

ARTICLE I. General Provisions

1. Title

This Ordinance establishes the regulations and standards governing the use and development of land within the Town of Empire ("Town" or "Empire"). Included are provisions for the subdivision, annexation and zoning of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are Town standards for site design, landscaping, parking, signage, and public infrastructure.

2. Short Title

This Ordinance shall be known and may be cited as the Empire Land Development Code. Within this Ordinance the Empire Land Development Code shall simply be referred to as this "Ordinance".

3. Authority

This Ordinance is adopted pursuant to the authority contained in the Colorado Revised Statutes ("C.R.S."). Authority is granted to municipalities to establish a planning commission, regulate subdivisions (C.P.S. §31-23-202; C.R.S. §31-23-214), and regulate land use through zoning (C.R.S. §31-23-301 et seq.). The authority expressed and granted in the Colorado Revised Statutes is expressly incorporated herein.

Whenever a section of the Colorado Revised Statutes that is referred to in this Ordinance is later amended or superseded, this Ordinance is deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

4. Jurisdiction

This Ordinance shall apply to all lands within the Town's corporate boundaries as may be amended or enlarged.

5. Intent

The regulations contained in this Ordinance shall be held to be the minimum requirements enacted to promote the health, safety and general welfare of the Town of Empire and shall be compatible with and protective of the natural environment. To these ends this Ordinance has been prepared and is designed to:

- Implement Empire's adopted Comprehensive Plan
- Provide for the adequate and concurrent provision of public infrastructure and services with the development and use of land in the Town, and in a manner consistent with the public improvement plans of the Town
- Secure safety from fire, and other dangers
- Prevent the overcrowding of land and undue concentration of population
- Facilitate the adequate provision of transportation, water, sanitary sewage, storm drainage, utilities, schools, parks and other public requirements
- Provide adequate light and air
- Conserve the value of buildings
- Ensure well-planned subdivisions and other development by establishing adequate standards for design, improvements and review
- Conserve significant environmental features and integrate a high quality natural environment into the developed portions of the community
- Encourage the most appropriate use of the land
- Establish a Town center area as the central business district, economic focal point and identity area for the Town
- Otherwise provide for the growth of an orderly and viable community
- Establish adequate records of land subdivision
- Encourage protection of historical buildings

6. Effective Date

The provisions of this Ordinance are effective on _____, 2006.

Development plans approved under previous regulations that received vested property rights through a Site Specific Development Plan (SSDP) shall be valid for the duration of that vested property right provided that all terms and conditions of the SSDP are complied with.

7. Relationship to Existing Ordinance

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To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions in the Town's Code, they shall be considered as continuations thereof: It is the intent of this Ordinance to repeal prior land use and zoning codes and reenact the Town's powers and authority in land use regulation through this Ordinance. In particular, situations not lawful and non-conforming under previous Ordinances do not become lawful merely by repeal of those Ordinances. The adoption of this Ordinance shall not adversely affect the Town's right to seek remedies for any violation of previous Ordinances that occurred while those Ordinances were in effect.

In cases where the provisions of this Ordinance substantially differ from existing Ordinances, the provisions of this Ordinance supersede and replace the existing Ordinances at the effective date of this Ordinance.

8. Relationship to Comprehensive Plan

It is the intention of the Town that this Ordinance implement the planning policies recommended by the Empire Planning Commission and adopted by the Board of Trustees for the Town and its extraterritorial planning area, as reflected in the Comprehensive Plan and other planning documents. While this relationship is reaffirmed, it is the intent of the Town that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document. In case of conflict, this document takes priority.

8.1 Requirement for Comprehensive Plan Amendment

Where a development proposal would be in substantial conflict with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to any zoning or subdivision approvals. A substantial conflict will exist when a development proposal would result in changes from the designations of the Land Use Plan maps, Circulation and Transportation Plan map, or Open Space and Parks Plan map in the Comprehensive Plan. The Town reserves the right to refuse any development proposal.

8.2 Criteria for Evaluating Amendment Proposals

Amendments to the Comprehensive Plan resulting from development proposals under this Ordinance shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan.

9. Application- No Use or Sale except in Conformity with Ordinance

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- 9.1 Where property is affected by both the requirements of this Ordinance and by other governmental regulations, those that are more restrictive or which impose the higher standards or requirements shall prevail. No land use or development shall occur or be maintained in the Town in violation of any local, state or federal regulations.
- 9.2 Except for situations covered under Article VI, Section 2. - Nonconforming Development, no person may use, occupy, modify or sell any land or buildings or authorize or permit the use, occupancy, modification or sale of land or buildings under their control except in accordance with all the applicable provisions of this Ordinance.
- 9.3 For the purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.
- 9.4 In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the structure or land so used unless governed by an approved development plan.

10. Fees

Reasonable fees sufficient to cover all costs of administration, inspection, publication of notice and similar matters will be charged to applicants for permits, plat approvals, zoning amendments, variances and other administrative relief. The fee schedule will be adopted periodically by the Town Board by resolution and is available from the Town office.

11. Severability

- 11.1 It is hereby declared to be the intention of the Town that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable; and that if any section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the remainder of this Ordinance shall not be affected and will remain valid and in effect.
- 11.2 If the application of this Ordinance to any tract of land is declared to be invalid by a decision any court of competent jurisdiction, it is hereby declared to be the legislative intent that:

1. The effect of such decision shall be limited to that tract of land immediately involved in controversy, action or proceeding in which the judgment of decree of invalidity was rendered; and
2. Such decision shall not affect, impair or nullify this Ordinance as a whole or the application of any provision thereof to any other tract of land.

12. Computation of Time.

Unless specifically provided, all time references in this Ordinance will be calendar days and be computed by excluding the first day and including the last. Where the last day falls on a Saturday, Sunday or holiday, the next general working day will be used. When the period of time prescribed is less than seven days, the intermediate Saturdays, Sundays and holidays shall be excluded.

13. Rules and Construction of Language

For the purposes of this Ordinance, words used herein shall be interpreted in accordance with the following rules:

- The particular controls the general.
- In case of any difference of meaning or implication between the text of this Ordinance and the heading of a section or subsection thereof; the text shall control.
- The words "must" "shall" and "will" are mandatory; "may" "can" and "might" are permissive.
- Words used in the singular include the plural and words used in the plural include the singular.
- The masculine shall include the feminine and the feminine shall include the masculine.

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