A.

806. REVIEW PROCEDURES.

806.1. Reviewing Board. The Rico Planning Commission shall review and recommend to the Town Board who shall render decisions on all Environmental Development Permits for Areas of State Interest. Environmental Development Permits for Areas of State Interest shall be approved by a majority vote. The Town Board have the authority to waive any of the general standards for mitigation or specific mitigation standards set forth herein, if the Town Board deems it to be in the public interest. Building permits in Flood Plain areas shall be reviewed and administered in accordance with Sections **850. et.seq.**

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806.2. Public hearing required. The Rico Planning Commission and the Town Board shall conduct a public hearing on any application for an Environmental Development Permit prior to rendering its decision.

806.3. Notice. Public hearings for an Environmental Development Permit applications shall be posted at least ten (10) days prior to the hearing at the Town Hall, the Post Office, and on the subject property and shall be published as designated by the Town at least ten (10) days prior to the hearing. Written notice shall be mailed to the property owners within two hundred (200) feet of the subject property at least twenty (20) days prior to the development activity; identification of the Areas of State and Local Interest; the time, date, and place of the hearing; and the name, address, and phone number of the Applicant. There will also be present a statement that the application is available for public inspection in the Town Clerk's office during normal office hours.

806.4. Conditions. The Rico Planning Commission has the authority to recommend approval of a Development Permit with conditions, including but not limited to:

required pre-construction mitigation improvements, phasing of mitigation improvements and construction, covenants restricting development activities on the subject property, and review and acceptance of completed mitigation prior to releasing a performance bond.

806.5. Appeal. The decision of the Board of Trustees shall be the final decision of the Town and may be appealed to the District Court within thirty (30) days of the date of the meeting where the decision was rendered.

806.6. Records. A file containing all documents relevant to the application and disposition of such Environmental Development Permit shall be maintained by the Town Planner.

807. GENERAL STANDARDS FOR MITIGATION AND SITE DESIGN

The standards in this Section apply to all Areas of State Interest. The reviewing body shall cite specific standards in this Section when approving, approving with conditions, or denying, any proposed development activity in an Area of State Interest.

807.1. Avoidance. Development activities shall avoid Areas of State and Local Interest where alternative development sites are feasible unless the reviewing body finds the following:

- A. Allowing the development activity in an Area, or Areas, of State and Local Interest will result in site development which represents a better overall design in relationship to the purposes set forth in **104.** than that allowable under strict application of **807.;** and,
- B. The affected Area, or Areas of State and Local Interest, can be fully mitigated according to the standards of **808** and supported by recommendations contained in engineered mitigation proposals.

807.2. Mitigation. Where no alternative development sites are feasible, or where the Town Board makes the findings in **807.1 A.** and **B.**, development activities may be permitted in Areas of State Interest provided the area is fully mitigated with regard to public safety, impacts on adjacent property, and implementation of the Rico Regional Master Plan. Cost estimates of proposed mitigation shall be included with any application to develop in Areas of State and Local Interest. Where the cost estimates of mitigation exceed ten thousand dollars (\$10,000.00) the Applicant shall be required to provide a performance bond for the proposed mitigation prior to receiving a permit for development activity.

808. SPECIFIC MITIGATION STANDARDS

Mitigation for development activities in specific Areas of State and Local Interest shall meet the following standards in addition to meeting the recommended mitigation in site specific engineering reports.

8081 AVALANCHE HAZARDS

- A. No dwelling units or residential structures shall be allowed in areas of High Avalanche Hazard (defined as areas where avalanches occur at a frequency of more than once per one hundred (100) years or where avalanches are capable of creating impact pressures greater than 615 pounds per square foot once every 100 years);
- B. all proposed structures, improvements and other development activities must receive certification from an engineer licensed in the State of Colorado stating that the proposed development is designed to withstand the potential avalanche force; and,
- C. no vegetation removal which results in creating, increasing, or expanding the avalanche hazard shall be allowed in or near designated avalanche hazard areas or potential avalanche hazard areas.

8082 GEOLOGIC HAZARDS, INCLUDING: LANDSLIDES, ROCKFALLS, STEEP SLOPES, AND UNSTABLE SLOPE AREAS

- A. All proposed structures, improvements and other development activities associated with Subdivision and PUD applications must receive certification from an engineer licensed in the State of Colorado stating that the proposed activity is designed to withstand the potential hazard and will not increase hazards to adjacent or nearby properties, structures, or improvements;
- B. protective vegetation removal should be avoided where practical and shall be accompanied by a feasible revegetation plan which includes the type and quantity of revegetation, cost estimate, and time frame for implementation;
- C. water shall not be added to the site which would decrease the site's stability;
- D. excavations shall not remove the toe of slopes without adequate mechanical support and shall not increase hazards to adjacent or nearby properties, structures, or improvements; and,
- E. excavations shall utilize debris fences where appropriate to protect lower elevation properties from rock fall.

8083 WILDFIRE HAZARD AREAS.

- A. In areas of Moderate and Severe Wildfire Hazard roof coverings shall be of a non-combustible material approved by the Underwriter's Laboratory; and,
- B. In areas of Severe Wildfire Hazard a minimum fifteen (15) foot fire break shall be maintained between all combustible structures and vegetation by removing evergreens, thinning vegetation, and removing brush.

8084 WILDLIFE HABITAT AREAS.

- A. High impact activities, including, but not limited to, commercial, industrial, and road construction, should avoid Wildlife Habitat Areas where technically possible;
- B. ~~R~~esidential development shall be clustered to minimize wildlife habitat impacts;
- C. ~~R~~emoval of native vegetation shall be minimized;
- D. ~~W~~ater holes, springs, seeps, marshes, ponds, and watering areas shall be preserved and protected with a 100-foot buffer; and,
- E. ~~M~~esh, ~~barbed~~, and woven fences shall be prohibited, and no fences shall be allowed which exceed 42 inches in height, except to protect vegetable and flower garden areas from animals, provided a natural avenue for the animals' egress and access is available.

Commented [GU104]: I just added in barbed

8085 Wetland Protection Regulations

Additional regulations and specific standards are set forth in ~~s~~Sections **820. et. seq.**

8086 Flood Plain Regulations

Additional regulations and specific standards are set forth in ~~s~~Sections **850. et. seq.**

820. WETLAND PROTECTION REGULATIONS.

8201 Intent. These Wetland Protection Regulations are enacted to protect the vital, beneficial functions and values of wetlands and water areas within Rico. This is to be accomplished by requiring that a permit be obtained for development activities in wetlands and water areas, and associated buffer areas, and that, as a part of this permitting process, the Town will review disturbance permits and mitigation plans. A critical element of this process is the determination of the buffer area boundary which will vary from a minimum twenty-five (25) feet and a maximum of ~~seventy-five one hundred (75+00)~~ feet depending upon the presence of site-specific features and the use of the most recent approved delineation map used with the application, best management practices. It is intended that the buffer width will equal what is necessary to protect the wetlands and water areas from significant adverse impact arising from activities within the buffer and that ~~s~~ applicants will be encouraged to reduce the width of the buffer through appropriate best management practices. It is anticipated that where an Applicant includes best management practices, the width of this buffer will be decreased below the maximum, and that where these practices will fully mitigate the impact of development within the maximum buffer upon the wetlands or water area, the buffer will be reduced to the minimum of twenty-five (25) feet.

Commented [GU105]: DO WE HAVE ACCURATE AND CURRENT MAPS IDENTIFYING WETLANDS? MAY THE APPLICANT PROVIDE MORE CURRENT MAPPING BY A WETLANDS ENGINEER TO SUPPORT THEIR APPLICATION?

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8202 Application. The requirements of these Wetland Protection Regulations shall apply to all site development activity within a water area, wetland, or buffer zone, including site clearing, grading, excavation, and the placement of material, including without

limitation any soil, sand, gravel, mineral, aggregate, organic material, or the storage of plowed snow. A Disturbance Permit is required for any site development in wetland areas, rivers, streams, ponds, lakes, or other water areas in the Town of Rico, or within the buffer zone associated with such wetland or water areas.

8203 Enforcement. In addition to other fines and penalties established herein for violations of this Code, the Town may seek an injunction requiring complete restoration of any area disturbed in violation of these Wetland Protection Regulations, or payment in lieu of restoration or mitigation at the rate established in these Wetland Protection Regulations, and may issue stop work orders, withhold any further permits for site development, and cease the processing of any site development applications related to the property, project, or owner that violates the provisions of these Wetland Protection Regulations.

8204 Compliance with Disturbance Permit. Any site development which is subject to a Disturbance Permit shall at all times comply with the requirements of the Disturbance Permit, including the provisions of a Disturbance Plan and Mitigation Plan. Failure to comply with a Disturbance Permit shall be deemed a violation of these Wetland Protection Regulations.

821. PURPOSE.

821.1 Wetland and Water Areas. Preservation of wetland and water areas serves to prevent water quality degradation of the Dolores River and its tributaries; to protect ecosystems, aquatic habitats, and wildlife habitats, especially habitats for state or federally designated endangered and threatened species; to preserve ground water recharge functions; and, to preserve existing natural flood plain control.

821.2 Buffer Zone. The buffer zone serves as an ecological transition zone from uplands to wetlands and water areas which is an integral portion of the wetland and water area ecosystems.

Specifically, buffer zones can provide:

- A. a temporary refuge for wetland fauna during high water episodes;
- B. a habitat area for activities such as breeding, spawning, nesting and wintering for migrating, endangered, commercially and recreationally important wildlife;
- C. an area to accommodate slight variations in wetland and water area boundaries over time due to hydrologic and climatologic effects;
- D. a remediation and filtration area to remove and store nutrients, sediments, petrochemicals, pesticides, debris and other pollutants as they move from the upland towards the wetlands and water areas;

- E. a buffer area to keep disturbances at a distance from wetland and water areas, thus reducing the impact of noise, traffic, and other direct and indirect human impacts on wetland species;
- F. a corridor area which facilitates the movement of wildlife to and from wetland and water areas and from and to uplands, streams, and other waterways; and,
- G. a sediment and storm water control area to reduce the adverse effects of development or disturbance upon wetland and water areas.

822. REVIEW PROCEDURE.

Disturbance Permits for development in wetland areas and buffer zone areas shall be reviewed and decided by the reviewing entity and by the process for the development application as otherwise designated in this RLUC and such review may be consolidated with other development applications and procedures as appropriate. The notice and public hearing requirements shall follow the requirements for the development application. Comments regarding compliance with the review standards in these Wetland Protection Regulations shall be considered at any public hearings required by the site development application. In the case of development applications which are reviewed and approved by the Town Planner, the Applicant for a permit under these Wetland Protection Regulations may appeal the decision of a lower reviewing official or board to the Board of Adjustments in accordance with the procedures for Variances in [Sections 430. *et seq.*](#)

823. DISTURBANCE PERMIT APPLICATION SUBMITTAL REQUIREMENTS.

In addition to other submittal requirements for development applications, an Applicant shall submit the information identified below for any development that requires a Disturbance Permit pursuant to these Wetland Protection Regulations. Upon request, the Town Planner may perform a site inspection, verify that no wetland, water areas, or associated buffer zone exist on the site, and waive this submittal requirement.

- 8231 Boundary Map.** A map or diagram separately depicting the boundary of water areas, wetlands, and riparian areas, depicting the boundary of the restrictive inner buffer zone from water areas and wetlands, depicting any site-specific triggers for a variable outer buffer zone listed in [824.3](#), and depicting the boundary of the proposed disturbance in wetland areas, water areas and buffer zone areas.
- 8232 Proposed Disturbance.** A description of the proposed activity causing disturbance, including the amount, location, and acreage of water area or wetland fill, removal, or other alteration proposed, and location and extent of proposed disturbance in the buffer zone.
- 8233 Grading Plan.** A grading and erosion control plan, utilizing soil stabilization measures

and practices to minimize the impacts of the proposed disturbance described in **827**, including a timeframe for installation of erosion control measures.

- 8234** **Re-vegetation Plan.** Plan showing quantity and type of plant material to be used for re-vegetation, time frame for re-vegetation, and proposed soil stabilization measures.
- 8235** **Mitigation Plan.** A plan to mitigate the impacts of proposed fill of water areas or wetlands showing the proposed on-site restoration improvements, including information of those wetland areas to be restored and/or created, in accordance with **828**.
- 8236** **Alternative Analysis.** A statement and analysis of any practicable on-site development configuration alternatives to the proposed development activity causing disturbance which reduce or avoid such disturbances, including reduction in the scale of the proposed development.
- 8237** **Army Corps.** For activities that involve the fill of wetland areas, evidence of compliance acceptance of the Plan by the U.S. Army Corp of Engineers.

824. BUFFER ZONE.

The buffer zone shall be measured outward from a wetland or water area boundary line on a horizontal scale perpendicular to such boundary line. The buffer zone from wetland areas and water areas is established as follows:

- 8241** **Grandfather Clause.** Ten (10) feet. The total buffer zone from wetland and water areas shall be ten feet for single family residential subdivisions that have received final subdivision approval from the Town of Rico, and have had a final subdivision plat recorded in the County Clerk and Recorder's office, on or prior to the first day of January 2003.
- 8242** **Restrictive Inner Buffer.** Twenty-Five (25) Feet: The buffer zone from water areas and wetlands for any development application that is not subject to the grandfather clause in **Subsection (1)** above shall be twenty-five (25) feet.
- 8243** **Variable Outer Buffer Zone.** Zero to Seventy-Five (0-75) Feet: The variable outer buffer zone for any site is an additional buffer zone beyond the restrictive inner buffer; however, the variable outer buffer zone shall not apply to man-made and artificial ponds. The width of the variable outer buffer zone may be undulating across a piece of property in order to provide protection to site specific features. The width of the variable outer buffer zone shall be determined by the Watershed Protection Plan; or, if not yet completed and adopted, the variable outer buffer zone shall be determined on a site-specific basis with the property owner during the site development application review process subject to the following standards and process. Site specific features within ~~seventy-five-one hundred (75+00)~~ feet of the water area or wetland boundary, or adjacent land uses that trigger the need for an outer buffer zone are listed below. After the initial determination

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of the presence of

site-specific features that trigger the need for an outer buffer zone, the use of Best Management Practices shall be considered under **827** below to reduce the width of the variable outer buffer zone.

- A. **Riparian Areas**. The outer buffer zone shall be coincident with the outermost extent of riparian areas.
- B. **Threatened and Endangered Species**. The presence of occupied functional habitat for plant and animal species listed by the State of Colorado or United States as threatened or endangered shall result in an outer buffer zone of Twenty-Five (25) feet to Seventy-Five (75) feet from such habitat.
- C. **Wildlife Migration Corridor**. The presence of demonstrated wildlife migration corridor as determined by the Colorado Division of Wildlife shall result in an outer buffer of zone twenty-five (25) feet to seventy-five (75) feet.
- D. **Fens**. The outer buffer zone from fens is Seventy-Five (75) feet.
- E. **100 Year Flood Plain**. The outer buffer zone shall be coincident with the outermost extent of the regulatory one hundred (100) year flood plain.
- F. **Steep Slopes**. Where a slope of 20% grade or more draining into water areas or wetlands measured one hundred (100) feet outward from the water area or wetland exists, the outer buffer shall be seventy-five (75) feet; where a slope of 30% grade or more that is ten (10) feet or more in vertical height exists the outer buffer zone shall be coincident with the area of such slope within one hundred (100) feet of such water area or wetland. Percentage grade is determined by dividing the vertical rise by the horizontal run and multiplying by 100.
- G. **Erodible Soils**. Where soils adjacent to water areas or wetlands with an erosion “k” factor of 0.25 or greater, as determined by the Natural Resources Conservation Services (“NRCS”) or other qualified expert, exists the outer buffer zone shall be coincident with the area of such soils within one hundred (100) feet of such water area or wetland.
- H. **Unstable Streambank Conditions**. Where horizontal or vertical degradation beyond natural levels of river and stream banks exists, the outer buffer zone shall be twenty-five (25) feet.
- I. **Hazardous Materials**. Where the proposed use of property presents a special hazard to water quality due to storage, handling, or use of hazardous or toxic materials, chemical fertilizers, or pesticides, not including residential uses, the outer buffer zone shall be one hundred (100) feet.
- J. **Stormwater Permit**. Where the proposed land use involves commercial or industrial uses that require a CDPS stormwater permit (SIC-based), the outer buffer zone shall be one hundred (100) feet.

- K. Impervious Area.** Where the proposed site development would create 40% or more impervious surfaces for any one (1) acre area within the potential buffer zone area (including restrictive inner and potential variable outer buffer zone), the outer buffer zones shall be one hundred (100) feet.
- L. Poor Vegetative Cover.** Where vegetative cover of less than 30% for any ½ acre exists within 100-feet of a water area or wetland, the outer buffer zone shall be fifty (50) feet.

8244 Reduction of Variable Outer Buffer Zone. When Best Management Practices for a proposed site development can be used to prevent, or at a minimum mitigate, degradation of the water quality of water areas, the function of wetlands, or the function of the buffer zone, the variable outer buffer zone width will be reduced accordingly. The specific use and development of property shall be considered when considering the appropriateness of reducing the variable outer buffer zone. The function of buffer zones can include:

- A. Reduction of sediment inflows to water areas or wetlands.
- B. Regulation of nutrient and organic matter input into water areas and wetlands.
- C. Reduction of hazardous or toxic material inflows into water areas or wetlands.
- D. Attenuation of stormwater/snowmelt flows into water areas and wetland (including changing concentrated flows into sheet flows).
- E. Habitat for water area or wetland organisms or organisms that use water areas and wetland.
- F. Groundwater recharge area which helps support a water area or wetland.

825. REVIEW STANDARDS FOR DISTURBANCE PERMIT.

The reviewing entity shall use the standards in this **825** Section for review of Disturbance Permits for site development in wetlands, water areas, and buffer zones. The reviewing entity must find that the application meets at least one of the following standards in order to issue a Disturbance Permit. In all cases where an application for a Disturbance Permit meets one of the standards below, an acceptable Disturbance Plan that meets the standards in **826** and, if required, an acceptable Mitigation Plan that meets the standards in **827** are required as a condition to issuance of a Disturbance Permit. Unless otherwise approved by Town, the requirements set out in the Disturbance Permit shall be completed prior to acceptance of any improvements involving wetland disturbance.

8251 The proposed activity is water-dependent;

8252 The proposed activity is necessary to achieve access to property or provide utility

service to property, and no other access route avoiding wetland and buffer zone areas is practical or the proposed access route results in better overall design of the site development;

- 8253** The proposed activity in a buffer zone is a temporary disturbance for customary construction and development of a property;
- 8254** Denial of the Disturbance Permit would result in unconstitutional taking of property pursuant to the Colorado and United States Constitution;
- 8255** The proposed activity is (a) primarily for the promotion of the safety, health and general welfare of the Rico community, (b) the public benefit is greater than the impact to wetlands, and (c) there is no financially feasible alternative or other alternatives conflict with other provisions of the Comprehensive Plan;
- 8256** The primary purpose of the proposed disturbance activity is to restore a wildlife habitat, create additional wetlands, improve existing wetland areas, or restore or improve existing water areas and associated riparian areas;
- 8257** The proposed disturbance in a buffer zone would enhance the benefits of such buffer zone or involves residential landscaping that would not degrade the benefits of such buffer zone, or the proposed disturbance in a buffer zone is for construction of a storm water treatment area or equipment; or,
- 8258** The proposed activity is (a) reviewed as a planned unit development application, (b) would not result in significant degradation to wetlands or natural water areas, and (c) results in a better overall design of the project that could not otherwise be achieved by the strict application of the standards in **ss** Subsections **825.1** through **825.5** above.

826. DISTURBANCE PLAN PRACTICE STANDARDS.

A Disturbance Permit for site development in a wetland area, water area or associated buffer zone include a Disturbance Plan that meets the following standards for development practices to the extent practicable.

- 8261** Disturbed wetland soils shall be retained for on-site revegetation, on-site mitigation, or off-site mitigation, as set forth in the Disturbance Permit;
- 8262** Site development in wetland, water areas, and buffer zones shall be confined to the designated boundaries of the Disturbance Permit;
- 8263** Appropriate erosion and siltation controls must be utilized. Areas not meant for development shall be protected with silt fence, snow fence, or other such barriers, and all exposed soil and other fill shall be permanently stabilized at the earliest practicable date;

- 826.4** Grading and construction shall be timed to minimize soil exposure to heavy run-off and rainy periods;
- 826.5** Runoff from impervious surfaces such as walkways, parking areas and driveways shall be detained and infiltrated;
- 826.6** The grade of exposed slopes shall be minimized, and erosion shall be controlled by utilizing mulching, erosion control blankets, barriers, such as straw bale dikes and silt fencing, and other appropriate means;
- 826.7** Runoff velocities shall be maintained to prevent high erosion by using flow barriers (i.e., vegetation, rip-rap, etc.);
- 826.8** Drainage ways and outlets shall be protected from increased flows;
- 826.9** On-site sediment shall be trapped by using check dams, temporary diversions, detention basins, straw bales, silt fences, or other appropriate means;
- 826.10** Disturbed areas shall be revegetated with native vegetation or other appropriate vegetation acceptable to Town;
- 826.11** Existing hydrologic flow shall be maintained through the site through the use of culverts, French drains, or other devices;
- 826.12** Cut and fill shall be minimized;
- 826.13** Heavy equipment working within a wetland area shall use measures to minimize soil disturbance;
- 826.14** Security in the amount of one hundred twenty five percent (125%) of the written estimated cost of the disturbance plan measures shall be provided;
- 826.15** Any other appropriate measure as deemed necessary by the reviewing entity shall be followed;
- 826.16** The project's runoff shall not violate other applicable regulations and laws (e.g., state water quality regulations, Endangered Species Act, National Environmental Policy Act), or significantly degrade wetland or water areas.

827. Mitigation Plan.

- 827.1** Mitigation Plan. A Mitigation Plan for proposed fill of, or impact to, wetland areas shall include the following information:
- A.** The amount, location, and acreage of wetland fill, removal, or other alteration proposed on the proposed development site. In the case of encroachment in the buffer zone the extent of that encroachment must be shown.
- B.** Detailed plans showing the proposed wetland areas to be restored or created, the

hydrology supporting the wetland areas and maintenance of such hydrology, the location of those improvements including information on the timing of the proposed mitigation.

- C. Authority to conduct mitigation measures at the proposed site.
- D. A grading and erosion control plan, utilizing the soil stabilization measures and practices described in **826**.
- E. A revegetation plan, planting schedule, and monitoring scheduling prepared by an engineer or scientist trained in wetlands mitigation;
- F. Security in the amount of one hundred twenty-five percent (125%) of the estimated cost of the mitigation.

8272 Standards for Mitigation Plan. A proposed mitigation plan shall be reviewed in accordance with the following standards:

- A. Wetland restoration, enhancement, or creation should be considered on-site first, then in the close proximity to the impacted wetland area or may be permitted at a wetland mitigation bank acceptable to Town. The location of wetland mitigation should be able to provide an equivalent function and purpose as the degraded wetlands.
- B. The wetland mitigation plan should provide the functional equivalent of the impacted wetland area in relationship to the purposes stated in **821** above to the extent that such functions and values can be practically replicated. Restored or created wetlands in a Mitigation Plan are preferred to be in close proximity to the impacted wetlands and of similar type and function as the impacted wetlands. In the case where wetlands creation and establishment for mitigation will occur after the degrading wetlands, the required ratio of new wetlands to degraded wetlands may be two to one, or greater as determined by Town.
- C. Wetland restoration, enhancement, or creation should use transplanted wetland vegetation and topsoil from the impacted wetland area, if feasible and appropriate, or must use nursery stock approved by Town.
- D. The location of wetland mitigation should be contiguous to existing wetland or water areas or identified wildlife habitats or corridors where possible.
- E. The proposed wetland mitigation area should provide a protected buffer zone area that meets the purposes in **821** and setbacks in **823**.
- F. The location and quality of wetland mitigation should be in compliance with the Rico Regional Master Plan and the Watershed Protection Plan.
- G. Payment in lieu of mitigation may be acceptable for wetland mitigation banking programs which are approved by the Town. Payment in lieu of mitigation is considered

more appropriate for minor degradation of wetland areas, such as driveway, street, and utility construction.

H. The Mitigation Plan shall be approved by the Army Corps of Engineers.

850. FLOOD PLAIN DEVELOPMENT REGULATIONS

850.1 Findings of Fact

The flood hazard areas of the Town of Rico are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

850.2 Methods of Reducing Flood Losses

In order to accomplish its purposes, this Article includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards in other areas.

851. GENERAL PROVISIONS (ORD. NO. 2014-1, § 852.1-856.6 02-19-14)**851.1 Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) TOWN OF RICO, CO (DOLORES CO.), dated August 5, 1986, is hereby adopted by reference, and declared to be a part of this Rico Land Use Code. The Flood Insurance Study and FIRM are on file at the Rico Town Hall, 2 Commercial Street, Rico, CO 81332. The Town may also use the 1995 flood hazard study maps prepared by Wilbur Engineering, in 1995, for interpretation purposes of the FIRM.

851.2 Lands to Which the Flood Plain Development Regulations Apply

The Flood Plain Development Regulations shall apply to all areas of special flood and areas removed from the floodplain by the issuance of a FEMA letter of Map Revisions based upon fill (LDMR-F) within the jurisdiction of the Town of Rico as designated by the Flood Insurance Rate Map and the Flood Hazard Map adopted by the Town of Rico.

852. REVIEW PROCEDURES

The Building Official shall review and act to approve, approve with conditions or deny building permit applications in the special flood hazard areas. The Planning Commission and Town Board shall review any proposed development in special flood hazard areas for subdivision, planned unit development, zoning amendment, and master plan amendment applications.

852.1 Duties and Responsibilities of the Building Official

- A.** Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, 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 flood-proofing certificate required in order to comply with the provisions set forth herein.
- B.** Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- C.** 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.
- D.** Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
- E.** 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 Building Official shall make the necessary interpretation.

- F. When Base Flood Elevation data has not been provided as set forth herein, 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 ordinance.

853 SUBMITTAL INFORMATION

The following information must be submitted in addition to the general submittal requirements in **805**.

853.1 Base flood elevation data shall be provided for subdivision, PUD, and other development applications.

853.2 Subdivision and PUD applications shall provide a “no-rise” certification signed by a duly qualified engineer licensed to practice in the State of Colorado certifying that the proposed development in flood plain areas will not increase base flood elevations or floodway widths.

854 STANDARDS FOR FLOOD HAZARD REDUCTION

Development in areas of special flood hazard shall comply with the following standards:

854.1 Construction

A. New construction and substantial improvement of any structure shall have the lowest floor (including basement) elevated at least to one foot above the base flood elevation.

B. The plans for new construction or substantial improvement of any structure shall be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph.

854.2 Construction Materials and Methods

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

854.3 Utilities

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- D. Utilities and sanitary facilities attendant to new construction or substantial improvement of any structure, shall:
 - (1) be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

854.4 Anchoring

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- B. All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - (1) over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than Fifty 50 feet long requiring one additional tie per side.
 - (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 - (3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (4) any additions to the manufactured home be similarly -anchored.

854.5 Openings in Enclosures Below the Lowest Floor

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize

hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional

engineer or architect or must meet or exceed the following minimum criteria:

- A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- B. The bottom of all openings shall be no higher than one foot above grade;
- C. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

854.6 Encroachments

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half foot at any point.

854.7 Manufactured Homes

- A. Manufactured homes shall be anchored in accordance with Section 5.1-1 (2).
- B. All manufactured homes or those to be substantially improved shall conform to the following requirements:
 - (1) Require that manufactured homes that are placed or substantially improved on a site (a) outside of a manufactured home park or subdivision, (b) in a new manufactured home park or subdivision, (c) in an expansion to an existing manufactured home park or subdivision, or (d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (2) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in (a) above be elevated so that either (i) the lowest floor of the manufactured home is at or above the base flood elevation, or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

854.8 Recreational Vehicles

Recreational vehicles area required to be either (1) be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or (2) meet the permit requirements and elevation and anchoring requirements for manufactured homes.

854.9 PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the Issuance of a

FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- A. RESIDENTIAL CONSTRUCTION:** The lowest floor (including basement) electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.
- B. NON-RESIDENTIAL CONSTRUCTION:** The lowest floor (including basement); electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill. This, or together with attendant utility and sanitary facilities will be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill, with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

854.10 STANDARDS FOR CRITICAL FACILITIES

A. DEFINITION OF A CRITICAL FACILITY: 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. Critical Facilities include, but are not limited to, the following:

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

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- (6) Air transportation lifelines such as, airports, helicopter pads and structures serving emergency functions, and associated infrastructure, including aviation control towers, air traffic control centers, and emergency equipment aircraft hangars;
 - (7) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances;
 - (8) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Floodplain Administrator 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 Ordinance, 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 Town of Rico on an as-needed basis upon request.

B. 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 ordinance, protection shall include one of the following:

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

C. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES: New Critical Facilities shall, when practicable as determined by the Floodplain Administrator, have continuous non-inundated access (Ingress and egress for evacuation and emergency services) during a 100-year flood event.

855 VARIANCES FOR FLOOD PLAIN DEVELOPMENT APPLICATIONS

The Board of Adjustments shall hear and decide building permit appeals and requests for variances from the requirements of the Flood Plain Development Regulations. The Board of Adjustments shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of these Flood Plain Development Regulations.

855.1 Procedures

Variance applications for building permits in the flood plain area shall follow the general procedures for Variances in **430**.

855.2 Standards

In passing upon such applications, the Board of Adjustments shall consider the general standards for Variance in **436**. All technical evaluations, all relevant factors, standards specified in other sections of this Article VIII, and the following specific standards:

- A. the danger that materials may be swept onto other lands to the injury of others;
- B. the danger to life and property due to flooding or erosion damage;
- C. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- D. the importance of the services provided by the proposed facility to the community;
- E. the necessity to the facility of a waterfront location, where applicable;
- F. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- G. the compatibility of the proposed use with the existing and anticipated development;
- H. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- I. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- J. 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; and,
- K. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.

855.3 Conditions

Upon consideration of the factors of **855.2** and the purposes of this Article, the Board of Adjustments may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Conditions for Variances

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (**A– K**) in **855.2** have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances shall only be issued upon:

- (1) a showing of good and sufficient cause;
- (2) a determination that failure to grant the variance would result in exceptional hardship to the Applicant; and
- (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 855.2 or conflict with existing local laws or ordinances.

E. 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 show relief.
- (2) Variances shall only be issued upon:
 - i. Showing a good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the Applicant; and
 - iii. 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.

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856 Subdivision and PUD Proposals

All subdivision and PUD applications must meet the following standards in addition to other applicable standards:

- 856.1** Proposed development shall be consistent with the need to minimize flood damage to the subject property as well as other adjacent properties;
- 856.2** Proposed development shall avoid the flood way to the greatest extent possible;
- 856.3** Proposed development shall not increase or impact the base flood elevations or the flood way widths of flood plain areas;
- 856.4** All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; and,
- 856.5** All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

856.6 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 less, if not otherwise provided pursuant to the requirements of this ordinance.

857 **Records and Reporting**

The Board of Adjustments shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

858 **Written Notice**

Any Applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

**ARTICLE IX
DEFINITIONS**

900. RULES OF CONSTRUCTION

- 900.1** Meaning and intent. All provisions, terms, phrases, and expressions contained in this Code shall be construed in order to accomplish the purposes stated in **104**.
- 900.2** Text. In case of any difference of meaning or implication between the text of this Zoning Code and any illustration or figure, the text shall control.
- 900.3** Computation of time. For all application submittals, appeals of administrative or Planning Commission decisions or other requirements not including public hearing notices, if the last day is a Friday, Saturday, Sunday, or legal holiday declared by the Town, then the next day that is not a Friday, Saturday, Sunday, or legal holiday shall be the last day. In the computation of time for public hearing notice, the first day (day of the posting, mailing, or publishing) shall be included and the last day (day of the hearing) shall be excluded. If the first day for Public Hearing notice is a Friday, Saturday, Sunday, or legal holiday declared by the Town, then the first preceding day that is not a Friday, Saturday, Sunday, or legal holiday shall be the first day. The following time-related words shall have the following meaning:
- “Day” means a calendar day unless working day is specified.
 “Week” means seven (7) calendar days.
 “Month” means a calendar month.
 “Year” means a calendar year unless a fiscal year is indicated.

910. DEFINITIONS

The words and phrases in this **S**ection shall have the following meaning throughout the RLUC:

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Accessory Building: A detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot or contiguous lots with the main building or use.

Accessory Dwelling Unit: A permanent residential dwelling unit not exceeding 600 square feet of floor area which contains kitchen and bath facilities rendering the structure suitable for residential use and has its own entrance. The floor area of accessory dwelling units located in basements shall be measured at 100% for the purpose of this definition.

Accommodations: (ORD. NO. 2011-3. § 910, 06-15-11) The short-term rental of properties for periods of 30 days or less, including motels, hotels, inns, condominium-hotels, lodges, and bed and breakfasts.

Alley: A public way permanently reserved as a secondary means of access to abutting property.

Area of special flood hazard: The land in the floodplain subject to a one percent or greater chance of flooding in any given year.

Attached: A physical connection of the foundation wall or roof of two (2) buildings. If the method by which the buildings are attached includes an above grade wall, or an above grade wall with roof, or has a common above grade wall, then the attached buildings shall be considered a single structure for the purpose of determining site coverage and floor area. If the attachment does not enclose area and does not include an above grade wall, then the area of the attachment shall not be counted for the purposes of determining site coverage.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Basement: That portion of a building located partially or wholly underground having fifty percent (50%) or more of its floor to ceiling height below the average pre-existing grade of the adjoining ground.

Best Management Practices (BMPs): Economically feasible conservation practices and land and water management measures that minimize adverse impacts to the chemical, physical and biological characteristics of water areas and wetlands. BMPs may include a wide range of structural and non-structural practices to be implemented in association with land disturbance, development and construction activities.

Buffer Zone: All areas where development could impact Waters of the Town of Rico as defined in **824**, extending at least 100 feet around such areas.

Building: Any permanent structure built for the shelter or enclosure of persons, animals, or property of any kind, not including fences.

Building Height: See **204.6**

Condominium: A building, or buildings, consisting of separate fee simple estates to individual units of a multi-unit property together with an undivided fee simple interest in common elements.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located.

Disturbance Permit: A permit which authorizes site development activity in a wetland area, water area, or associated buffer zone, and includes a Disturbance Plan and Mitigation Plan for site development which results in the fill of wetland areas.

Disturbance Plan: The plan for disturbance of wetland, water areas, and any associated buffer zone, as required by these Wetland Protection Regulations.

Dwelling: A permanent building or portion thereof which contains kitchen and bath facilities rendering the structure suitable for residential use, but not including structures used primarily for commercial purposes or portable structures.

Dwelling, Single Family: A detached building containing only one dwelling.

Dwelling, Multi-Family: A detached building containing more than one dwelling.

Commented [GU108]: Make sure this definition aligns with what you are doing with livable space in Article II

Egress Roof Access Window: (ORD. NO. 2019-05. § 910, 07-17-19) Egress Roof Access Window shall mean a skylight or roof window designed and installed to satisfy emergency escape and rescue opening requirements.

Enforcement Official: The Enforcement Official of the Town of Rico appointed by the Town to perform the duties described in this RLUC.

Family: Any individual, or two or more persons related by blood or by marriage or between whom there is a legally recognized relationship, or a group of not more than five unrelated persons, occupying the same building.

Fen: Wetlands dominated by herbaceous hydrophytes receiving water that has passed through mineral soils. Water table levels are high and have pH values greater than 5.0; and, have 16 inches, or more, of organic material in the upper 32 inches of surface soil horizon. Organic soils are classified as Histosols by the USDA.

Fixed Encroachment: (ORD. NO. 2019-02. Art. X, 05-17-19) Means any encroachment upon any public way that cannot be moved by a person without the assistance of tools, machinery and/or equipment.

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

- (1) The overflow of inland waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones.

Flood Insurance Study: The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floor Area: See **204.7**

Geologic Hazard: An area that contains unstable slopes, potentially unstable slopes, landslide complex, debris fan-high hazard, debris fan-low to moderate hazard, rockfall hazard, and erosion area.

Hazardous Areas: Areas which are subject to geologic hazards that constitute a significant hazard to public health, safety and property, including, but not limited to: avalanche areas, flood plains, wildfire, landslides, rock falls, mud-flows, unstable or potentially unstable slopes, seismic effects, radioactivity and ground subsidence.

Home Occupation: A business occupation or trade conducted in the residential district for gain or support by a resident or residents of the dwelling, and no other, which:

- (1) Is clearly incidental and secondary to the residential use of the building;
- (2) Does not change the essential residential character of the use;
- (3) Operates pursuant to a valid occupational license for the use held by the resident of the dwelling unit, if required;
- (4) Is confined to no more than fifty percent of the total floor area of the dwelling;
- (5) Does not create any noise, odor, vibration, dust, smoke, haze or other nuisance greater than customary residential uses outside any building on the premises or outside the boundary of the premises;
- (6) Provides off-street parking to accommodate the parking demand generated by the home occupation;
- (7) Does not include retail shops, lodging or restaurants;
- (8) Does not employ more than one person who does not reside at the residence.

Landing Platform: (ORD. NO. 2019-05, § 910, 07-17-19) A landing platform shall be a landing provided as the top step of a stairway accessing a loft.

Lot: A parcel of real property as shown with a separate and distinct number or letter on a plat approved by the Town of Rico or created by Federal action and recorded in the office of the Dolores County Clerk and Recorder.

Lot Line, Front: The property line dividing the lot from the street.

Lot Line, Rear: The line opposite the front lot line.

Lot Area: The total area within the lot lines.

Manufactured Home: A single family dwelling which meets the following criteria:

- (1) Is partially or entirely manufactured outside of the Town of Rico.
- (2) Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length, exclusive of any towing apparatus, bumpers, or additions.
- (3) Is installed on an engineered permanent foundation.
- (4) Meets the required exterior materials regulation set forth in Article II.
- (5) Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et. seq.* as amended.

Mitigation Plan: A plan describing the restoration of wetland areas destroyed or otherwise negatively impacted by an activity; or a plan to minimize safety concerns associated with land use activities in hazardous areas; or, a plan to address impacts related to land use activities, such impacts to include, but not limited to: parking, noise, traffic, storm water run-off, and odors.

Mobile Home: Any portable structure designed to permit residential use which does not meet the definition of manufactured home.

Non-Conforming Building: See **208**

Non-Conforming Use: See **208**

Principal Building: Principal building means that main structure or building on a building site or lot in which the primary use by right occurs.

Public Right-Of-Way. Right-Of-Way or Public Way: (ORD. NO. 2019-02. Art. X, 05-17-19) Means any public street, way, place, alley, sidewalk, utility, easement, or any public property owned or controlled by the Town.

Recreational vehicle: A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Restoration: A human activity that returns wetland areas from a disturbed or altered condition with lesser wetland area acreage and/or function values to an enhanced or improved condition with greater wetland area acreage and/or functional values.

Riparian Area: The transition area between aquatic and terrestrial (upland) environments influenced by the high-water table associated with a stream or river. Plant types typically associated with riparian areas include hydrophytes (obligate, facultative wet, and facultative species) and phreatophytes (typical plants include, but are not limited to, cottonwoods, willows, alders, aspens, and chokecherry). Riparian areas are commonly recognized by the combination of high species diversity, high species densities, and high productivity.

Roof Segment: The entire section of the roof existing in one plane.

Scenic Views: Views of mountain ridges and slopes, natural landscapes, rivers, waterfalls, forests, and the sky as seen from the Town commercial core, public roads and public trails.

Sign: See **206**

Site Coverage: See **204.8**

Short-term rental dwelling unit: (ORD. NO. 2011-3. § 910, 06-15-11) The short-term rental of properties for periods of 30 days or less, excluding hotels, condominium-hotels, lodges, and bed and breakfasts.

Steep Slope. A slope greater than 30% for a vertical distance greater than ten (10) feet. Percentage grade is determined by dividing the vertical rise by the horizontal run and multiply the result by 100.

Street: A public way other than an alley, which affords the principal means of access to abutting property.

Commented [GU109]: Make sure this says Recreational Vehicles and Campers

Structure: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences six feet (6) or less in height.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Temporary Encroachment: (ORD. NO. 2019-02. Art. X, 05-17-19) Means any encroachment upon any public way that can be easily moved, changed, or removed by a person without the assistance of tools, machinery and/or equipment.

Tiny Home: (ORD. NO. 2019-05. § 910, 07-17-19) A tiny home is a dwelling as defined in the Rico Land Use Code, limited to one bedroom and less than 400' of livable space, excluding a loft for the purpose of the 2006 International Residential Code review and including the loft for the purpose of the reduced soil treatment area as defined in Colorado Health and Environment Regulation 43, adopted by the Rico Board of Trustees on September 20, 2017 and attached to a permanent foundation.

Tiny Home Loft: (ORD. NO. 2019-05. § 910, 07-17-19) A loft shall be a floor level located more than 30" (762 mm) above the main floor, open to the main floor on one or more sides with a ceiling height of less than 6', 8" (2032 mm) and used as a living or sleeping space.

Vehicle: Any device which is capable of moving itself, or being moved, from place to place upon wheels.

Vehicle, Parking: See 204.9

Watershed Protection Plan: A plan to be created and adopted by the Town of Rico, to be incorporated into the Rico Regional Master Plan, which designates wetland areas of intermediate and exceptional resource and appropriate variable outer buffer zones on a site-specific basis, which is adopted after providing written notice to affected property owners and conducting a public hearing thereon.

Waters of the Town of Rico: All waters, including without limitation a wetland, perennial or intermittent river, stream, lake, reservoir, or natural ponds, impoundments, and tributaries. The following water features are excluded: irrigation and roadway drainage ditches; artificial lakes and ponds which are not tributary to state waters or are created and used for the primary purposes of agricultural activities or stormwater treatment; and development water features less than 0.5 acres in surface area. A “perennial” river, stream, reservoir, or pond is one that normally holds water or flows continuously during all the calendar year as a result of groundwater discharge or surface run-off. An “intermittent” river, stream, reservoir, or pond is one that is defined as such by the U.S. Geological Survey and may be shown as intermittent water features on the U.S. Geological Survey 7.5 Minute Series Topographical maps. Waste treatment systems presently in use, including treatment ponds and lagoons designed to meet the requirements of the Clean Water Act (33 U.S.C. sec. 1341), and treated water distribution and storage facilities or treated water that otherwise meets the criteria of this definition, are not waters of the Town of Rico.

Wetland: An area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances support, vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and includes area delineated as a wetland by the Army Corps of Engineers or defined as a wetland by the Army Corps of Engineers delineation manual. Wetland areas include all Waters of the Town of Rico, all riparian areas in the Town, and are presumed to include all areas identified on official wetland area maps of the Town of Rico.

Work: (**ORD. NO. 2019-02. Art. X, 05-17-19**) Means any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, streetlights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below surface, and installation of overhead poles and wires or conductors, used for any purpose.

Yard: A space on the same lot with a principal building that is open, unoccupied, and unobstructed by buildings or structures from the ground upward, except as otherwise provided herein.

Yard, Front: A yard extending the full width of the lot or parcel, the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the principal building; such distance being referred to as the front yard setback.

Yard, Rear: A yard extending the full width of the lot or parcel, the depth of which is measured in the least horizontal distance between the rear lot line and the nearest wall of the principal building; such depth being referred to as the rear yard setback.

Yard, Side: A yard extending from the front yard to the rear yard, the width of which is measured in the least horizontal distance between the side lot line and the nearest wall of the

principal building; such depth being referred to as the side yard setback.

Yard, Service: Any yard area used for storage of materials accessory to or used in conjunction with the principal building, or used for garbage or trash containers, or for the location of mechanical equipment accessory to the principal building or use.

Utilities: All poles, lines, cables, pipes, and other transmission or distribution facilities of public utilities

**ARTICLE X
PUBLIC PROPERTY
ORD. NO. 2019-02, 05-17-2019**

1002 PERMIT PROCESS

Upon an application to the Town, a permit may issue with terms and conditions as necessary and appropriate to implement this Article in the Town's sole discretion to protect Town property, and to protect the public health, safety, and welfare, by including provisions in the permit process as are necessary, including but not limited to, insurance, performance bond, indemnification, and a hold harmless and damage release for the Town.

1003 TEMPORARY ENCROACHMENT PERMIT APPLICATION

Any temporary encroachments on any public way, including but not limited to, barricades, construction debris, seasonal benches, seasonal flower pots, construction-related dumpsters, outdoor display of merchandise, and seasonal tables and chairs, located in the public right-of-way shall be governed by this Article and may be approved by the town manager, upon submission of a written application on the approved form provided by the Town, payment of all fees prescribed under this Article, and a permit may be granted for a specified time by the Town.

1004 FIXED ENCROACHMENT PERMIT APPLICATION

Any fixed encroachments on any public way or work to be performed on any fixed encroachment shall be governed by this Article and approved by the Town Board of Trustees, upon submission of a written application on a form provided by the Town and payment of all fees prescribed under this Article. The Town may withhold issuance of the permit until all costs are paid. The encroachment or work associated with the encroachment may not begin until the permit has been issued by the Town.

1005 WORK ENCROACHMENT PERMIT APPLICATION

An applicant for a permit allowing work in the public right-of-way shall apply for a temporary easement permit, even if a fixed encroachment permit has issued, under this Article as follows:

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1005.1 Submit a written application furnished by the Town, which will include information necessary or convenient for the administration and enforcement of this Article, including statement that the applicant or its contractor is not delinquent in payments due to the Town on prior work.

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1005.2 Attach copies of all permits or licenses (including required insurance, deposits, bonds, and warranties) required to do the proposed work, and to work in the public rights-of-way, if licenses or permits are required under the laws of the United States, the State of Colorado, or other ordinances or regulations of the Town.

1005.3 Provide a satisfactory plan of work showing:

1005.3.1 Protection of the subject property and adjacent properties when the Town determines such protection is necessary;

1005.3.2 Protection of trees, plants, landscaping and the restoration of turf when the Town determines that damage may occur to any plant life;

1005.3.3 The proposed construction, excavation; and

1005.3.4 A satisfactory traffic control and erosion protection plan for the proposed construction, excavation, or work.

1005.4 Include statement that all orders issued by the Town to the Applicant requiring the Applicant to correct deficiencies under previous permits issued under this Section have been made.

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1005.5 Pay the fees prescribed by this Article.

1005.6 List of anticipated subcontractors.

1005.7 All permits for construction, excavation or work may be granted only for a specific period of time to complete the work. The Applicant is required to renew the permit prior to the expiration of the permit.

1006 REVOCATION

Any permit issued under this Article may be revoked by the Town after notice to the permittee for:

1006.1 Violation of any condition of the permit or of any provision of this Article.

1006.2 Existence of any condition or performance of any act which the Town determines does constitute or cause a condition endangering life or damage to property.

1006.3 Fixed encroachment deterioration, demolition, or if the encroachment ceases to exist or if a material change in condition occurs.

1006.4 Notice of revocation of an encroachment permit shall be sent by the Town to the permittee at the address provided in the application or any renewal. Revocation of the permit shall be effective 5 days after the date of the notice.

1006.5 Any revocation of any permit may be appealed by the permittee to the Town Manager by filing a written notice of appeal within 10 days of the date of the notice.

1007 POLICE POWERS

The permittee's rights under this Article are subject to the police powers of the Town, which include the power to adopt and enforce ordinances, including amendments to this Section, necessary to the safety, health, and welfare of the public. The permittee shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the Town or any other legally constituted government unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police

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powers, notwithstanding anything in this Article, any permit issued hereunder, any franchise, or any other permit to the contrary. Any conflict between the provisions of this Article, any franchise, or any permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the Town.

1008 PENALTIES, ADMINISTRATION AND ENFORCEMENT

It shall be unlawful to violate any of the provisions of this Article, or of a permit issued hereunder. In addition to any general penalties applicable under Rico Land Use Code **740**, continuing violations of this Article or of any permit issued pursuant hereto are hereby declared to be a nuisance, which may be abated in any lawful manner. It shall be unlawful to maintain an encroachment once the encroachment permit has been revoked by the Town pursuant to this Article. Failure to remove an encroachment is declared to be a nuisance that may be abated by the Town in any lawful manner. The Town may maintain an action in a court of competent jurisdiction to enjoin any violation of this Article, or of any permit issued pursuant hereto. If the Town brings any action brought to abate a nuisance or to enjoin any violation of this Article in any court of competent jurisdiction and the Town is the prevailing party, the defendant in such a nuisance or injunction proceeding shall be responsible for the Town's attorney fees and costs.