

Rico Planning Commission Memorandum

Date: October 3, 2024

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

Rico Land Use Code global revision

Included in the packet articles 1 – 4 of the Rico Land Use Code Global Revision. You will notice that this copy has been mostly cleaned up and includes all the accepted changes from both joint meetings. Sections of the code are highlighted in blue which indicates areas where staff has proposed new redline changes for the Planning Commission to review. Areas highlighted in purple represent the changes proposed by Mayor Pieterse that were discussed and accepted. Please read these articles and be prepared to discuss the blue sections along with any other parts of the document you feel need to be addressed. Also included in the packet is a redline of article 7. The content of article 7 was discussed when the Planning Commission was originally reviewing the past town managers proposed land use code.

PLANNING COMMISSION MEETING MINUTES

Date: July 10, 2024

Call to order

Andrew Romanyshyn called the meeting to order.

Present: Chairman Mike Contillo
Todd Gillman
Kiplynn Smith
Gerrish Willis
Andrew Romanyshyn

Absent:

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

Approval of the Agenda

Motion

To approve the agenda.

Moved by Gerrish Willis, seconded by Kiplynn Smith.

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

Approval of the Minutes

Motion

To approve the minutes.

Moved by Andrew Romanyshyn, seconded by Kiplynn Smith.

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

Discussion Items:

Rico Land Use Code global revision

Land Use Code revision was discussed.

Action Items:

Recommendation of road vacation permit application West Soda Street and Leah Lane, McCroke Venture LLC applicant

Town Manager gives a summary of the application.

Applicant gives explanation of the application.

Planning Commission has discussion.

Public Comment was taken. Leah Chiemelski, Gregg Anderson, Jim Baron.

Motion

To recommend to the Town Board that the road vacation application for West Soda Street and Leah Lane by McCroke Venture LLC, applicant request be denied

Moved by Gerrish Willis, seconded by Kiplynn Smith.

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

Motion

To adjourn.

Moved by Gerrish Willis, seconded by Andrew Romanyshyn.

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

Anna Wolf
Rico Town Clerk

Michael Contillo
Chairman

**ARTICLE I
GENERAL INFORMATION**

100. INTRODUCTION

The Town of Rico Land Use Code is the codification of previous ordinances regulating land use and development as well as the enactment of revisions and new regulations intended to implement the Rico Regional Master Plan. Throughout this Rico Land Use Code, the Town of Rico may be referred to as “Town” and the Board of Trustees may be referred to as “Trustees”. These regulations shall be known, and may be cited, as the “Rico Land Use Code” or “RLUC”.

102. AUTHORITY

The RLUC is authorized by the following statutes in addition to the Town’s general police powers and other applicable state authority: C.R.S. §31-23-201 et. seq. PLANNING COMMISSION; C.R.S. §29-20-101 et. seq. Local Government Land Use Control Enabling Act; C.R.S. §24-65.1-101 et. seq. Areas and Activities of State Interest; C.R.S. §24-68-101 et. seq. Vested Property Rights; C.R.S. §24-72-101 et. seq. Planned Unit Developments

104. PURPOSE

The RLUC is adopted for the purpose of promoting the health, safety, and general welfare of the citizens of the Town of Rico, and in particular to:

- 104.1.** Preserve and enhance the integrity, stability and livability of residential neighborhoods;
- 104.2.** extend greater opportunities for traditional community living, working, housing, and recreation to all citizens and residents of Rico;
- 104.3.** promote reasonable certainty to land use and development expectations associated with property ownership;
- 104.4.** promote the timely provision of public infrastructure to meet potential demand in the present and the future;
- 104.5.** promote minimum consumer protection assurances for property buyers that properties can be developed for their intended use;
- 104.6.** preserve the historic, small-town character of the community by minimizing the visual impact of development upon important view sheds;
- 104.7.** discourage the misuse of buildings, sites, and development parcels to avoid excessive concentrations of population and traffic; to promote energy conservation; and, to facilitate the provision of adequate transportation, water, sewerage, schools, parks and other public facilities and services;
- 104.8.** provide a procedure which can relate the type, design and layout of development to the particular site, and achieve the Town’s goal of encouraging mixed- use development while preserving and protecting existing residential areas; and,

104.9. establish a clear, consistent, predictable, and efficient land development process.

106. INTERPRETATION AND APPLICATION

In the interpretation and application of these RLUC, the following regulations shall apply:

- 106.1.** Minimum Requirements. In the interpretation and application of the RLUC, the provisions hereunder shall be regarded as the minimum requirements for the town of Rico in regards to the protection of the public health, safety, and general welfare of the Rico community. The provisions and requirements in the RLUC shall be liberally construed to further the general purposes stated in **104**, and as is stated in each specific code section. Where a term or phrase is not otherwise defined in these RLUC, such term or phrase shall be defined by the latest edition of Webster's dictionary.
- 106.2.** Conflict of Laws. Whenever a provision in the RLUC contains any restrictions which covers the same subject matter as another provision herein, or in any law of the Town of Rico, State of Colorado, or United States of America, the provision, regulation, or law which imposes the greater restriction shall govern. The RLUC shall not supersede any private land use regulation in a deed or covenant which is more restrictive than this code.
- 106.3.** Existing Permits and Agreements. The adoption and amendments of the RLUC are not intended to abrogate or annul any permits or approvals of Subdivision Plats, improvements agreements, or any conditions related to subdivisions, issued by the Town of Rico before the effective date of the RLUC.
- 106.4.** Severability. If any part of the RLUC or the application or enforcement thereof to any person or circumstance is held invalid, the remainder of the RLUC and its application shall not be affected thereby.

108. APPLICATION TO PUBLIC ENTITIES

Except as provided herein the RLUC shall apply to the Town of Rico, Rico Fire Protection District, and other public service providers. The Board of Trustees shall have the authority to grant any development approval, or waive any requirement, provision, condition, or fee set forth in this RLUC for the purpose of improving public services provided by the Town of Rico, Rico Fire Protection District, or any public service provider. Such grant or waiver shall be directly related to protecting and promoting the health, safety, and general welfare of the Rico Community. The Board of Trustees shall conduct a public hearing prior to considering any waiver of any requirement for a development approval for a public entity. Notice of the public hearing should strive to comply with notice requirements for similar development applications but shall be provided at a minimum by posting notice of the hearing at the Rico Town Hall and the Rico Post Office at least 24 hours prior to the hearing, and such 24-hour prior posted notice shall be deemed legally sufficient.

110. VESTING OF PROPERTY RIGHTS

- 110.1. Vesting of Property Right. A “site-specific development plan” is defined as a planned unit development plan approved in accordance with Article III, a subdivision plat approved in accordance with Article V, an annexation approved in accordance with Article VI that is

accompanied by an annexation agreement containing a subdivision plat and/or planned unit development plan, or any other land use approval designation accompanied by a development agreement that expressly states that such land use approval is a site-specific development plan for the purposes of this Section 110. A property right to undertake and complete a site-specific development plan shall be vested upon the effective date of final approval of such site-specific development plan by the Board of Trustees or, may at the discretion of the Board of Trustees, vest upon approval of a conceptual or preliminary planned unit development plan, upon approval of a conceptual or preliminary subdivision plat, or upon approval of any other development agreement between the Town and a landowner that specifically provides a vested right. Approval means the effective date of approval after any rights of referendum or judicial review have expired or have been finally decided. The document that evidences a vesting of property rights shall be and is limited to the following: For final subdivision plats: As a plat note on the cover page of such final subdivision plat; for all other site-specific development plans: As a specific provision in an agreement with the Town, an ordinance approving such development plan.

- 110.2. Period of Vesting. The period of vesting of property rights shall be three (3) years from the effective date of approval of a site-specific development plan. The Board of Trustees may approve a period of vesting greater than three (3) years provided that such approval is by ordinance. The effective date of approval shall be the day after the last day to exercise any rights of referendum or judicial review, or upon the final decision of a referendum or judicial review, of the Board of Trustees' action to approve a site-specific development plan. The document evidencing a vesting of property rights shall specifically identify the date of expiration.
- 110.3. Publication of Vested Property Right. The Town Clerk shall post and publish a notice of vested property rights in the same manner as posting ordinances and resolutions within twenty (20) days after approval of the site-specific development plan by the Board of Trustees.
- 110.4. Extension of Vested Property Right. The landowner may request the extension of a Vested Property Right by submitting a written request to the Town Clerk, P.O. Box 56, Rico, CO 81332, not more than ninety (90) days, and at least forty-five (45) days, prior the expiration of the Vested Property Right. The Board of Trustees shall hold a public hearing prior to authorizing the extension of the Vested Property Right. Notice shall be posted and published at least ten (10) days prior to the public hearing. Any approval to extend a vesting of property rights shall be by ordinance and shall be no longer than three (3) years. The Town Board may grant multiple extensions of vested rights.
- 110.5. Revocation of Vested Property Rights: The Board of Trustees may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the Board of Trustees shall conduct a hearing on the revocation and shall provide at least ten (10) days prior written notice mailed to the affected property owner to the property address of record in the

County Assessor's office as well as provide notice in the same manner as the posting or publishing of ordinances and resolutions. The notice mailed to the landowner shall specifically identify the terms and conditions which are not in compliance with the site-specific development plan approval. During the period of determining compliance with the terms and conditions of a site-specific development plan approval, the Town may administratively withhold any building, utility, excavation, road building, or other Town permit, and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site-specific development plan.

- 110.6. Pending Applications. A pending site-specific development plan application will be governed by the duly adopted laws and regulations in effect at the time the application is submitted and deemed complete and compliant by the Town for purposes of review by the applicable reviewing body with the exception that the Town reserves the right pursuant to C.R.S. §24-68- 102.5(2) to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including but not limited to temporary development restrictions duly adopted by ordinance for the purpose of preparing planning studies and considering land use regulations related to public health and safety or for the purpose of promoting concurrency of essential public infrastructure, equipment or services with increased demand.
- 110.7. State Statutes Govern. Colorado Revised Statute Title 24, Article 68, as may be amended in the future, shall otherwise govern the vesting of property rights.

**ARTICLE II
ZONE DISTRICTS**

200. ZONE DISTRICTS AND ABBREVIATIONS

For the purposes of the RLUC, the Town is divided into Zone Districts to be known as follows:

<u>Zone District</u>	<u>Abbreviation</u>
Residential Zone District	R
Historic Commercial Zone District	HC
Commercial Zone District	CM
Mixed Use Zone District	MU
Residential Planned Unit Development	RPUD
Commercial Planned Unit Development	CPUD
Open Space Zone District	OS
Public Facilities Zone District	PF

202. OFFICIAL ZONE DISTRICT MAPS AND PERMITTED USES

The boundaries of these districts are shown on the official Zone District Maps of the Town which accompany and are made a part of this RLUC. All property in the Town shall be included in at least one Zone District. The use regulations for each Zone District establish uses permitted by right. All uses not expressly permitted in the use regulations are prohibited unless a Special Use Permit is approved (See **420** for Special Use Permit requirements).

204. GENERAL DESIGN REGULATIONS

The following general design regulations apply to all construction and development in Town. Any violation of section 204 et.al is subject to RLUC Municipal violations under Section 740.

(Ord. No. 2008-3, § 204.1, 03-19-08)

204.1 Exterior Materials. All buildings and structures shall use designated materials according to the following table for exterior surfaces (excluding: garage doors and all other doors, window areas, antennas and non-reflective solar energy collection devices). Variance procedure outlined for exterior material in 430 et al.

- A. Foundation. Exposed foundation will be natural stone, cement cast stone, brick, non-reflective metal, stucco, synthetic stucco, adobe, plaster, natural (painted, stained or clear) wood, and concrete.
- B. Siding. Natural stone, cement cast stone, brick, synthetic stucco, adobe, plaster, natural wood (painted, stained or clear), and rusted metal, or any non-reflective developed material.
- C. Roof. Non-reflective metal, wood shingle, clay tile, pre-finished modular non-reflective metal panels, slate, cement tiles, solar tiles, and sod or turf.

2042 Exterior Lighting. All exterior lighting shall be shielded. The direct source of all exterior lighting shall not be visible off the property. Minimal lighting is encouraged to

prevent undue light pollution of the night sky (lighting for Signs is governed by 206).

- 2043.** Fences. Fences in the front yard portion of the property shall not exceed four (4) feet in height. Fences in the remainder of the property shall not exceed six (6) feet in height. Fences shall use wood, logs, bark slab, stone, wrought iron, wood wrapped hog-wire, non-reflective metal, or any combination of these materials. All storage and service yards associated with commercial activities or on commercially zoned properties shall be fenced so as not to be visible from any street, and such fences shall be a minimum of six (6) feet in height and a maximum of seven (7) feet in height. Fences in the Historic Commercial Zone District shall follow the design regulations in Section 243 which requirements shall supersede the fence regulations in this section 204.3.
- 2044.** Lot Size. The lot size is the minimum size of a lot required to permit the uses by right designated for a Zone District.
- 2045.** Setback. The setback is the minimum distance of a structure from the edge of a lot or parcel. Setbacks are measured from the property line boundary of a lot or parcel to the exterior of a structure. Structures include decks and patios over thirty (30) inches in height (See Appendix B). Roof overhangs are permitted to encroach two (2) feet into the front yard setback area and side yard setback area.
- (Ord. No. 2009-03, § 204.6, 06.24.09)

~~2046.~~ Building Height. ~~The highest point of each roof segment shall not exceed 28 feet as measured from the average height of the supporting points of that roof segment at pre construction grade. The height of the building shall be determined using the parallel plane method, which utilizes two parallel planes: the lower plane, as determined by a licensed surveyor, conforms to the existing pre-construction grade of the lot and building site. The upper plane, is established no more than 30 feet above the lower plane. All building elements, must fit within the volume defined by these two planes.~~ The lowest exposed point of the structure to the highest point of the structure shall not exceed 35 feet of total elevation. For structures with an irregular footprint, the Enforcement Official shall determine the reference points which meet the purpose of this RLUC. ~~Existing pre construction grade shall be determined by the Town's two-foot contour maps, as exist or may be amended from time to time or shall be determined by a survey prepared by a licensed surveyor.~~ Any property owner has the right to challenge reference points determined by the Enforcement Official for structures with an irregular footprint. This challenge must be initiated first through a Variance Application (Section 430, *et. al.*), and subsequently may be appealed to the Board of Trustees by following RLUC, Section 516.

~~2047~~ 2046. Maximum Floor Area ("MFA"). Where the design regulations for a District indicate a maximum allowable floor area, the maximum allowable floor area shall be calculated by measuring the gross square footage from the exterior side of exterior walls of all structures. Decks, roof overhangs, open porches, and areas where the floor to ceiling height is less than four and one half six (64.5) feet shall not be included in the maximum

floor area calculations. (See Appendix B.)

~~2048~~2047. Maximum Site Coverage. Where the design regulations for a District indicate, maximum site coverage is the total area of a site permitted to be covered by buildings and impervious surfaces, including without limitation, open decks, porches, carports,

stoops, patios, driveways, and off-street parking, but not including roof overhangs (See Appendix B).

~~2049~~**2048** Off-Street Parking. Off-street parking requirements are established as follows:

- A. Location. Required off-street parking shall be provided on the same lots as the principal use or on a contiguous lot. Any off-site parking area shall be under the same ownership as the principal use to which it is accessory.
- B. Dimensions. Each off-street parking space shall consist of an open area measuring nine (9) feet wide by eighteen (18) feet long and seven (7) feet high and shall have vehicular access to a public street or alley.
- C. Design. Off-street parking shall be properly drained and shall be maintained in a usable condition at all times. Any violation of 204.9 is subject to RLUC Municipal violations under Section 740.
- D. Restricted Use of Parking Areas. No automobile trailers, boats, detached campers or any other object shall be parked or stored in off-street parking areas if it renders the required parking spaces per Zone District unusable.

204.10 Minimum Roof Pitch. The minimum roof pitch for primary structures is seven/twelve (7/12) [seven feet of rise for twelve feet of run]. Such minimum roof pitch shall apply to the dominant roof which is defined as the roof plane that covers a majority of the building footprint and shall not apply to dormers or secondary roof planes. or smaller secondary structures located on the same parcel The minimum roof pitch shall not apply to structures in commercially zoned areas.

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206. SIGNS

206.1 Signs. Any sign shall be subject to the requirements of the Zone District in which they are located. Signs shall be of a permanent nature and shall be maintained in good repair or they may be removed by order of the Trustees. The following signs are exempted from the requirements of this whole section:

- A. Signs painted onto or located on the interior side of a window, including neon signs (to be turned off when closed); and,
- B. Temporary signs such as banners, bunting, and other similar displays temporarily erected in observance of a special event; however, signs shall not be erected or displayed for a period exceeding twenty-one (21) days in a three (3) month period, and temporary signs must be removed if damaged or immediately following the conclusion of the particular event advertised.

2062 Off-Premises Signs Prohibited: Signs shall identify or advertise only the interests or business conducted on the property on which they are located, unless the Planning Commission determines that an off-premises sign is necessary to promote the interest

of a use not occupying the same lot or property.

- 2063** Non-Conforming Signs: Non-conforming signs can be repaired but not enlarged, reconstructed, or moved in any manner without being made to comply with the provisions of the RLUC.
- 2064** Parking of Advertising Vehicles Prohibited: No person shall park any vehicle or other mobile unit or sign on the roads or alleys, or on private property, which has attached thereto or suspended there from any advertising or sign, except a vehicle which has a sign painted directly onto or permanently affixed to the body or other integral part of the structure of the vehicle for permanent decoration, identification or display, including magnetic signs.
- 2065** Traffic Safety: No sign shall be located so that the safety of a moving vehicle might be impaired by obstructing the driver's vision. No sign shall resemble or conflict with traffic signs or signals with regard to color, format, shape or other characteristics.
- 2066** Sign Illumination and Moving Parts: All signs shall be illuminated by an external lighting source. Internally illuminated signs shall not be permitted. The light from any illuminated sign shall be shaded, shielded, or directed so that the light intensity or brightness will not be objectionable to people in surrounding areas or create a traffic hazard to passing motorists. No sign with flashing or moving lights; changing light intensity, brightness, or color; or any type of moving parts shall be allowed.
- 2067** Signs on Marquees: Projecting signs or signs affixed to or located on posts or pillars supporting a marquee are prohibited. Wall signs attached to the marquee are allowed, provided they do not project above the eave or edge of the marquee roof nor project lower than eight (8) feet above grade. Such signs must meet all the requirements of this RLUC and are to be included in the computation of maximum aggregate allowable square footage in section **206.11**.
- 2068** Signs on Awnings: No sign may be attached to or suspended from an awning; however, lettering on awnings is permitted provided that other requirements of this RLUC are met and that the lettering on awnings is included in the computation of the maximum aggregate allowable square footage of sign area for the building.
- 2069** Sign Materials: Permanent exterior signs may not be constructed of paper, cardboard, wallboard, or other light material, nor may any spinners, pendants, balloons, banners, or streamers be used as or incorporated into any signs.
- 20610** Structural Characteristics: Free-standing signs shall not exceed twelve (12) feet in height; and shall be a minimum of eight (8) feet above grade when located adjacent to or projecting over a pedestrian path and larger than two (2) sq. ft. in area. Projecting signs shall not be higher than the eave line or parapet wall of the principal building and shall be a minimum of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way; and shall not extend more than four (4) feet from the building wall except where such a sign is an integral part of an approved canopy or awning. Each free-standing sign or projecting sign may have two faces, each with the maximum

area allowed under **206.11**, provided the two faces are the same size and join back-to-back without any overlap.

206.11 Sign Area:

- A.** Signs that advertise the sale or rental of a property shall not exceed four (4) square feet in surface area per sign in residential areas (R and RPUD), or eight (8) square feet per sign in commercial areas (HC, CM, MU and CPUD). Such signs shall not be included in the maximum aggregate calculations under paragraph B. and C. below. One sign per lot or principal building is permitted.
- B.** Signs in the R and RPUD Zone Districts shall have maximum square footage of two (2) sq. ft. per sign. One sign is permitted per dwelling unit and home occupation.
- C.** Signs in the HC, CM, MU and CPUD Zone Districts shall have a maximum square footage of twelve (12) sq. ft. per sign plus six (6) sq.ft. for each additional twenty-five (25) of frontage greater than twenty-five (25) feet of frontage up to a maximum of twenty-four (24) sq.ft. Signs painted directly onto a building façade may have a maximum square footage of eighteen (18) sq.ft. per sign. One sign per business shall be permitted; however, the maximum combined sign area square footage shall be twenty-four (24) sq.ft. per twenty-five (25) foot wide lot.

206.12 Permit for Non-conforming Sign:

Proposed signs which do not meet the standards in Section 206.1 through 206.11 must first obtain a permit for a Non-conforming Sign Design from the Planning Commission.

- A.** Applicants must submit five (5) printed copies and one (1) digital copy of the following information:
 - (1) general information required for all applications;
 - (2) a graphic depiction of proposed sign drawn to a minimum scale of 1" = 1",
 - (3) a description of the materials to be used for the sign;
 - (4) a list of adjacent property owners within fifty (50) feet of the applicant's property; and,
 - (5) a narrative describing the requested design variances, the applicant's reason for such requested design and applicant's statement why such proposed design is compatible with the general purpose of the sign regulations.
- B.** Review: The Planning Commission shall review applications for a Permit for Special Sign Design and shall conduct a public hearing prior to acting on the application.
- C.** Notice: The applicant shall provide written notice by first class mail to all property owners within one hundred (100) feet of the applicant's property in such form as is approved by

the Town Planner at least twenty (20) days prior to the hearing. Notice shall also be posted on the subject property with the notice signage provided by the Town. Notice of a public hearing by the Planning Commission shall be posted and published at least ten (10) days prior to such hearing.

D. Standards for Review: The Planning Commission shall consider the following standards when considering a Permit for Non-conforming Sign Design and must find that at least one of the standards listed below is met by the application:

- (1) **Necessity:** The location or nature of the business warrants a sign that does not meet the sign regulations in section 206.1 through 206.11;
- (2) **Public Safety:** The proposed sign design does not obstruct vehicular traffic views or pedestrian travel, nor does it create any other threat to the public safety;
- (3) **Compatibility:** The proposed sign is compatible with the overall design and architecture of the zone district area and does not detract from the zone district including but not limited to the use of florescent, bright, or obnoxious colors; offensive sexual or violent graphic depictions; or the use of lettering, shape, or construction materials or methods.
- (4) **Conditions:** The Board of Trustee may impose any conditions as deemed necessary and appropriate on any Special Sign Design; including but not limited to: requiring a performance bond, establishing a time limit for such sign, reserving the right to revoke the sign permit in the future, and approving design characteristics that differ from the application, such as size, color and use of material.

208. GRANDFATHER CLAUSE - NON-CONFORMING USE, BUILDING, OR LOT

The definitions, restrictions, and rights regarding non-conforming uses and structures, which include but are not limited to signs and fences, are established as follows:

- 208.1. Non-Conforming Status of Uses and Structures.** The use of land, use of a structure, or a structure itself shall be a legal non-conforming use or structure when each of the following conditions exist:
- A.** The use or structure does not conform to the regulations prescribed in the Zone District in which such use or structure is located and was in existence and lawfully constructed, located, and operating prior to, and at the time of, the event that made such use or structure non-conforming; and,
 - B.** the event that made such use or structure non-conforming was one of the following: annexation into the Town of Rico, adoption of this RLUC or a previous zoning ordinance, or amendment of this RLUC or a previous zoning ordinance; and,
 - C.** the non-conforming use or the use occupying the non-conforming structure has been operating since the time that the use or structure first became non-conforming without

abandonment, as abandonment is defined in **208.4** below.

- 2082.** Expansion. Non-conforming uses or buildings or other structures shall not be allowed to increase the non-conforming use or expand the non-conforming building or other structure without approval by the Board of Adjustments.
- 2083.** Ordinary Repair and Maintenance. Normal maintenance and incidental repair may be performed on a conforming structure which contains a non-conforming use or on a non-conforming structure. This section shall not be construed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Enforcement Official who declares a structure to be unsafe and orders its restoration to a safe condition. Any new foundation must comply with applicable setback requirements.
- 2084.** Abandonment. Whenever a non-conforming use is abandoned then all non-conforming rights shall cease, and the use of the premises shall henceforth conform to this RLUC. Abandonment shall involve the actual act of discontinuance, regardless of the intent of the user or owner to discontinue a non-conforming operation. Any non-conforming use that is discontinued for a period of twelve (12) months, shall be deemed abandoned. Any non-conforming structure that is moved from the premises shall be considered to have been abandoned.
- 2085.** Destruction. If a non-conforming structure or a structure occupied by a non-conforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to the provisions of this RLUC. In the case of partial destruction of a structure occupied by a non-conforming use not exceeding sixty percent (60%) of its replacement value, reconstruction may be permitted, subject to the following standards:
- A. The size and function of the non-conforming use shall not be expanded; and
 - B. Work on the restoration of the use must begin within nine (9) months and be completed within eighteen (18) months of the time of the casualty.
- 2086.** Non-conforming lots.
- A. *General.* A single-family dwelling and customary accessory buildings may be developed on a lot that has less area than the minimum required by the applicable Zone District and was an official "lot of record" prior to the adoption of the Town's original Zoning Ordinance No. 274 [Oct. 27, 1987] for the Residential Zone District if:
 - (1) The "lot of record" is in separate ownership and not contiguous to lots in the same ownership; and
 - (2) the proposed single-family dwelling can be located on the lot so that the yard setback, height, and other dimensional requirements of the applicable Zone District can be met, or a Variance is obtained.
 - B. *Contiguous lots.* If two or more lots, or combinations of contiguous lots in a

single ownership (including a legally recognized union of people as, in all cases, a single owner), are of record at the effective date of this RLUC, or become of record subsequent to said date, regardless of time of acquisition, then the lots shall be considered as a contiguous parcel, and no portion shall be used or occupied which does not meet the requirements of this RLUC.

C. Lot Reduction.

- (1) No lot or interest therein shall be transferred, conveyed, sold, or subdivided so as to create a new non-conforming lot, to avoid, circumvent or subvert any provision of this RLUC, or to leave remaining any lot in violation of the dimensional requirements of this RLUC.
- (2) No lot or portion of a lot required as a building site under this RLUC shall be used as a portion of a lot required as a site for another structure.
- (3) No Building Permit shall be issued for any lot or parcel of land which has been conveyed, sold, or subdivided in violation of this Subsection.

2087 Determination of non-conforming status. The burden of establishing that a non-conforming use or structure lawfully exists under this RLUC shall, in all cases, be upon the owner of such non-conforming use or structure.

210. MOBILE HOMES AND TEMPORARY DWELLING STRUCTURES

Mobile homes do not include manufactured housing as defined in Article IX. Mobile homes shall not be permitted in Rico at any time except as provided herein. Mobile homes or any temporary structure may be used for temporary residential occupancy on private property by the property owner for one year from the date of issuance of a building permit for a residential structure on such property. Mobile homes or temporary structures shall meet all setback requirements of the applicable Zone District and must include a sanitary facility during construction (a hook-up to a septic system or a „porta-potty“ or holding tank that is pumped regularly).

212. RECREATION VEHICLES AND CAMPERS (ORD. NO. 2009-04, § 212, 06-24-09)

Recreation vehicles or campers must include or have access to a sanitation facility. The discharge of grey or black water is prohibited within Town limits. Recreational vehicles and campers may be parked on private property and used for occupancy with the express permission of the property owner. Only one recreational vehicle may be parked and used for occupancy per Town lot. Where several adjacent Town lots are clustered under one ownership, these lots shall be considered one lot for the purposes of this regulation. Recreational vehicles and campers may be used or occupied for more than seven (7) consecutive days not to exceed twenty-one (21) days total in a calendar year on private property.

**214. PARKING RESTRICTIONS ON EXCESS WEIGHT AND RECREATIONAL VEHICLES
AND THE UNAUTHORIZED USE OF VEHICLES AS RESIDENCES
(ORD. NO. 2009-04, § 214.1, 214.2, 06-24-09)**

This section establishes parking regulations for vehicles in excess of ten thousand (10,000) pounds (not including emergency vehicles), boats, boat trailers, tractors, trailers, semi-trailers, motor homes, buses and detached/dismounted campers, hereinafter collectively referred to as excess weight and recreational vehicles. This section also limits the use of vehicles as residences within the public right of way and on public property.

214.1 Parking restrictions on excess weight and recreational vehicles. The owner or operator of excess weight or recreational vehicles shall not park on any public right-of-way or roadway for longer than seventy-two (72) hours and shall not be parked in a fashion that restricts normal access and use of town streets. All detachable trailers must be hitched to a vehicle when parked on town streets.

214.2 Use of vehicles as residences or temporary dwellings

- A. The unauthorized use of vehicles as residences within a public right-of-way and on public property is deemed to be injurious to residential and nonresidential neighborhoods alike and conducive to the creation and perpetuation of congestion, unwanted noise, sanitation problems, unsightly visual conditions and confrontations between residents and nonresidents. The intent and purpose of this Section is not to regulate vehicles or those locations where vehicles may be parked or stored, except as otherwise set forth herein, but to prohibit activities and occupancies within vehicles so as to protect the integrity of neighborhoods, preserve public streets, rights-of-way and parks for their intended public purposes, ensure the proper use of public property in conformity with zoning and land use regulations and promote the public health and safety.
- B. Prohibitions. No person shall occupy any vehicle upon any municipal street, state highway, alley or public right-of-way or public property for the purpose of providing residence or residential living or sleeping quarters or storage, whether temporary or permanent, except as otherwise set forth herein. The type or nature of any given vehicle shall not be conclusive as to whether a vehicle is being occupied for living or sleeping quarters or other residential use.

**216. HISTORIC COMMERCIAL AND
COMMERCIAL USES.**

**216.1 HISTORIC AND COMMERCIAL USES BY
RIGHT
(ORD. NO. 2008-3, § 216.1, 216.3, 03-19-08)**

The following commercial uses are permitted by right in commercially zoned districts,

except where a more specific or applicable category is set forth in **216.2** Commercial Uses by Special Permit Review:

- A. Accommodations, including motels, hotels, inns, lodges and bed and breakfasts and other short term dwelling units
- B. Art Studios, including galleries, craft and hobby shops, and art supplies
- C. Barber Shops
- D. Bars, including cantinas, clubs, lounges, saloons, taverns, and watering holes, except that such uses shall be subject to liquor licensing requirements.
- E. Beauty Salons
- F. Bookstores
- G. Grocery Store
- H. Hardware Store
- I. Offices
- J. Private social clubs and organizations
- K. Residential, including single family, multi-family, townhomes, apartments, and condominiums.
- L. Repair shops other than automotive, metalworking or woodworking.
- M. Restaurants, including all food service establishments where on-premises sales constitute the majority of sales.
- N. Retail Stores where on-premises sales constitute the majority of sales. "Retail Stores" as set forth herein shall be limited to the following and similar uses:

- | | |
|-----------------------------------|-----------------|
| Antique Shop | Appliance Store |
| Bakery | Camera Shop |
| Candy, Tobacco, or Cigarette Shop | Catalogue Store |
| Clothing Store | Decorator Shop |
| Department Store | Drug Store |
| Florist Shop | Furniture Store |

- | | |
|--------------------------|------------------|
| Gift Shop | Jewelry Store |
| Liquor Store | Pet Shop |
| Paint and Wallpaper Shop | Photography Shop |
| Sporting Goods Store | |

216.2 COMMERCIAL USES BY SPECIAL USE PERMIT REVIEW

All uses not listed as a use permitted by right in 216.1 shall require a Special Use Permit. Included uses but not limited to uses such as:

- A. Adult Businesses, including retail sales of adult materials and nudity shows.
- B. Day care
- C. Fire Stations and Emergency Facilities
- D. Hospitals
- E. Gasoline, fuel cell, and other stations that sell fuel and/or energy
- F. Manufacturing/ fabrication businesses, not including art studios
- G. Medical Centers
- H. Religious Institutions
- I. Repair shops for Automobiles,
- J. Schools
- K. Trade Businesses, including electrical, heating, plumbing, welding, etc.
- L. Warehouses and distribution centers, where the majority of sales are off-premises or delivered.
- M. Wood Working Shops
- N. All other businesses not listed as a Use Permitted by Right in **216.1** or prohibited by Section 216.3

216.3 PROHIBITED COMMERCIAL USES

The following commercial uses are prohibited in commercially zoned districts.

- A. Junk Yards
- B. Towing Services
- C. Motorized Recreational Vehicle Rentals or Sales, including off-road jeeps, motorcycles, motorbikes, and ATV's
- D. Pot/ Marijuana Shops
- E. Car washes

**220. RESIDENTIAL (R) ZONE DISTRICTS - USES PERMITTED BY RIGHT
(ORD. NO. 2022-05. § 220; 06-15-22)**

Single family dwellings, accessory dwelling units, up to two (2) detached dwelling units, accessory buildings and uses, including home occupation, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450-457.

RESIDENTIAL USES BY SPECIAL USE PERMIT REVIEW

(ORD. NO. 2022-05. § 221; 06-15-22)

- A. Short- Daycare facilities, schools, and churches.
- B. Tiny Homes (ORD. NO. 2019-05. § 221; C, 07-17-19)

**221. RESIDENTIAL DISTRICT DESIGN REGULATIONS
(ORD. NO. 2008-3. § 222, 03-19-08)**

DESIGN REGULATIONS	REQUIREMENTS
LOT SIZE	5,000 Square Feet, 7,500 Square Feet for Single family dwellings with Accessory Dwelling Units*
FRONT SET BACK	12 feet
SIDE SET BACK	7 feet
REAR SET BACK	5 feet**
BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area Formula = 50% of Lot square footage provided that in no event shall MFA exceed 3,250 sq.ft. MFA for non-conforming lots = 50% of Lot square footage
SITE COVERAGE	70% of the lot
OFF-STREET PARKING	Two vehicle spaces per dwelling unit.
PERMITTED EXTERIOR MATERIALS	Wood siding (stained or painted), Stone, Brick, Cementatous siding such as Hardy Plank, T1-11 with battens no more than 12” centers. Metal, non-reflective architectural elements are permitted up to a maximum of up to 40% of the exterior surface area, excluding the roof.
PROHIBITED EXTERIOR MATERIALS	Vinyl, Fiberglass, aluminum, exposed cinder block, exposed concrete block (CMU), plywood (with the exception of T1-11)

* The minimum lot size for the Atlantic Cable, Upper Atlantic Cable, Silverglance Subdivision and Silverglance Subdivision Filing 2 shall be the existing platted lots because these subdivisions were platted to be single family lots, that is, further residential subdivision, nor the development of accessory dwelling units of existing lots shall be not permitted as a use by right.

** The rear yard setback shall be increased to 10 feet where the rear property line abuts private property rather than an alley, public right-of-way, or other public lands.

222. TINY HOME USES (ORD. NO. 2019-05. § 223, 07-17-19)

Tiny Homes must comply with all Colorado Department of Public Health & Environment (CDPI-IE) rules and regulations, including daily residential wastewater flow and BOD, load per person, per day limits. In addition, Tiny Homes must meet minimum requirements on the most current International Residential Code as it applies to Tiny Homes.

240. HISTORIC COMMERCIAL (HC) ZONE DISTRICT - USES PERMITTED BY RIGHT (ORD. NO. 2022-05. § 240; 06-15-22)

Commercial, religious institution, fire house, school, and residential, including multi-family, apartments, town homes, condominiums, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450-457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

241. REVIEW BY THE PLANNING COMMISSION

The Planning Commission shall review all proposed structures, alteration of structures, and fences in the Historic Commercial Zone Districts prior to issuance of a building permit by the Building Official. Applicants for building in the Historic Commercial Zone Districts shall provide five (5) printed copies and one (1) digital copy of elevation drawings at a minimum scale of ¼ inch equals one (1) foot at least twenty (20) days prior to a meeting of the Commission and one (1) copy of a display rendering at a minimum scale of ¼ inch equals 1 foot. The drawings shall accurately portray the facade and architectural features of the structure facing Glasgow Avenue and the side facades for structures with a greater than 0-foot side yard setback or which face a side street and shall include existing buildings, or portion thereof, on adjacent lots for reference. The Trustees shall hold a public hearing prior to making a decision on the application. Notice of the public hearing shall be posted and published at least ten (10) days prior to the date of the hearing. The Trustees shall act on the application to deny it, approve it, or approve it with conditions, or the Trustees may continue the review decision for one regular meeting upon providing specific direction to the Applicant indicating required amendments to the application.

241.1 STANDARDS FOR REVIEW

The Planning Commission shall use the following standards when reviewing permit applications in the HC Zone District:

- A. The application complies with the Design Regulations for the HC Zone District. The application should incorporate architectural features similar to the features established by the historic commercial structures in Town. Such features include, but are not limited to; windows, doors, cornices, trim, and decorative architectural features: and,

- B.** Proposed structure or alteration of existing structure utilizes design that is practical and functional with respect to pedestrian traffic flow, parking, loading and deliveries: and,
- C.** The design provides visual interest by avoiding long monotonous walls without windows, doors, openings, or trim detail by using siding materials, doors, windows, and trim detail that provide visible texture, relief, and shadow lines: and,
- D.** The overall design is compatible and complimentary to existing buildings in the HC Zone District.

242. FENCES IN THE HISTORIC COMMERCIAL ZONE DISTRICT

- 2421** Purpose: Historically, most properties in the historic commercial zone district did not have fences. Service yard fences that are visible from Highway 145 are highly discouraged. The purpose of the service yard fence regulations is to achieve a balance between requiring certain businesses to construct a service yard fence while maintaining a pedestrian friendly environment and preserving the historic nature of the Historic Commercial Zone District. The goal of any service yard fence constructed in the Historic Commercial Zone District shall be to obscure the service yard without building an opaque continuous façade and without having a negative visual impact on the historic nature of the Zone. Furthermore, service yard fences shall incorporate transparent elements into the fence design. Examples of acceptable service yard fence designs (including transparent elements) are provided in Appendix B of the RLUC.
- 2422** No fence can be constructed without a permit from the Planning Commission.
- 2423** It is the responsibility of the owner to construct fences within the owner's property boundaries. No fence can be constructed within any town easement or right-of-way.

2424 Standards for Review:

Service yard fences shall obscure the service yard but also include transparent elements within its design to minimize visual impacts on pedestrians. Transparent elements are such elements that provide a pedestrian a view into the yard. Service yard fences located in the Historic Commercial Zone District are not total privacy-type service yard fences that are permitted in other Zones. Examples of service yard fences with transparent elements are provided in Appendix B.

- 2425** Service yard fences shall be a minimum of six (6) feet in height and a maximum of seven (7) feet in height.
- 2426** Fences shall be constructed using rough cut or milled wood, natural stone, brick, wrought iron, and any combination of these materials.
- 2427** The following is an example list of prohibited fence types: chain link, wire, mesh, concrete block, plastic, fiberglass, plywood, barkslab, barb wire, razor wire, electrified fences, slatted “snow” fences, and opaque fences without transparent elements. The aforementioned list is not, nor is it intended to be, all inclusive of prohibited fence types.
- 2428** The use of materials native to Rico’s historical character, such as railroad ties and brick, are encouraged. The use of vegetation to offset visual impacts is also encouraged.
- 2429** Fences located along Highway 145 and side streets must be built along a minimum three-foot setback.
- 24210** All fences shall be built parallel or perpendicular to the platted lot lines.
- 24211** A variance may be requested for fences that meet the goals of these regulations but do not conform to the specific standards.

246. HC - HISTORIC COMMERCIAL DISTRICT DESIGN REGULATIONS

The design regulations for the HC Zone District require a street level, pedestrian oriented commercial space on the front of the structure, referred to as the Street Front.

*Refer to Appendix B. Graphic Design Illustrations for further explanation and guidance on these design regulations.

DESIGN REGULATIONS	Requirements
Maximum Front Setback	0 feet
Maximum Side Setback	0 feet (Two-hour fire wall is required)
Rear Setback	5 feet
Lot Size	2,500 Square Feet
Building Height	30 feet (maximum of two stories above sidewalk grade)

Permitted Exterior Materials	Horizontal wood siding (stained or painted) maximum six (6) inches in width, Stone, or Brick. Metal architectural elements are permitted up to a maximum of 20% of the exterior surface area. (for all exterior building walls visible from Glasgow Ave.)
Off-Street Parking	One vehicle space per 1,000 square feet of floor area.
Sidewalk	Sidewalk improvements are subject to review by the Planning Commission
Street Level/Ground Floor Treatment	
Street Front Elevation	The floor of the Street Front shall be the same elevation as the abutting sidewalk surface.
Minimum Ceiling Height in Street Front	10 feet
Minimum depth of Street Front	Twenty-two 22 feet of the primary street front
Minimum Fenestration Area on Street Front	55%
Window Treatment on Street Front	The width of each window, excluding transom windows, shall not exceed the height.
Second Floor Treatment	
Second Floor Window Treatment	All second-floor windows shall be dimensioned so that the height of each window is at least 1.5 times the width. Second floor windows shall be evenly aligned and spaced horizontally and shall be aligned vertically. Bay windows which do not exceed the height of the facade are allowed.
Parapet Treatment	The parapet of the façade shall extend vertically a minimum of four (4) feet and a maximum of ten (10) feet above the top of the window, not including window trim.

Cornice detail	The parapet shall incorporate a cornice trim detail with at least eight (8) inches of relief or overhang.
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**250. COMMERCIAL (CM) ZONE DISTRICT - USES PERMITTED BY RIGHT
(ORD. NO. 2022-05. § 250; 06-15-22)**

Commercial and residential, including multi-family, apartments, town homes, condominiums, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

252. COMMERCIAL DISTRICT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
MINIMUM LOT SIZE	2,500 Square Feet
MINIMUM FRONT SET BACK	Twenty-two (22) feet
MINIMUM SIDE SET BACK	Seven (7) feet
MINIMUM REAR SET BACK	Five (5) feet
MAXIMUM BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area = Lot square footage (1:1 ratio)
MAXIMUM SITE COVERAGE	80% of the lot
MINIMUM OFF-STREET PARKING	One vehicle space per 500 square feet of floor area. Lodging facilities shall provide two (2) vehicle spaces for every three (3) accommodations/ bedrooms.
SIDEWALK	Sidewalks improvements are subject to review by the Building Official.

260. MIXED USE (MU) ZONE DISTRICT - USES PERMITTED BY RIGHT

Single family dwellings, duplexes and triplexes, accessory structures and uses, including home occupation, commercial, light industrial, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450-457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

262. MIXED USE ZONE DISTRICT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
MINIMUM LOT SIZE	12,000 square feet
MINIMUM FRONT SET BACK	Twelve (12) feet
MINIMUM SIDE SET BACK	Twelve (12) feet
MINIMUM REAR SET BACK	Twelve (12) feet
MAXIMUM BUILDING HEIGHT	Thirty (30) feet
MAXIMUM FLOOR AREA	Maximum Floor Area Formula = 50% of lot area, provided that in no event shall MFA exceed 5,000 sq.ft.
MINIMUM SITE COVERAGE	50% of the lot.

MINIMUM OFF-STREET PARKING	Two vehicle spaces per dwelling unit, two vehicle spaces per dwelling unit with light industrial spaces by review of the Building Official
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270. RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ZONE DISTRICT –USES PERMITTED BY RIGHT (ORD. NO. 2022-05. § 270; 06-15-22)

Single-Family, duplex, triplex, accessory dwelling use, home occupation, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457.

272. RESIDENTIAL PLANNED UNIT DEVELOPMENT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
MINIMUM LOT SIZE	22,000 sq.ft.
MINIMUM FRONT SET BACK	12 feet
MINIMUM SIDE SET BACK	7 feet
REAR SET BACK	5 feet
MAXIMUM BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area = 4,000 sq.ft. (4,500 sq.ft. if a detached accessory dwelling unit is constructed)
MINIMUM OFF-STREET PARKING	Two (2) vehicle spaces per dwelling unit

280. COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) ZONE DISTRICT –USES PERMITTED BY RIGHT (ORD. NO. 2022-05. § 280; 06-15-22)

Single family dwellings, duplexes and triplexes, accessory structures and uses, including home occupation, commercial, light industrial, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

282. COMMERCIAL PLANNED UNIT DEVELOPMENT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
MINIMUM LOT SIZE	2,500 sq.ft.
MINIMUM FRONT SET BACK	7 feet
MINIMUM SIDE SET BACK	7 feet
MINIMUM REAR SET BACK	5 feet
MAXIMUM BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area = 50% of lot area
MINIMUM OFF-STREET PARKING	Two (2) vehicle spaces for every three (3) accommodations/ bedrooms, two (2) vehicle spaces per dwelling unit. One (1) vehicle space per 500 sq.ft of restaurant, retail, or office space with light industry parking review by Building Official.

290. OPEN SPACE AND PUBLIC FACILITY ZONE DISTRICTS

The Open Space and Public Facilities Zone Districts apply to land owned by the Town, County of Dolores, or other public entities where appropriate, or where the Zone District designation is applied to private property with the consent of the property owner or as a requirement of any P.U.D., subdivision, or annexation approval. The Open Space District is intended to preserve the natural value of undeveloped land for the benefit and enjoyment of the residents of the Town of Rico. The Public Facility Zone District is intended to permit construction and installation of structures, equipment, and facilities used primarily for public purposes. Use permitted by right for the Open Space Zone District include; nature trails for walking, hiking, biking, skiing, snow shoeing, and other non-motorized activities; and, structures and improvements identified in the Rico Regional Master Plan. Use permitted by right for the Public Facilities Zone District include public structures and facilities which may be identified in the Rico Regional Master Plan, and may also include work force housing as an accessory use.

**ARTICLE III
PLANNED DEVELOPMENTS
RPUD & CPUD**

300. PUD DISTRICTS

The requirements of this **ARTICLE III** apply to the Residential Planned Unit Development Districts and Commercial Planned Unit Development Districts in addition to other requirements of this **RLUC**.

302. PURPOSE

3021 Intention. The Planned Unit Development Districts (PUD) are intended to permit the use of land with flexibility in design and without rigid application of zoning requirements that are applied to the historically platted portion of Town (historically platted lot sizes of twenty-five (25) by one hundred (100) feet). In addition to the purposes stated elsewhere in this RLUC, the PUD Districts also have the purposes stated in C.R.S. §24-67-102, as may be amended from time to time.

3022 Multiple Zone Districts. A mixture of Zone Districts is permitted in PUD applications to permit site specific application of appropriate zoning based on the Rico Regional Master Plan, the purposes of this RLUC, the purposes of PUD and subdivisions, and site-specific development opportunities and constraints. For example, a PUD site that contains a mixture of sites suitable for residential development and sites inappropriate for development due to environmental constraints can result in a PUD that utilizes a mixture of residential and open space zoning.

3023 Multiple Property Owners. Applications by multiple property owners are permitted and encouraged where site development affects the current or planned development of multiple property owners. Site development which may affect multiple property owners includes, but is not limited to; road improvements, utility extensions, calculation of permitted density, and assignment of permitted density to property suitable for development, or planned development of multiple contiguous properties under separate ownership.

304. PROCEDURES AND SUBMITTAL REQUIREMENTS.

The Applicant shall follow the procedures and submittal requirements for Major Subdivisions in **ARTICLE V, SUBDIVISIONS**. In addition to the submittal requirements set forth in **ARTICLE V**., Applicants shall include the following information in a PUD application:

304.1 Proposed use or Zone District classification for each lot.

304.2 A description of and site plan depicting proposed setbacks, building heights, and other design requirements for each lot and structure which vary from the Design Regulations established for the PUD district.

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- 304.3** For CPUD applications adjacent to Highway 145: Colored elevations of the project as seen from Highway 145 (adjacent to Highway 145, and approaching the project from the North and South, where applicable). This information shall not be required if the initial application for a combined PUD and Subdivision approval does not propose to develop the subject Property. In such case, a submission of a colored elevation as described above shall be required for review and approval of the Planning Commission prior to an issuance of a building permit.
- 304.4** Proposed common areas, plazas, landscaping, retaining walls or other improvements.

306. PUD DISTRICT STANDARDS

Any PUD Application may propose to vary to the applicable standards which variations may be approved in the sole discretion of the Town Board of Trustees if the Trustees determine that the overall PUD application promotes the goals of the Rico Regional Master Plan. In addition to the standards contained in **ARTICLE V. SUBDIVISIONS** and the Design Regulations applicable for the designated PUD district, the reviewing body shall use the following standards to review PUD applications:

- 306.1** The application substantially complies with the Rico Regional Master Plan, including but not limited to: use, pedestrian and recreation access and connections to the Town core, U.S. Forest Service lands, and other public lands.
- 306.2** All areas which are inappropriate for development, including but not limited to: steep slopes, areas affected by geologic or other hazards, wetlands, and other areas of state and local interest, are included in the Open Space Zone District. All areas included in the Open Space Zone District which are not dedicated to the Town are held in common ownership by an owners' association and the owners' association is responsible and liable for the maintenance and oversight of all common open space areas.
- 306.3** The PUD application complies with the Major Streets Plan.
- A.** Pedestrian access to the commercial districts of Town is provided by a sidewalk or trail on the Applicant's property, or by connection to an existing or future sidewalk, trail, or other suitable pedestrian access route, and sidewalk or trails meet the minimum requirements set forth in **550. MINIMUM SUBDIVISION DESIGN STANDARDS**.
- B.** Passive recreational access is provided to the existing and planned network of passive recreation trails identified in the Rico Regional Master Plan.
- C.** Direct access to Highway 145 will not create traffic related hazards and direct access can be created which meets the minimum access design standards set forth by the Town of Rico and the Colorado Department of Transportation (CDOT). Any necessary highway access permit from CDOT and the Town of Rico is obtained prior to commencement of any development activity.
- 306.4** Off-street parking should be visually screened from Highway 145 either by parking within or behind structures or through the use of landscaping.

306.5 Retaining walls should be visually screened from adjacent streets and Highway 145 through the use of landscaping or constructed and / or finished (with color, texture and/or stone, or other appropriate veneer) in a manner that is visually compatible with the adjacent hillsides and buildings. See Appendix B for examples.

**ARTICLE IV
APPLICATION PROCEDURES AND STANDARDS**

400. BUILDING PERMIT REQUIRED

It shall be unlawful to commence the excavation for, or the construction of, any building or any structure, including accessory structures, until the Building Official of the Town of Rico has issued a building permit for such work. Structures include decks and patios over thirty (30) inches in height (See Appendix B). Test pits for engineering related to foundations and septic designs are permitted without a building permit or septic permit. Every building hereinafter erected or structurally altered shall be located on a lot as defined in **ARTICLE IX**. No building shall be erected, converted, enlarged, or structurally altered, nor shall any building or premises be used for any purpose other than permitted in the district in which such building or premises is located. No building shall be erected, enlarged, moved, or structurally altered except in conformity with the height, yard, setback, maximum floor area, maximum site coverage, or other regulations prescribed herein for the district in which such lot is located. All Applicants are required to be in compliance with the most up to date building code (IBC) adopted by the Town of Rico. Every part of the permit area should be accessible and visible to the building official or inspector. The yard of any lot shall not be reduced so as to be smaller than the applicable district requirement. See **730** for enforcement and authority and **740** for penalties for violations.

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401. NO LIABILITY FOR ISSUANCE OF BUILDING PERMIT

A grant or approval of a building permit does not constitute a representation, guarantee, or warranty of any kind or nature by the Town or any Town official or employee of the practicability or safety of any Development Activity, structure or proposed use, and it creates no liability to or cause of action against the Town or any Town official or employee for any damages caused by permitting such development.

402. NULL AND VOID PERMITS

Any permit issued in conflict with the provisions of this RLUC shall be null and void and may not be construed as waiving any provision of this RLUC or other rights of enforcement by the Town.

403. RECORD KEPT BY BUILDING OFFICIAL

A record of all building permits shall be kept on file in the office of the Town of Rico by the Building Official, and copies shall be furnished on request at the expense of any person having a proprietary interest in the land or building affected by such building permit.

404. APPEAL FROM DECISIONS

The Applicant may appeal the decision of the Building Official to the Board of Adjustments by filing a notice of appeal with the Town Clerk within thirty (30) days of the certified mailing of the

written order of the Enforcement Official. The Town Clerk shall notify the chairperson of the Board of Adjustments who shall schedule a meeting within forty-five (45) days of receipt by the Town of the notice of appeal.

405. BUILDING PERMIT SUBMITTAL REQUIREMENTS (request to change this title need info)
 Application for a building permit shall be made to the Building Official of the Town. The Building Official shall require that every application for a building permit be accompanied by a plan drawn to scale and an elevation drawing drawn to scale showing the information specified in Sections 405.1 et seq. below, in sufficient detail to enable the Building Official to ascertain whether the proposed excavation, construction, reconstruction or conversion, moving or alteration is in compliance with this RLUC. Building Permits expire after two (2) years or with a Certificate of Occupancy, whichever is earlier. After expiration, no more than four (4) extensions at a total of 180 days is available upon request as stipulated by the IBC.

Plans and drawings shall include the following:

- 4051** Lot dimensions and corners. A survey of the lot prepared by a Colorado registered land surveyor (RLS) showing the corners, dimensions, and existing easements of the lot.
- 4052** Proposed Structures. The shape, size and location of all buildings, fences, or other structures to be erected, altered, or moved and of any buildings, fences, or other structures already on the lot.
- 4053** Use of Structure. The existing and intended uses of the building and other structures, including the number of units.
- 4054** Existing Yards. The dimensions of all yards and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of the RLUC are being observed regarding yards, areas, site-coverage, and other such requirements or standards.
- 4055** Driveways and Parking. Any planned roads, driveways, or access routes, and off- street parking areas.
- 4056** Other Approval Requirements. Information sufficient to address any subdivision, PUD, annexation, variance and any other applicable RLUC requirements, including but not limited to those established pursuant to subdivision improvements, PUD or development agreement, and other conditions and requirements contained in any other applicable Town approval or separately recorded instrument.
- 4057** Other Permits. Evidence of approval of other required permits (such as development permits in Areas of State and Local Interest and driveway excavation permits).
- 4058** Payment in Full. Evidence of payment in full of any amount due and owing to the Town of Rico, a special improvement district organized in the Town of Rico, any reimbursement fee required by Ordinance, and the Rico Fire Protection District.

406. STANDARDS FOR REVIEW

The Building Official shall use the following standards to review building permit applications:

- 4061** If the proposed excavation, construction, moving or alteration or other Development Activity as set forth in the application is in conformity with the provision of this RLUC

and all other ordinances of the Town, the Building Official shall issue a Building Permit.

- 4062** If an application for a building permit is not approved, the Building Official, shall state in writing the reason for disapproval.

410. AMENDMENTS TO RLUC, OFFICIAL ZONE DISTRICT MAP AND RICO REGIONAL MASTER PLAN**412. INITIATION OF AMENDMENT**

Any resident over the age of 18 or any person having a proprietary interest in any property within the Town of Rico may apply to the Board of Trustees for a change or amendment to the provisions of this RLUC, the official Zone District Map or the Rico Regional Master Plan, or the Rico Planning Commission may on its own motion, or on request from the Board of Trustees, institute a study and proposal for changes and amendments which are in the public interest.

414. APPLICATION FOR AMENDMENT

Applications for RLUC, Official Zone District Map or Rico Regional Master Plan amendments shall include five (5) paper copies and one (1) digital copy of the application for such change or amendment with the Town Planner or Manager. The application shall at a minimum, shall include the following information:

414.1 The name, address, and telephone number of the Applicant shall be provided.

414.2 The petition shall clearly state the requested change or amendment and describe the property to be affected by such request by metes and bounds or by other legal description.

414.3 The petition shall be accompanied by a title certificate from a licensed title company or opinion from an attorney listing the name of the property owner(s) and all liens, easements and judgments of record that affect the title to the subject property.

414.4 A statement from the County Treasurer showing the status of all current taxes due on said parcel.

414.5 If applicable, certified boundary survey of land area affected by the Amendments, along with an indication of the existing zoning, predominant existing uses, and existing zoning designations within two hundred (200) feet in all directions of the boundary of the land area affected by the Amendments.

414.6 If applicable, legible maps at a suitable scale for review, as determined by the Town Planner, which demonstrate the proposed Amendments (maps and surveys may be combined).

414.7 If applicable, a list of surrounding property owners and their legal mailing addresses within two hundred (200) feet of the exterior boundary of the parcel proposed to be zoned or rezoned.

414.8 A request and explanation for any exception to providing the information requested above.

414.9 A statement by the Applicant explaining the rationale for the Amendment request relative to the standards imposed by **418**.

414.10 An application fee as set forth in Appendix A.

416. AMENDMENT APPLICATION PROCEDURES

- 416.1** Reviewing Board. An Amendment application shall be first submitted to the Rico Planning Commission which shall review the application and render a recommendation to the Board of Trustees. The Board of Trustees shall consider the Rico Planning Commission's recommendation and then render a decision.
- 416.2** Public hearing required. The Rico Planning Commission shall conduct a public hearing on any application for Amendment prior to making its recommendation to the Board of Trustees. The Board of Trustees shall conduct a public hearing prior to considering adoption of an ordinance to amend the RLUC or considering adoption of a resolution to amend the Rico Regional Master Plan.
- 416.3** Notice. Public hearings for Amendments shall be posted at the Town Hall and Post Office and shall be published on the Town's official website at least ten (10) days prior to the hearing. Amendments which change the Zone District classification of property or the desired land use of property as determined in the Rico Regional Master Plan shall provide written mailed notice to the property owners of the affected property and property owners within two hundred (200) feet of the affected property, such notice shall be mailed at least twenty (20) days prior to the hearing. Amendments which change the text of this RLUC or the Rico Regional Master Plan which are general in nature and do not solely affect a specific property are not required to provide written mailed notice to property owners. Notice shall include the present and proposed zoning or master plan future use designation; the time, date, and place of the hearing; and the name, address, and phone number of the Applicant; a map showing the affected land area if applicable; and a statement that the application is available for public inspection in the office of the Town Clerk along with office hours.
- 416.4** 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.

418. STANDARDS FOR REVIEW OF AMENDMENT APPLICATIONS

The Rico Planning Commission and the Board of Trustees shall use the following standards for review of Amendment applications. The reviewing board shall find that either standard **418.1** is met or that standards **418.2** through **418.4** are met prior to recommending or approving a proposed Amendment.

- 418.1** The existing Zone District classification or desired Master Plan land use was adopted in error; or,
- 418.2** the proposed Amendment is compatible with the land uses in the surrounding area; and,
- 418.3** the proposed Amendment will serve a community need and thereby promote the public health, safety, or welfare of the Rico community and the public services and infrastructure are adequate to meet the needs of the proposed Amendment; and,
- 418.4** the proposed Amendment is consistent with the purposes of the RLUC and the goals and objectives of the Rico Regional Master Plan.

**420. SPECIAL USE PERMITS
(ORD. NO. 2011-3. § 420, 06-15-11)**

The Rico Land Use Code authorizes uses by Special Use Permit Review in Commercial and Residential Zone Districts. A Special Use Permit (SUP) must be obtained prior to instituting a use which is not permitted in a particular Zone District, but which is otherwise explicitly authorized as a use permitted by "Special Use Permit Review". A Special Use is a use that may or may not be appropriate in a given location depending upon the circumstances and the conditions imposed upon the approval of the use. Conditions shall be designed to reasonably mitigate adverse impacts of the use upon surrounding properties.

422. PRE-APPLICATION CONFERENCE

Prior to the filing of a Special Use Permit application, the Applicant may meet with the Town Manager and/or Planner or their designated agent to acquaint himself or herself with the requirements of the Town. At such meeting, the application contents, referral agencies, review procedures, use and area standards, and the general character of the development may be discussed. At the pre-application conference, the Applicant may be represented by a land planner, engineer, surveyor, attorney, or other representative.

424. SUBMITTAL REQUIREMENTS

The Applicant shall file five (5) paper and one (1) digital copy of a SUP application and a title certificate from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property. The application shall be filed with the Town Planner or Town Manager. The application shall be accompanied by or show the following information:

- 424.1** The street address and legal description of the property affected.
- 424.2** Any and all plans, maps, information, operating data and expert evaluation necessary to clearly explain the location, function, characteristics, or proposed mitigation, of any proposed use.
- 424.3** A statement explaining why the proposed use meets the standards for review and why the proposed use is compatible with existing adjacent land uses and the surrounding neighborhood.
- 424.4** An application fee as indicated in Appendix A.

426. REVIEW PROCEDURES.

- 426.1** Reviewing Board. A SUP application shall be first submitted to the Rico Planning Commission which shall review the application and render a recommendation to the Board of Trustees. The Board of Trustees shall consider the Rico Planning Commission's recommendation and then render a decision.
- 426.2** Public hearing required. The Rico Planning Commission shall conduct a public hearing on any application for a SUP prior to making its recommendation to the Board of Trustees. The Board of Trustees shall conduct a public hearing prior to considering a request for a SUP.
- 426.3** Notice. Public hearings for SUP applications shall be posted at the Town Hall and Post Office and on the Town's official website at least ten (10) days prior to the hearing. Written mailed notice shall be provided to the property owners within 200 feet of the subject property, such notice shall be mailed at least twenty (20) days prior to the hearing. Notice shall also be posted on the subject property with the notice signage provided by the Town. Notice shall include the present Zone District classification, the proposed special use; the time, date, and place of the hearing; and the name, address, and phone number of the Applicant and a statement that the application is available for public inspection in the Town Clerks office along with office hours.
- 426.4** Conditions. The Rico Planning Commission has the authority to recommend approval with conditions, and the Board of Trustees has the authority to grant a SUP with conditions; including but not limited to: Duration of SUP, hours of operation, required visual screening, required off-street parking, limitations of use, required on-site and off-site mitigation, and fees, payments or improvements which are necessary to provide adequate public services or infrastructure.
- 426.5** 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.

426.6 Records. A file containing all documents relevant to the application and disposition of such SUPs shall be maintained by the Town Planner.

428. STANDARDS FOR REVIEW

The following standards shall apply to review of SUPs by the Rico Planning Commission and the Trustees in addition to standards indicated elsewhere in this RLUC for specific Special Use Permit applications.

428.1 Compatibility with Surrounding Area. The proposed use or operation is compatible with surrounding land uses and with the surrounding neighborhood.

428.2 General. The location, size, design and operating characteristics of all proposed uses shall mitigate any adverse effects, including visual impacts, on surrounding properties.

428.3 Noise. At no point on the bounding property line of any use in any district shall the sound pressure level of any use, operation or plant produce noise intensity greater than that customarily level of the underlying Zone District and surrounding neighborhood so as to create a nuisance or detract from the use and enjoyment of adjacent property. For the purposes of this Section, bounding property line shall be interpreted as being at the far side of any street alley, stream or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two (2) parcels of property shall be interpreted as the bounding property line.

428.4 Smoke and Particulate Matter. No proposed operation or use in any district shall at any time create smoke and particulate matter that, when considered at the bounding property line of the source of operation creates a nuisance or distracts from the use and enjoyment of adjacent property.

428.5 Odorous matter. No proposed use shall be located or operated in any district that involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located. The odor threshold shall be the concentration of odorous matter in the atmosphere necessary to be perceptible to the olfactory nerve of a normal person.

428.6 Fire and Explosive Hazard Material.

A. Explosives. No use involving the manufacture or storage of compounds or products that decompose by detonation shall be permitted in any district, except that chlorates, nitrates, phosphorus and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the Fire Marshall as not presenting a fire or explosion hazard.

B. Flammables. The storage and use of all flammable liquids and materials such as

pyroxylin plastics, nitrocellulose film, solvents and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Town of Rico and receives the approval of the Fire Marshall.

428.7 Toxic and Noxious Matter. No proposed operation or use in any district shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter that will exceed the threshold limits set forth by the Colorado Department of Health.

428.8 Vibration. No proposed operation or use in any district shall at any time create earthborne vibration that, when considered at the bounding property line of the source of operation creates a nuisance or distracts from the use and enjoyment of adjacent property.

428.9 Open storage. No open storage of materials or commodities shall be permitted in any district except as an accessory use to a main use located in a building in the **MU Zone District**. No open storage operation shall be located in front of a main building. No wrecking, junk, or salvage yard shall be permitted as a storage use in any district.

428.10 Glare. No proposed use or operation in any district shall be located or conducted so as to produce intense glare or direct illumination across the bounding property line from a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

428.11 Traffic. No proposed use or operation shall be permitted where the use would create undue traffic impacts on Town roads and affected residential neighborhoods.

428.12 Off-Street Parking. Adequate off-street parking is provided to accommodate the proposed use.

430. **VARIANCE APPLICATIONS**
(ORD. No. 2008-3, § 430, 430.1, 03-19-08)

Except as otherwise set forth in Section _____, the Planning Commission will review and make recommendations to the Board of Adjustment. The Board of Adjustments is authorized to deny, approve or approve with conditions such Variance including but not limited to modifications of the building height, setbacks, yard area, site coverage, required off-street parking, and maximum floor area regulations it deems necessary to permit and promote appropriate development of a parcel of land that differs from other parcels in a Zone District by area, shape, slope, or pre-existing improvements that the subject parcel cannot be appropriately developed without such modification.

430.1 ALTERNATIVE BUILDING MATERIALS

The application for Building Material Variance is designed for a specific building material not listed. The applicant will follow the procedures outlined in 432 *et al.* The Planning Commission will review and render recommendation to the Board of Adjustments. The Board of Adjustments

will deny, approve, or approve with conditions the Building Material Variance application. The application shall be approved by majority vote.

432. APPLICATION SUBMITTAL REQUIREMENTS

The Applicant shall file five (5) paper and one digital copy of an application requesting a Variance. The application shall be accompanied by or show the following:

- 432.1. The street address and legal description of the property affected;
- 432.2. A site plan and any and all other information necessary to clearly demonstrate eligibility for the requested Variance based upon the required findings in 436; and,
- 432.3. An application fee as set forth in Appendix A.

434. REVIEW PROCEDURES

(ORD. NO. 2008-3, § 434, 434.1, 434.2, 03-19-08)

- 434.1 Reviewing Board. A request for any Variance shall first be submitted to the Rico Planning Commission which shall review the application and render a recommendation to the Board of Adjustments. The Board of Adjustments shall consider the Rico Planning Commission's recommendation and then render a decision. Variance applications shall be approved by a majority vote.
- 434.2 Public hearing required. The Rico Planning Commission shall conduct a public hearing on any Variance application. The Board of Adjustments shall conduct a public hearing on any application for a Variance prior to rendering its decision.
- 434.3 Notice. Public hearings for Variance applications shall be posted at the Town Hall and Post Office and the Town's official website at least ten (10) days prior to the hearing. Written mailed notice shall be provided to the property owners within 200 feet of the subject property, such notice shall be mailed at least twenty (20) days prior to the hearing. Notice shall also be posted and maintained, at that time and for the same duration, on the subject property with the notice signage provided by the Town. Notice shall include the present Zone District classification, the proposed Variance; the time, date, and place of the hearing; and the name, address, and phone number of the Applicant and a statement that the application is available for public inspection in the Town Clerks office along with office hours.
- 434.4 Conditions. The Board of Adjustments has the authority to recommend approval of a Variance with conditions, including but not limited to: required improvements, required additional off-street parking, covenants restricting further development, requirement to bring non-conformities into compliance with this RLUC.
- 434.5 Appeal. The decision of the Board of Adjustments 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.

434.6 Records. A file containing all documents relevant to the application and disposition of such Variances shall be maintained by the Town Clerk.

436. STANDARDS FOR REVIEW

The following standards shall apply to review Variance applications by the Board of Adjustments. In exercising its power to grant a Variance in accordance with this RLUC, the Board of Adjustment shall make finding and show in its minutes that each of the following standards are met:

- 436.1** There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions, access, and location that do not apply generally to other property in the same area and Zone District:
- 436.2** the Variance will not unduly impact such things as: snow removal, streetscapes, separation of buildings for fire protection, and opportunity for off-street parking, which are provided by minimum setbacks; solar access, and protection of neighbors views to the surrounding mountains, which are provided by maximum building heights; continuity of design, minimization of visual impact, and provision of minimal yard area, which is provided by maximum floor areas (particular attention shall be given to the impacts of the Variance on neighbors); and,
- 436.3** the Variance, if granted, will not constitute a material detriment to the public welfare or injury to the use, of property in the vicinity; and,
- 436.4** the Variance is not sought to relieve a hardship to development of the property which has been created by the Applicant; and,
- 436.5** that the proposed use is a permitted use in the underlying Zone District.

440. HISTORIC LANDMARK PRESERVATION

The following Sections establish regulations for the alteration of designated historic landmark buildings in the Town of Rico.

441. PURPOSE

The purpose of the Historic Landmark Preservation regulations is to promote the health, safety and general welfare of the Rico community through:

- 441.1** The protection and preservation of the Town's historical and cultural resources, as embodied in designated historic landmarks, by appropriate regulations:
- 441.2** The enhancement of property values.
- 441.3** The increase of economic and financial benefits to the Town by preserving and enhancing the attraction of this historic Colorado mining town to tourists, visitors, and persons

interested in residing in the Town of Rico

- 441.4** The provision of education opportunities to increase public appreciation of Rico's unique heritage.

442. DESIGNATION OF HISTORIC LANDMARKS

- 442.1 Procedure.** A nomination for designation, or revocation of designation, of a Historic Landmark may be made by the Rico Historical Society or by any citizen or property owner in the Town of Rico.
- 442.2 Owner's Consent.** Written consent by the property owner shall be obtained prior to designation of any residential structure in a residential zone district as a Historic Landmark. A property owner's consent shall not otherwise be required for Historic Landmark designation of a structure or building by the Board of Trustees.
- 442.3 Referral.** All nominations for designation or revocation of a designation of Historic Landmark status shall be referred to the Rico Historical Society. Such referral shall include a deadline date for comment as well as the proposed public hearing date.
- 442.4 Public Hearing and Notice.** The Board of Trustees shall conduct a public hearing on the nomination for Historic Landmark designation not more than seventy (70) days after receiving a nomination. Posted, published, and mailed notice to the affected property owner shall be given at least twenty (20) days prior to the date of the hearing. The notice shall contain the time, date, and place of the public hearing and a description of the affected property.
- 442.5 Review.** The Rico Board of Trustees shall decide on nominations to designate, or revoke designation, of structures as Historic Landmarks.
- 442.6 Designated Historic Landmark Structures:** The following structures are designated as Historic Landmark Structures:
- Atlantic Cable Headframe Structure – 107 N. Glasgow Ave.
 - Van Winkle Mine Headframe Structure – 100 Van Winkle Ave.
 - Rico Grand Southern Water Tank – R.G.S. Tract North
 - Rico Town Hall/Former Dolores County Courthouse Building – 2 Commercial Street
 - Rico Post Office Building – 22 S. Glasgow Avenue
 - Rico Fire Station Building – 13 S. Glasgow Avenue
 - Rico Community Church – 116 E. Mantz Avenue
 - Rico Catholic Church – 122 N. Garfield Street
 - The Dey Building – 3 N. Glasgow Avenue
 - Rico State Bank Building – 8 S. Glasgow Avenue
 - Rico Masonic Lodge Building – 31 S. Glasgow Avenue

The Burley Building – 9 S. Glasgow Avenue
The Rhode Inn – 20 S. Glasgow Avenue
Rico Mercantile – 14 S. Glasgow Avenue
The Engel House – 208 E. Mantz Avenue

443. HISTORIC LANDMARK ALTERATION CERTIFICATE

- 443.1 Alteration Certificate.** No property owner shall carry out or permit to be carried out on a designated Historic Landmark any new construction, alteration, removal, or demolition of a building, structure, or other designated feature without first obtaining a Historic Landmark Alteration Certificate from the Rico Planning Commission as well as obtaining any other permits required by the Town of Rico.
- 443.2 Pending Historic Landmark Designations.** No property owner shall receive a permit to construct, alter, remove, or demolish any structure or other feature on a proposed Historic Landmark site when a nomination for Historic Landmark designation is pending.
- 443.3 Application Submittal Requirements.** Five (5) paper and one digital copy of an application for a Historic Landmark Alteration Certificate shall be submitted to the Town Planner or Manager. The application shall include a completed application form; plans, specifications, and architectural designs showing the proposed exterior appearance of the building or structure, such plans and specifications must be at least a scale of one (1) inch equals two (2) feet; a description of proposed exterior materials and textures; and any available historic information relevant to the application and supporting the application.
- 443.4 Review.** The Planning Commission shall review applications for Historic Landmark Alteration Certificates with seventy (70) days after the application is received by the Town Planner. The Planning Commission shall hold a public hearing on the application. Notice of the public hearing shall be posted at the Town Hall, Post Office and Town’s official website. The posting shall also be pasted and maintained on the structure for the duration, on the structure in a visible location, twenty (20) days prior to the date of the public hearing.
- 443.5 Standards for Review.** The Planning Commission shall approve, approve with conditions, or deny the application, based on the following standards:

 - A.** The alteration would not physically alter the exterior appearance of the historic architectural features, not including; repair or restoration of historical architectural features, the reconstruction of missing portions of the building or structure which historically existed, or removal of non-historic architectural features;
 - B.** The alteration would not create an addition which visually detracts from the historic building or structure; the visual impact of additions can be minimized by using similar

design, exterior material, fenestration, and trim material, and by setting the addition back from the façade facing a public right-of-way or constructing the addition on the rear of a structure, or,

- C. The alteration is necessary to correct unsafe or dangerous conditions of any building, structure, or feature, or parts thereof where such condition is declared unsafe or dangerous by the Town or the Rico Fire Protection District.
- D. The Planning Commission may continue review of an Alteration Certificate application with the consent of the Applicant, to allow for additional information which is necessary to review the application or to allow the Planning Commission and the Applicant to explore acceptable alternative solutions to the original application.

445. NOTICE OF DECISION. Notice of the Rico Planning Commission decision shall be posted on the Town of Rico official website within five (5) days of the decision. Such notice shall state the decision, along with conditions if any, and the right to appeal to the Board of Trustees with the deadline date to file a written letter of appeal.

446. APPEAL TO THE BOARD OF TRUSTEES.

The decision of the Rico Planning Commission may be appealed to the Board of Trustees by the Applicant, any registered voter, or any property owner in Town, by filing a written letter appealing such decision with the Town Clerk. Such written letter of appeal shall be filed within twenty (20) days of the Rico Planning Commission decision. Failure to file such an appeal by that date shall be deemed a waiver of any right to appeal or challenge the decision of the Rico Planning Commission and such decision shall be final.

447. REVIEW BY THE BOARD OF TRUSTEES.

The Board of Trustees shall hold a public hearing within seventy (70) days after receiving a written letter appeal request. Notice of the public hearing shall be posted, published, and mailed to the Applicant at least twenty days (20) prior to the hearing. The Board of Trustees shall approve, approve with conditions, or reverse the decision of the Rico Planning Commission based on review of the record, any new information, and comments received at the public hearing.

450. SHORT TERM RENTAL LICENSE REQUIRED (ORD. NO. 2002-05, § 450-457, 06-15-22)

451. PURPOSE

The Town of Rico recognizes that there are benefits to allowing owners of residential units within the Town to rent their dwelling units for periods of time less than thirty (30) days. Short-term rental of dwelling units brings additional visitors to the Town, can allow owners to recoup housing costs, and provides revenues for the Town through the additional tax collections. The provision of short-term rentals offers additional diversification to the accommodations market. However, due to the potential for adverse impacts, the Town wishes to regulate short-term rentals to protect the health, safety, and welfare of owners, residents, neighbors, and visitors.

452. APPLICABILITY

452.1 The Short-Term Rental Regulations shall apply to any residential dwelling unit within the Town. The Short-Term Rental Regulations are applicable within a Planned Unit Development unless the short-term rental of property is specifically identified as a prohibited use by the Planned Unit Development.

452.2 The Town is not a party to and does not enforce any private covenants. Private covenants may restrict the ability for owners to engage in short-term rentals.

452.3 Unless otherwise stated or modified, the Short-Term Rental Regulations, including owner responsibilities, operation standards, penalties, and enforcement, shall apply to existing short-term rental dwelling units authorized by a special use permit prior to the date of adoption of the ordinance enacting these regulations. Any short-term rental dwelling unit authorized by special use permit prior to the date of these regulations must comply with any conditions imposed on the special use permit at the time of issuance. A short-term rental dwelling unit authorized by special use permit shall be considered an existing non-conforming use under Section 208. Under Section 208.4, discontinuance and abandonment of the non-conforming short-term rental use exists when the owner of the short-term rental dwelling unit fails to remit lodging tax to the Town for a period of six (6) months, upon the transfer of fee simple title to the short term dwelling unit, whether by the owner or by operation of law, or when the owner applies for and receives a short-term rental license under the procedures in Section 456.

453. OWNER RESPONSIBILITY

453.1 The owner of the short-term rental dwelling unit shall designate a natural person located within a one-hour driving distance of the short-term rental who is available twenty-four (24) hours per day, seven (7) days per week, to serve as the local responsible party for the short-term rental and to immediately respond to any issues arising from the short-term rental. The designated responsible party may be the owner of the property. The owner shall notify the Town in writing of the designation of the responsible party within five (5) days of such designation or modification of any such designation.

453.2 The owner or responsible party shall collect and pay all applicable local, state, and federal taxes including sales, lodging, and excise taxes as applicable.

453.3 The owner or responsible party is responsible for ensuring the short-term rental meets all applicable local, state, and federal regulations. This includes compliance with the RLUC and, for example C.R.S. § 38-45-101 et seq., as amended, which requires carbon monoxide alarms in residential properties.

453.4 The owner or responsible party is responsible for obtaining all required licenses in accordance with the Town of Rico's business licensing ordinances.

454. LOCATION USE AND OCCUPANDY RESTRICTIONS

454.1 Occupancy limitations of a short-term rental dwelling unit shall be established by the Town's building code, as determined by the Town's building inspector, and shall be indicated on the short-term rental license.

454.2 In residential zone districts, in a multi-family building under single ownership, or for properties with an accessory dwelling unit, no more than one (1) unit may be licensed as a short-term rental, provided the use restrictions in Section 454.3 are met.

454.3 The total number of short-term rental dwelling units shall be limited to seven percent (7%) of the Town's total housing units as determined by the Colorado State Demography Office and updated from time to time. This percentage limit may be amended by the Board of Trustees by ordinance.

A. In addition, the available number short-term rental dwelling units shall be distributed into four quadrants, assuming an approximately equal number of housing units per quadrant. The quadrants shall be as follows:

(i) Northwest: North of W. Campbell Street and West of S. Glasgow Ave.

(ii) Northeast: North of E. Mantz Ave and East of S. Glasgow Ave.

(iii) Southeast: South of E. Mantz Ave and East of S. Glasgow Ave.

(iv) Southwest: South of W. Campbell Street and West of S. Glasgow Ave.

B. In addition, in residential zone districts, no short-term rental dwelling unit shall be issued a license in a property immediately adjacent to a property that contains a short-term rental dwelling unit. "Immediately adjacent," for the purposes of this Section, means that the properties share at least 25 feet of contiguous boundary line.

C. The limitations on location and total number of short-term rental units in this Subsection 454.3 shall include existing short-term rental dwelling special use permits existing as of the date of the ordinance adopting these Short-Term Rental Regulations.

454.4 Short-term rental dwelling units in the Commercial (CM) or Historic Commercial (HC) zone districts shall not count towards the total number of short-term rental dwelling units in Section 454.3 above.

455. OPERATION

455.1 All vehicles associated with the short-term rental use shall be parked in designated

parking areas, such as driveways and garages, or on-street parking, where permitted. No parking shall occur on lawns or sidewalks. Unless otherwise requested by the license applicant and specified in the license, two parked vehicles shall be allowed per short-term rental dwelling unit, and the vehicles shall display a parking permit with the license number of the short-term rental at

all times when parked.

455.2 The owner shall be responsible for ensuring that the short-term rental complies with Town of Rico garbage, refuse, and trash collection standards. The owner and local responsible party shall arrange for proper garbage, refuse, and trash collection. The owner and local responsible party shall arrange for snow removal on the sidewalks and driveways associated with the short-term rental.

455.3 The following information must be posted in a prominent and visible location in the short-term rental:

- A. Town of Rico business license and short-term rental license.
- B. Contact information for owner and/or local responsible party, including phone number for twenty-four-hour response to emergencies.
- C. Notice of any fire ban in effect in the Town.
- D. Description of location of fire extinguishers and emergency egress; and
- E. Any other information deemed necessary by the Town Manager or Building Official to ensure the public's health and safety.

455.4 All advertising of a short-term rental, including advertising on website vacation booking sites, shall display the Town of Rico short-term rental license number and business license number.

456. LICENSE PROCEDURES

456.1 Application Requirements. The owner shall submit the application on the form provided by the Town and shall pay the application fee. The application fee shall be \$2,500 for an initial application and \$1,500 for a renewal application (including renewals pursuant to the lottery system). Applications for a short-term rental license starting on January 1 shall be submitted to the Town no later than August 1 of the preceding calendar year.

456.2 Application Review, Referral, and Appeal. The Town Manager, in consultation with the Town Planner, shall review applications for short-term rental licenses for compliance with these regulations. The Town shall review applications during the month of August and shall issue license decisions no later than September 15. If the application is in conformity with the Short-Term Rental Regulations, the Town Manager shall issue a short-term rental license. The Town Manager may, in his or her sole discretion, refer an application to the Board of Trustees if the

application raises issues on which the Board's input is necessary or desirable. If the application is not approved and the license is not issued, the Town Manager shall state in writing the reason(s) for the denial of the license. The applicant may appeal the Town's denial to the Board of Trustees within thirty (30) calendar days of issuance of the written denial decision.

456.3 Issuance and Term of License. All short-term rental units, except short-term rental dwelling units for which the Town has issued a special use permit as of the date of the ordinance adopting these regulations, shall require a license from the Town. Such license shall only be issued after the short-term rental application has been approved in accordance with the Municipal Code. The short-term rental license shall specify any terms and conditions of the license. All licenses shall be issued to the owner of the property. No natural person or business entity shall be issued more than one short-term rental license, nor shall the owner of an existing short-term rental dwelling unit as of the date of adoption of these regulations be issued a license for an additional short-term rental. Licenses shall not transfer with the transfer of property to a new owner: a change in ownership of the property shall necessitate a new application and issuance of a new license. Licenses shall be issued for a period of two (2) years starting on January 1 and shall automatically expire on December 31 of the second year.

456.4 Lottery System. If the number of new or renewal license applications submitted for an application cycle would lead to a total number of short-term rental units in excess of the number allowed in Section 454.4 (including the total number allowed for any quadrant of the Town), the Town Manager shall issue licenses by random lottery. Such lottery shall not provide a preference to renewal applications over new applications. The Town shall refund the application fees, except for an administrative fee of \$50 which shall be retained by the Town, for applications not issued pursuant to a lottery.

456.5 Neighborhood Notification. Upon issuance of a short-term rental license, the property owner shall be responsible for mailing public notification of the license to owners of all real property within two hundred fifty (250) feet of any boundary or edge of the subject property or parcel. The property owner shall provide certification to the Town Manager that proper notice has been provided, including a signed affidavit.

456.6 Revocation of License. A short-term rental license may be revoked at any time by the Board following a hearing if the Town determines that the property is not being operated in compliance with this Short-Term Rental Regulations or any other Town ordinance. A short-term rental license shall be revoked automatically upon the property owner's third conviction in Rico Municipal Court of a violation of any provision in these Short-Term Rental Regulations with respect to the short-term rental. An applicant whose short-term rental license has been revoked within the last two years shall not be allowed to apply for a new or renewal short-term rental

license.

456.7 Tax Collection. A license holder who fails to collect any applicable taxes on a short-term rental, including but not limited to lodging tax, during the license period shall not be allowed to renew the license for the next two-year license cycle. Owners shall present documentation demonstrating the collection and remittance of taxes to the Town as part of the license renewal application.

457. PENALTIES AND ENFORCEMENT

457.1 Penalties for Violations. Any violation of the Short-Term Rental Regulations shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for the second offense, seven hundred fifty dollars (\$750.00) for the third offense, and one thousand dollars (\$1,000.00) for the fourth offense and all subsequent offenses. Each day's continuing violation shall be a separate and distinct offense.

457.2 Taxes Owed. In addition to the fine amounts stated in Section **457.1**, any owner or operator of a short-term rental dwelling unit, including unauthorized owners operating a short-term rental without a license in violation of the Short-Term Rental Regulations, shall pay all unpaid taxes, including lodging tax, owed to the Town and interest thereon calculated at a rate of ten percent (10%) per year. The amount of outstanding tax owed shall be separate from the amount of the fine.

457.3 Inspection and Audit. The Town has the right to inspect any short-term rental dwelling unit after giving forty-eight (48) hours' notice to the property owner and designated responsible party to verify compliance with the Short-Term Rental Regulations. The Town has the right to require an audit of any short-term rental owner's records concerning the operation of the short-term rental, to include occupancy rates, prices, revenues generated, and taxes remitted. The short-term rental owner shall be responsible for the cost of any audit.

470. ROADS BUILDING PROCEDURES AND STANDARDS

The following Sections, and the official Present Road Status Map and the Designated Road Use Map, establish road classifications, use regulations, design standards for new road construction, and procedures for road building permits.

471. PERMIT REQUIRED

No road construction shall begin prior to the issuance of a Road Building Permit. No prohibited use of any road shall begin prior to the issuance of a Special Use Permit.

472. PRESENT ROAD STATUS MAP

The Town shall maintain a map of all roads currently maintained and accepted by the Town of Rico and all unimproved public road rights-of-way. Such map may identify roads or streets

maintained by the County of Dolores, State of Colorado, quasi-governmental entities, or homeowner associations.

- 472.1. Improved. All roads currently maintained and accepted by the Town of Rico.
- 472.2. Unimproved. Existing roads or dirt tracks not regularly maintained by any governmental entity, but which have significant seasonal use; or undeveloped public road rights-of-way.
- 472.3. Planned. Planned routes for road access to future development.

473. DESIGNATED ROAD USES

The Designated Road Use maps designates permitted road uses based on historical uses and the Rico Regional Master Plan.

- 473.1 Arterial. Includes: State Highway 145. All uses permitted by the Colorado Department of Transportation.
- 473.2 Collector. Includes: Mantz Avenue, portions of Silver Street, Soda Street, Piedmont Access, Piedmont Street, West Rico Access, Picker Street, Eder Street, River Street, and Glasgow Avenue. Permitted uses include residential access and related construction traffic. Commercial truck traffic must receive a special use permit prior to beginning trucking operations.
- 473.3 Collector by Review. Includes: Jones Mine, Water Tank Road, Newman Hill Road, and Mill Road. Permitted uses include residential access and related construction traffic. Commercial truck traffic must receive a special use permit prior to beginning trucking operations. Subdivision access is permitted by review as part of an annexation application, subdivision application, or review of a subdivision application before Dolores County. Subdivision access shall meet the following standards:
 - A. Traffic volumes should not exceed recommended volumes in the Rico Regional Master Plan.
 - B. Roads, bridges, and highway accesses between the subdivision and Highway 145 shall be upgraded where necessary to safely accommodate the additional traffic or to mitigate traffic impacts including but not limited to dust.
- 473.4 Residential. Includes: All streets not designated as Arterial, Collector, or Collector by Review. Permitted uses include residential access and related construction traffic. Commercial truck traffic must receive a special use permit prior to beginning trucking operations.
- 473.5 Commercial Trucking Operations. Commercial trucking operations shall include the use of any excess weight vehicle as defined in **214** used for commercial purposes except

for deliveries to a residential property or home business.

474. ROAD BUILDING PROCEDURES

The Board of Trustees shall approve or deny Road Building applications after conducting a public hearing. An application for Road Building shall be reviewed first by the Planning Commission after conducting a public hearing. The Planning Commission shall make its recommendation to the Town Board based on the Applicant's compliance with the Major Street Plan and the design standards in 478. Public notice for Road Building Applications shall be posted at the Town Hall and Post Office, and Town's official website at least ten (10) days prior to the hearing. Written notice shall be mailed to property owners adjacent to the proposed road construction at least twenty (20) days prior to the hearing.

475. ROAD BUILDING APPLICATION SUBMITTAL REQUIREMENTS

Five (5) printed and one (1) digital copy of an application for a Road Building application shall be submitted to the Town Planner or Manager. Road Building applications shall contain the following materials and information in addition to a completed Road Building permit application form provided by Town.

- 475.1. Site map showing location and extent of work to be performed;
- 475.2. proposed design specifications, including two-foot contour lines and cross sections at five-foot intervals which adequately illustrate significant grading and drainage conditions;
- 475.3. copy of a certified survey;
- 475.4. proposed off-street parking plan;
- 475.5. proposed snow removal plan;
- 475.6. statement describing the proposed use of the road; and
- 475.7. where applicable, an improvements agreement with acceptable financial guarantees for Road Building applications that are not part of a subdivision application.

476. PERMIT AND ACCEPTANCE

Upon approval of the proposed road improvement by the Board of Trustees, the permit for road building shall be signed by the Town and shall be valid for eighteen (18) months from the date of approval. Upon completion of new roads as certified by the Town Engineer, the Town shall assume all maintenance and repair responsibilities except where a homeowner's association or other entity will assume such responsibility. The Road Building applicant shall warrant and guarantee all improvements for a period of one (1) year from the date of completion.

478. ROAD DESIGN STANDARDS

The following the standards apply to Road Building applications. All Road Building applications shall be reviewed by the Town Engineer who may require additional improvements

or conditions. The Town Board shall have the right to approve Road Building applications that vary from the standards set forth below where the variance in design does not result in safety, emergency vehicle access, or long-term maintenance problems.

- 478.1** Compliance with Major Streets Plan: All streets and roadways shall conform to the Town of Rico's Major Streets Plan.
- 478.2** Width: Residential rights-of-way shall be a minimum of sixty (60) feet in width. Collector rights-of-way shall be a minimum of sixty (60) feet in width. Arterial rights-of-way shall be a minimum of eighty (80) feet in width.
- 478.3** Road base and surfaces/ roads and alleys:
- A. The improved road surface shall be a minimum of twenty-four (24) feet in width.
 - B. Road surfaces shall have a minimum six (6) inch crown.
 - C. Road base shall consist of a minimum of five (5) inches of four (4) inch or smaller aggregate topped by a minimum three (3) inches of $\frac{3}{4}$ inch or smaller road mix if the road is to be unpaved.
- 478.4** Grade: Roads and alleys shall be constructed with a maximum grade of 10%. The maximum grade of roads thirty (30) feet from intersections, on either side of a proposed driveway access, and on curves with a radius of less than 250 feet shall not exceed 8%.
- 478.5** Drainage: All water diversions shall be installed to prevent flooding downhill, erosion of the shoulder, and water run-off from the drainage system flowing onto private property. Culverts or cement surface drains shall be installed wherever water runoff crosses the roadway and at every intersection. Unpaved streets shall include a bar ditch sufficient to provide adequate drainage.
- 478.6** Road Cuts: Any roadcuts which are created during construction that are higher than six vertical feet measured from the crown of the road to the top of the cut should not exceed a 35% slope. The toe of the road measured from the crown to the toe should not exceed 50% slope. A rock retaining wall shall be used where the vertical distance between the top of the road cut and crown, or the crown and the toe, exceeds 12 feet or 50% slope. At the request of the Town Engineer, a slope stability analysis shall be required for any road cuts requiring a retaining wall.
- 478.7** Re-vegetation and Landscaping: A re-vegetation and landscaping plan shall be required for roads which require substantial road cuts and/or tree removal, especially where the road would be visible from the Highway 145 right-of-way or from Town parks. Re-vegetation and landscaping shall use native species of grasses, plants, and trees.

- 478.8** Intersections: Intersecting streets shall be at a 90-degree angle, or as close as possible to a 90-degree angle, to each other and no intersecting streets shall be less than 60-degree angles to each other.
- 478.9** Cul-du-Sacs: All Cul-du-Sac streets shall meet the following minimum requirements:
- A.** Cul-du-Sac streets shall terminate with a minimum 80' diameter turn around or hammer head turn-around with a minimum width of twenty-four feet (24') and extending a minimum length of twenty-four feet (24') beyond each side of the improved road way;
 - B.** Cul-du-Sac turnarounds shall have a minimum fifteen-foot (15') road right-of-way extending beyond a circular or hammer head turn-around;
 - C.** Cul-du-Sac streets longer than five hundred feet (500') may require additional mitigation for emergency vehicle access, traffic safety, and snow removal, as determined by the Planning Commission. Such additional mitigation may include:
 - (1) Periodic pull-outs, turn-arounds, or convenient places to reverse direction.
 - (2) Additional right-of-way areas for snow removal or snow storage.
 - (3) Street alignment that facilitates snow removal and improves line of sight distance for pedestrians and drivers.
 - (4) At least one on-street parking area per dwelling unit within 150 feet of each lot in addition to the off-street parking requirements.
 - (5) Secondary access for emergency vehicles restricted by the use of gates or other appropriate devices.

480. VACATION OF ROAD RIGHTS-OF-WAY

The following Sections establish procedures and standards for Vacation of public rights-of-way by the Town of Rico. The Board of Trustees shall approve or deny vacation requests after conducting a public hearing. A request to vacate a public road right-of-way shall be reviewed first by the Planning Commission after conducting a public hearing. Notice of the public hearing shall be posted at least ten (10) days prior to the hearing and shall be mailed to all property owners within 200 feet of the proposed vacated road right-of-way at least twenty (20) days prior to the hearing.

482. STANDARDS FOR REVIEW OF VACATION REQUEST

The Planning Commission and Board of Trustees shall consider the following standards when reviewing a request to vacate a public right-of-way in addition to the statutory requirements of C.R.S. sec. 43-2-301 *et seq.* as may be amended from time to time:

- 482.1.** The topography of the public right-of-way does not allow road building to meet the design standards in **478**;
- 482.2.** the public right-of-way does not provide any public benefit, including but not limited

to: pedestrian access, recreational access, off-street parking, and open space buffer lot between developable lots; or, the requested vacation is part of an application which would result in the Town acquiring property or rights-of-way which has a greater public benefit than the vacated public right-of-way; and,

482.3. sufficient easements or rights-of-way for utilities are retained or provided.

484. MINIMUM REQUIREMENTS FOR VACATION OF RIGHT-OF-WAY

484.1. The Trustees shall enact a public right-of-way vacation by ordinance;

484.2. The ordinance shall specifically amend the Streets Plan map;

484.3. the vacated right-of-way shall be divided at the midpoint and title shall pass to the adjoining property owners;

484.4. vacated rights-of-way shall be subject to the provisions of this RLUC and shall be included in the same Zone District as the adjoining property, unless otherwise determined by the Trustees; and

484.5. the Town may not receive any monetary compensation in return for any vacated public right-of-way.

490. UTILITY IMPROVEMENTS

The following Sections establish procedures and standards for Utility Structures. An Excavation Permit shall be acquired prior to any excavation in the Town rights-of-way or on Town property. Excavation Permits shall be issued by the Enforcement Official.

492. UTILITIES PERMITS

Nothing in this RLUC shall be construed to prevent the construction or installation, in any Zone District, of a public utility use or structure necessary for the transmission of commodities or services of a public utility company, including mains, transmission and distribution lines, substations, and exchanges, provided that storage, maintenance, and business facilities shall be restricted to their appropriate district. The construction and installation of all public utilities shall comply with the following:

492.1 No towers or apparatus for the transmission, emission, or reception of signals, or wind driven devices, which are in excess of twenty (20) feet from base to tip shall be constructed, placed or maintained within the Town limits without a Special Use Permit.

492.2 Substations, exchanges, and storage and maintenance facilities shall be required to be obscured with natural vegetation screening that is compatible with the surrounding environment, or by fencing which is a minimum of six feet (6) and a maximum of eight feet (8) above grade and which meets the applicable set back requirements.

492.3 Extension of utility lines to new developments and areas not previously served by development shall be installed underground.

494. EXCAVATION PERMITS

494.1 Permit required. An Excavation Permit shall be obtained from the Town of Rico prior to any excavation greater than three (3) cubic yards, in the Town rights-of-way or on property owned by the Town of Rico, except for maintenance and repair of existing utility lines. Maintenance and repair of existing utility lines by utility companies with a valid agreement with the Town of Rico shall not require an Excavation Permit from the Town of Rico. A completed Excavation Permit application form shall be submitted to the Town Planner along with the applicable fee designated in Appendix A. Excavation Permits for driveway access permits shall indicate the width, grade, and location of driveway improvements.

494.2 Notification of Excavation. The Utility Notification Center of Colorado shall be properly notified prior to any excavation.

494.3 Town Planner/ Manager. The Town Planner/ Manager shall have the authority to issue an Excavation Permit for utility lines, driveway access, and temporary use road rights-of-way for storage of construction materials or construction activity associated with a building permit or re-model. At the request of the Town Planner/ Manager, the Town Engineer may review all applications for installation of public utility lines and driveway access excavations which do not meet the standards in **496** and **498** prior to issuance of an excavation permit. Permits for other excavation activities shall be reviewed by the Board of Trustees. The standards and procedures for Special Use Permits shall apply to Excavation Permits which are reviewed by the Board of Trustees.

494.4 As Built Drawings: As built drawings shall be submitted to the Town upon completion of utility distribution lines.

496. STANDARDS FOR UTILITY INSTALLATIONS

496.1 Minimum Depth of Lines: The depth of a line shall be measured from the top of the installed line to the finished grade. The minimum depth of lines is indicated as follows:

Telecom Service Line:	24 inches
Telecom Distribution Line:	48 inches
Electrical Service Line: (less than 600 volts)	30 inches
Electrical Distribution Line: (600 volts or more)	48 inches

Rico Land Use Code	ARTICLE IV - APPLICATIONS
Water Lines	72 inches
Gas Line	36 inches

496.2 Minimum Separation of Lines: The distance between lines shall be measured as the level horizontal distance from the side of one line to the side of another line. A two-foot-wide area at least ten (10) feet from existing water lines shall be reserved for the future installation of sewer collection lines in alleys and streets identified for collection, prepared for the Town of Rico in the most recent preliminary engineering report on file with the Town. Excavation Permit applications shall use the reserved area for future sewer lines for determining separation of Telecom, Cable and Electric from sewer lines. The minimum separation of lines is indicated as follows:

Minimum horizontal separation for lines installed parallel to other lines:	
Water or Sewer from Telecom, Cable, and Electric:	72 inches
Minimum vertical separation for lines installed that cross other lines:	
Water or Sewer from Telecom, Cable, and Electric:	24 inches

498. STANDARDS FOR DRIVEWAY PERMITS

The following standards shall apply to Excavation Permits for construction of a driveway access.

498.1 Existing Road. Driveways shall not alter the grade or drainage of existing roads, except as they may comply with **498.2**.

498.2 Drainage. All water diversions shall be installed to prevent flooding downhill, erosion of the shoulder, and water run-off from the drainage system flowing onto private property. Culverts or cement surface drains shall be installed wherever water runoff crosses the roadway and at every intersection. All paved streets shall install curb and gutters. Unpaved streets shall include a bar ditch sufficient to provide adequate drainage.

498.3 Grade. Driveways shall be constructed with a maximum grade of 12%.

498.4 Width. Driveways shall be a minimum of twelve (12) feet in width when serving one (1) dwelling unit, or sixteen (16) feet wide when serving more than one dwelling unit or when serving commercial, accommodations, short term rental, or light industrial use.

498.5 Road Cuts. Any road cuts which are created during construction that are higher than four vertical feet measured from the bottom of the cut to the top of the cut shall include a re-vegetation and landscaping plan. Re-vegetation and landscaping shall use native species of grasses, plants, and trees. Road cuts which result in slopes exceeding 35% that are greater than four vertical feet shall use a rock retaining wall to stabilize the slope. At the request of the Town Engineer, a slope stability analysis shall be required for any road cuts requiring a retaining wall.

498.6 Compliance with Rico Regional Master Plan. The proposed driveway access shall not provide access to a use or development which does not comply with the Rico Regional Master Plan.

**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

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 (5) 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. 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 Chairperson 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.

7027 Alternate members: The Rico Town Board of Trustees can determine the number and appointment of Planning Commission Alternate members. Alternate members have the same powers and responsibilities as regular Planning Commission members.

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Alternatives serve two-year terms and are only required to attend meetings and vote when it is determined a quorum will not be met by regular Planning Commission members.

~~702.6~~702.8 702.8: Conflict of Interest: When reviewing applications, members of the Rico Planning Commission are obliged to declare any perceived or real conflict of interest and abstain from discussion or voting on the issue or application.

~~702.7~~_____

~~702.8~~_____

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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 Town Manager~~the Mayor~~. The hiring of professional staff, consultants, or employees shall require the approval of a quorum of Rico Planning Commission membres ~~four RPC members~~ or the approval of the Board of Trustees. The Town Manager~~RPC shall advise~~ shall confirm with the Board of Trustees of all such appointments.
- 7042** Attorney and Planner. With prior approval of the Board of Trustees or Town Manger, ~~the Mayor,~~ the Town Attorney or the Town Planner shall, when requested by the Rico Planning Commission~~RPC~~, attend any meetings of the Rico Planning Commission. ~~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: MASTERPLAN

- 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.

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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 [Rico Planning Commission](#) 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 [Rico Planning Commission](#) 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, ~~variances~~, 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 acting Mayor or Chairperson or any four (4) 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 assess all reviews moved forward and 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.

731. Responsible Enforcement Entity: The Rico Board of Trustees, or its designee, shall be responsible for enforcing the provisions of the RLUC. Any criminal enforcement shall be by the issuance of a complaint and summons to Municipal Court by a peace officer.

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732. ENFORCING OFFICIAL

The provisions of this RLUC shall be enforced and administered by the Enforcement Official of the Town of Rico as 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 days of the notice.~~

Upon presentation of proper credentials, the Rico Town Manager, the code enforcement officer, or his or her designee(s) may enter any building, structure, real property, or premises to ensure compliance with the provisions of this RLUC. Such inspections shall be carried out during normal business hours unless the Town Manager or code enforcement officer determines there is an emergency.

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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. Violations and Enforcement Procedures.

a. Violations. It shall be a violation of this RLUC to undertake any of the following activities:

- i. Activities Inconsistent with the RLUC. Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, moving, or using any building, structure, or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this RLUC, including all required approvals;
- ii. Land Disturbing Activities Inconsistent with RLUC. Excavating, grading, cutting, clearing, or undertaking any other land disturbance activity contrary to the provisions of this RLUC or without first obtaining all requisite land use approvals required by this RLUC or other applicable regulations;
- iii. Nonconforming Uses Inconsistent with RLUC. Creating, expanding, replacing; or changing a nonconforming use, structure, lot, or sign except in compliance with this RLUC;
- iv. Making Lots or Setbacks Nonconforming. Reducing or diminishing the lot area,

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setbacks, or open space below the minimum required by this RLUC;

- v. Increasing Intensity of Use. Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this RLUC;
- vi. Activities Inconsistent with Conditions of Approval. Failure to comply with any terms, conditions, or limitations placed by the Rico Board of Trustees upon any final development plan, subdivision plat, permit, or other form of authorization.

739 Penalty for Violations. Violation of any provision of this RLUC is hereby deemed to be a misdemeanor and any person including but not limited to the officers and agents of a corporation responsible for its actions or inaction, and the partners or members of a partnership, firm or joint venture, either as owner, lessee, occupant, or otherwise, who violates or causes the violation 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.

740 Civil Remedies and Enforcement Powers. In addition to criminal prosecution for violations, the code enforcement officer, the Town Manager or the Rico Board of Trustees shall have the following civil remedies and powers to enforce this RLUC:

740.1 Notice of Violation and Corrective Action Order.

- a. Non Emergency Violations. In the case of violations of this RLUC that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken shall be given to the property owner, agent, occupant, or to the applicant for any relevant permit. Notice shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. The notice shall specify the RLUC provisions allegedly in violation, and shall state that the individual has a period of thirty (30) days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken. The notice shall also state any appeal and/or variance procedures available pursuant to this RLUC.
- b. Emergency Violations. In the case of violations of this RLUC that constitute an emergency as a result of safety or public concern,

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or violations that will create increased problems or costs if not remedied immediately, the Code Enforcement Officer, Rico Town Manager or the Rico Board of Trustees may use the enforcement powers available under this Article without prior notice, but shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit

740.2 Deny/Withhold Permits. The Rico Town Manager or Building Official may deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation. Where a property owner, agent, or other person has a record of an outstanding serious violation or violations of this RLUC, the Town Manager, Building Official and/or the Rico Board of Trustees shall be authorized to deny or withhold all permits, certificates of occupancy, or other forms of authorization for any use or development activity undertaken by such person until the outstanding violation is corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

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740.3 Revocation of Permits.

740.3.1 Public Hearing Required. The Rico Board of Trustees may revoke any development permit, building permit or other authorization, after notice and a public hearing.

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740.3.2 Notice of Public Hearing. The public hearing on the revocation of a development permit, building permit or other authorization shall be conducted during a regular special meeting of the Rico Board of Trustees not less than seven (7) days, nor more than fourteen (14) days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the development permit was issued, upon deposit of said notice in the U.S. Mail, by certified mail, return receipt requested, addressed to the last known address of said person. Additional methods of service may also be utilized to give notice of the public hearing.

740.3.3 Findings. Following the public hearing, the Rico Board of Trustees upon a finding of the following, may revoke any development permit, building permit or other authorization:

i. There is a departure from the approved plans, specifications, or conditions of approval; or

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ii. There is a violation of any provision of the Rico Land Use Code; or

iii. The development permit was obtained by false representation; or

iv. The development permit was issued in error.

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740.3.4 Notice of Revocation. Written notice of revocation shall be served upon the owner, the owner's agent, applicant, or other person to whom the permit was issued by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice. Stop Work Order.

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740.4 Issuance of Stop Work Order. The Rico Town Manager, Building Official, Code Enforcement Officer or the Rico Board of Trustees may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this RLUC or a provision of a development permit, building permit or other form of authorization. The stop work order shall specify the RLUC provisions allegedly in violation. Service of the order shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to this RLUC.

i. Timing/Notice. The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order shall also indicate that failure to comply with the order may subject the violator to criminal liability as penalty for the violation(s).

740.5 Abatement or Injunctive Relief. The Rico Board of Trustees, through the Rico Town Attorney, may initiate injunction or abatement proceedings or other appropriate legal action in the District Court or other court of competent jurisdiction to abate, remove, or enjoin such violation and to recover damages, costs, and reasonable attorney's fees incurred in the abatement and removal of such violation.

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741 Remedies Cumulative. The remedies provided for violations of this RLUC, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

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742 Continuation of Prior Enforcement Actions. Nothing in this RLUC shall prohibit the

continuation of previous enforcement actions undertaken by the Town of Rico pursuant to previous regulations.

743 Appeals of Enforcements Actions. Appeals of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Article shall be made to the Board of Adjustments in accordance with the provisions of this RLUC.

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.