

ARTICLE V. Permits and Approvals

1. Building Permits

- 1.1 No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Inspector. No building permit shall be issued except in conformity with the provisions of this Ordinance and the Uniform Building Code, as adopted herein. In the event of a conflict between the provisions of this Ordinance and the Uniform Building Code, the provisions of this Ordinance shall control. Building permits must additionally include the signature of the Zoning Officer certifying that the proposed construction is in compliance with the provisions of this Ordinance.
- 1.2 In the event that separate permits are required under any of the Uniform Codes adopted by this Ordinance, and the applicant obtains all required permits, the Building Inspector shall permit permission for such construction under the single heading of a building permit. In such a case, the permit shall reflect the fact that it includes permits permitted under other codes when applicable.
- 1.3 Notwithstanding provisions requiring permits contained in any of the uniform codes adopted by this Ordinance, there shall be no permit required for any work which does not involve erecting, moving, adding to or structurally altering the premises. Any construction, remodeling, or other work covered exclusively under the Uniform Plumbing Code, Uniform Mechanical Code or National Electrical Code shall not require a permit, but shall require an inspection by the Building Inspector or State Electrical Inspector, as applicable. In such a case, the property owner must arrange for an inspection of work after its conclusion and while complete access is still available for such inspection. The inspection shall be made to ensure that the work undertaken complies with the standards for the protection of the public health, safety and welfare, as set forth in this Ordinance, the uniform codes adopted herein, and any other ordinance or regulation affecting the property. Costs for the inspection shall be borne by the property owner or applicant. (See County Fee Schedule)

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2. Application for Building Permits

- 2.1 Applications for building permits shall be accompanied by plans in duplicate, drawn to scale. The actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration are required if the building footprint is expanded or altered. The application shall include such other information as lawfully may be required by the Zoning Officer and Building Inspector, including a certified survey; if deemed necessary by the zoning officer, description of existing or proposed uses of the building and land; the number of families or dwelling units the building is designated to accommodate; conditions existing on the lot; and other such matters as may be necessary to determine conformance with and provide for enforcement of this Ordinance. A fee shall accompany the application (see county fee schedule).
- 2.2 One (1) copy of the plan shall be returned to the applicant by the Building Inspector after he shall have marked such copy as either approved or disapproved, and attested to same by his signature on such copy. The Building Inspector shall retain the second copy of the plans, similarly marked.
- 2.3 The Building Inspector shall maintain all original copies of building permits issued. Copies of any building permits shall be furnished to any person upon request.

3. Impact Fees

- 3.1 Intent.
- 3.1.1 To ensure that adequate facilities are available to serve new growth and development;
- 3.1.2 To promote orderly growth and development by requiring that new development pay a proportionate share of the cost needed to serve growth;

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- 3.1.3 To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact.

3.2 Authority

The Town Board finds and declares that;

- 3.2.1 New residential and nonresidential development causes increased demands on public facilities, including streets, roads, parks, open space, recreational facilities, and fire facilities;
- 3.2.2 Projections indicate that new development will continue and that it will place ever-increasing demands on the Town to provide necessary public facilities;
- 3.2.3 To the extent that new development places demands on the public facility infrastructure, those demands should be partially financed by shifting a proportionate share of the cost of such facilities from the public at large to the developments actually creating the demand; and
- 3.2.4 The imposition of impact fees upon residential and nonresidential development in order to finance specified public facilities, the demand for which is created by such development, is in the best interest of the general welfare of the Town and its residents, is equitable, does not impose an unfair burden on such development by forcing developers and builders to pay more than their fair or proportionate share of the cost to provide the necessary public facility infrastructure to serve new development as planned for in the Town Comprehensive Plan.

3.3 Imposition of Impact Fees

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There is imposed upon all new development within the Town an impact fee as outlined in the attached schedule which is updated and revised as necessary, by the Board of Trustees acting by resolution.

3.4 Collection

The impact fee imposed under this chapter shall be due and payable prior to the issuance of a building permit.

3.5 Appeals.

Any person aggrieved by the amount of the impact fee calculated and imposed upon a particular development activity may appeal such determination to the Town Board by filing written notice of appeal with the Planning Commission within 45 days of the issuance of the determination of the impact fee. The Planning Commission shall cause a notice of the time and place of hearing to be mailed to the developer. At such hearing, the developer shall be entitled to be heard and to introduce evidence on his own behalf. The planning commission shall thereupon ascertain the amount of the impact fee and the Planning Commission shall immediately notify the developer thereof by mail.

3.6 Accounting

All impact fees collected shall be deposited in the Impact Fees Fund. All interest shall be retained in the account and expended for the purposes for which the impact fees were imposed. The bookkeeper shall provide an annual report showing the source and amount of the moneys collected, earned or received and system improvements that were financed in whole or in part by impact fees.

4. Zoning Compliance

- 4.1** It shall be unlawful to erect, move, add to or structurally alter any building or premises, or part thereof, until the Zoning Officer has indicated in writing that the proposed construction conforms to the requirements of this Ordinance and any amendments. That statement shall become part of the building permit and final file.

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- 4.2 It shall be unlawful to use or occupy or permit the use or occupancy of any buildings or premises, or both, or part thereof, hereafter erected, moved, added to or structurally altered, and upon which construction has been completed, until the Zoning Officer has certified that the complete project conforms to the requirement of this Ordinance. Such certification shall be accomplished by the Zoning Officer's notation of his final approval upon the Building Inspector's copy of the building permit.

5. Expiration of Building Permit

- 5.1 If the work described in any building permit has not begun within One Hundred Eighty (180) days from the date of the issuance thereof, the building permit shall expire.
- 5.2 If the work described in any building permit has not been completed within two (2) years of the date of issuance thereof, said permit shall expire. Issuance of a new building permit for any remaining work shall require a permit fee based upon the cost of the outstanding work only. The new permit must remain current through the completion of the project. One extension of said permit shall be granted by the building department, any future extensions of said permit shall be based on review and approval of the Board of Trustees. Non compliance with this section shall be a violation of this ordinance.

6. Approval of Buildings, Site and Operational Plans

6.1 Where required

- 6.1.1 In the case of certain uses, the character of which could have substantial impact upon the surrounding environment and general character of the Town, such uses may be required, as a qualifying condition to their permissibility, to submit for review by the Planning Commission building, site and operational plans with final approval by the Board of Trustees.
- 6.1.2 Uses which may require a site and operational plan to be submitted include, but are not limited to, new attached residential and multi-family; and new commercial and industrial developments.

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6.2 Use by right not infringed

- 6.2.1 Such required approval shall be limited solely to reasonable compliance with design, location and operational requirements and shall not involve the basic permissibility of the use where such use is permitted by right.

6.3 Submittal

- 6.3.1 Before approving a building permit, the applicant shall submit the necessary building, site, and operational plans to the Planning Commission for its consideration. In the event that industrial uses are permitted pursuant to this Ordinance, the Planning Commission shall submit such plans to the Air Pollution Control and Water Pollution Divisions of the Colorado Department of Public Health & the Environment for review and recommendation. Building, site, and operational plans shall be legible and in sufficient detail to enable the Commission and other agencies to properly evaluate them and shall specifically include the following:

6.3.1(a) A site plan of the property accurately dimensioned showing the location of all existing and proposed structures and uses.

6.3.1(b) A statement describing the basic operational characteristics of the proposed use.

6.4 Criteria

In determining the acceptability of the building, site, and operational plans, the Planning Commission shall take into consideration the following factors as well as any others it deems appropriate.

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In determining the acceptability of the building, site, and operational plans, the Planning Commission shall take into consideration the following factors as well as any others it deems appropriate.

- 6.4.1 The scale is appropriate to the site and function of the project and/or building.
- 6.4.2 The relationship of structures and uses to each other and to the site with particular consideration of traffic circulation and access, screening of parking and storage areas, and general appearance.
- 6.4.3 The circulation system, including parking lots, contributes to orderly and aesthetic quality of the site.
- 6.4.4 The character of the operation shall be reviewed in terms of its impact upon traffic facilities, sewage disposal, water supply and environmental character, with particular consideration of the control of any possible noise, dust, odor or other generally unacceptable operating characteristics.
- 6.4.5 Refuse and waste removal areas, service yards and exterior work areas are buffered from view with the use of materials that are harmonious to the building.
- 6.4.6 The materials selected are of a durable quality and offer protection from rot and/or corrosion through the use of acceptable maintenance procedures.
- 6.4.7 The compatibility of the proposed use to the Empire Comprehensive Plan, including the goals and policies contained therein.

6.5 Approval

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6.5.1 The Planning Commission shall conduct a study and investigation of the building, site and/or operational plans and comments from the Town's Zoning Officer. If it is determined that the proposed operational plans do not constitute a use by right, they give public notice and hold a public hearing thereon as provided in Article III. Section 7.

6.5.2 Within 30 days following the public hearing, the Planning Commission shall make a determination in writing, which shall be transmitted to the Board of Trustees for final approval, conditional approval or disapproval.

7. Compliance with Approved Plans and Application

7.1 Building permits approved by the Zoning Officer and issued by the Building Inspector on the basis of plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications. No other use, arrangement, or construction is authorized. Use, arrangement, or construction that differs with those authorized shall be deemed a violation of this Ordinance and corrective action shall be taken.

8. Conditional Use Permits

8.1 Intent

The conditional use classification is intended to provide for the inclusion within a district of uses of such unique nature or character, or uses which are so dependent upon specific contemporary conditions, that a predetermination of permissibility by right, or the detailing within the Ordinance of specific standards, requirements, or conditions necessary or appropriate to such permissibility is not practical, but which may be permitted in the district where listed, subject to the conditions and requirements as hereinafter specified.

8.2 Petition and Approval of Conditional Use Permits

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Conditional uses may be permitted upon a petition to the Planning Commission for recommendation of approval or denial to the Town Board of Trustees. The decision made upon a petition for Conditional Use Permit shall be based upon a determination of general considerations as to the effect of such use on the health, safety, welfare and economic prosperity of the Town, and specifically on the effect of such use upon the immediate neighborhood in which it would be located, including the considerations listed in Section 7.4 below. Conditional Use Permits shall contain an expiration date and or a required review renewal date.

8.3 Termination of Conditional Uses

Where a permitted conditional use does not continue in conformity with the conditions of the original approval, or where a use is no longer compatible with the surrounding area, the Conditional Use Permit may be terminated by the Board of Trustees. Prior to any such termination, a public hearing shall be held in accordance with the requirements of Article III, Section 7 of this Ordinance, before the Planning Commission. Within fifteen (15) days after the public hearing, the Planning Commission shall deliver its written recommendation to the Board of Trustees, and the Board of Trustees shall make its decision at its next regularly scheduled meeting after receipt of the Planning Commission recommendation. Should the Board of Trustees find that a termination of a Conditional Use Permit is due to the failure of the property owner, its agents and/or assigns to comply with the conditions of the Conditional Use Permit, then upon termination, the conditional use shall thereafter be terminated.

8.4 Standards and Requirements.

8.4.1 Approval of a Conditional Use Permit shall be based upon an evaluation of various factors, including but not necessarily limited to the following:

8.4.1(a) The character and the quality of the area in which the use will be located;

8.4.1(b) The physical appearance of the use, including suitability of architectural and landscaping treatment;

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- 8.4.1(c) Appropriate location of the building or buildings on the lot;
- 8.4.1(d) Adequate provision of parking, loading and circulation facilities;
- 8.4.1(e) Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion;
- 8.4.1(f) Potential effect on storm drainage in the area;
- 8.4.1(g) Adequacy of planting screens where necessary;
- 8.4.1(h) Provision of operational controls where necessary to avoid hazardous conditions and/or eliminate potential air, water or noise pollution, or other noxious influences;
- 8.4.1(i) The general compatibility of the proposed use within the area in which it is to be located; and
- 8.4.1(j) Any other consideration deemed relevant by the Planning Commission and/or Board of Trustees to a particular application.

8.4.2 Conformity with Regulations.

Except as may be specifically otherwise provided, any conditional use shall conform to the lot size, building location, building size, open space and height limitation regulations of the district in which it is located.

8.4.3 Accessory Uses.

Uses and structures necessary to a principal conditional use shall be subject to appropriate regulations in the same manner as herein set forth for the principal conditional use.

9. Procedure/Filing - Conditional Use Permits

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- 9.1** A petition for a Conditional Use Permit shall be submitted in writing and filed with the Town Clerk, who shall promptly refer such petition to the Planning Commission and the Zoning Officer. Such petition shall be accompanied by building, site and operational plans as required by Article V, Section 6, by such other data and information as may be necessary for the proper evaluation of the petition, and by the filing fee as may be set by resolution by the Town Board from time to time
- 9.2** The Planning Commission shall conduct a study and investigation of the petition, request review and comment from the Town's Zoning Officer and shall give public notice and hold a joint public hearing with the Board of Trustees, thereon as provided in Article III, Section 7.
- 9.3** Within thirty days following the public hearing, the Planning Commission shall make a determination and set forth its recommendations in writing, indicating conditions of approval, or if the petition is recommended for disapproval, indicating the reasons therefore. The determination of the Planning Commission shall be transmitted forthwith in writing to the Board of Trustees, within 45 days of the public hearing. At the next regularly scheduled Board of Trustees meeting, the Board shall finally approve, conditionally approve, or disapprove the petition for Conditional Use Permit.
- 9.4** When a Conditional Use Permit is approved, such approval shall be appropriately noted upon building permits and certificates of zoning compliance. Indication of such Conditional Use Permit shall additionally be made on the official Zoning District Map of the Town by appropriate symbol.

10. Development Permit

- 10.1** When the subdivider or developer is ready to begin construction of the facilities set forth on each filing of the Final Plat and in the Subdivision Improvements Agreement, a Development Permit shall be obtained from the Town.

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10.1.1 Before the Development Permit is issued, the developer shall deposit with the Town all sureties required and the entire dollar amount set forth in the Subdivision Improvements Agreement, Article XI, Section 6.1.2. This money shall be paid to the Town Clerk. The fees for inspections made by the Town or its designated representative shall be paid from this deposit. At the completion of the subdivision construction, any funds remaining from the deposit shall be returned to the developer.

10.2 The following improvements are required under the Development Permit.

10.2.1 Survey Markers – Approved markers will be placed at all points on the boundary line where there is a change of direction and at all corners.

10.2.2 Lots will meet the requirements of the district for which they are zoned.

10.2.3 Local utilities (telephone, electric services, gas lines, and if appropriate, cable T.V. lines) shall be installed underground, and if placed in the street or alley, shall be in place prior to surfacing. Major above ground transmission lines are allowed. Where future development seems likely and the Town Board deems it appropriate, utility lines, including water and sewer lines, shall be extended to the far edges of the property being subdivided. All subdivisions occurring within the Town of Empire shall be connected to the Town's water and sewage treatment systems. Utility easements should be at least 10 feet wide. If the utility easement is coupled with a drainage easement, the easement should be 20 feet wide.

10.2.3.1 Sanitary Sewers – The Subdivider shall provide adequate lines and stubs to each lot in such a manner that street and sidewalk cuts will not be required in order to connect the proposed buildings with the sanitary sewer mains. The actual tap of the sewer line shall be made by the Town or under close Town supervision.

10.2.3.2 Water Mains – The subdivider shall provide adequate mains and stubs to each lot in such a manner that street and sidewalk cuts will not be

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required in order to connect the proposed buildings with the water mains. The actual tap of the water main shall be made by the Town or its agents.

10.2.4 Fire Hydrants – The subdivider shall provide fire hydrants as required according to the Town specifications.

10.2.5 Storm Drainage – The rainfall frequency rate used in determining the flow of storm water shall be based on the following principles. The flow of storm water shall be computed in anticipation of full development of the area upstream in the applicable drainage basin as allowed by present zoning, or where upstream zoning changes are reasonably anticipated, then the drainage resulting from the highest reasonable density should be used in computing flow of storm water.

10.2.5.1 Land located within an adopted 100 year flood plain zone shall not be used for occupancy structures, storage, or other use unless the flooding condition is alleviated in conformance with the Town zoning and flood plain regulations and Federal guidelines.

10.2.5.2 Historical flow patterns and runoff amounts are to be maintained in such a manner that would preserve the natural character of the area and prevent property damage of the type generally attributed to runoff, velocity increases, diversion concentrations and/or unplanned ponding of storm runoff.

10.2.6 Streets And Traffic Patterns

10.2.6.1 Streets shall generally conform to the circulation plan adopted by the Town. If a tentative plan has been adopted by the Town for the neighborhood of the proposed subdivision, the street system of the latter shall conform in general thereto.

10.2.6.2 Existing major streets, including platted but not developed streets, in adjoining territory shall be continued at equal or greater width and in

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similar alignment by streets proposed in the subdivision, unless variations are approved by the Town.

10.2.6.3 Where a street will eventually be extended beyond the plat, but is temporarily dead-ended, an interim turnaround may be required.

10.2.6.4 No street name shall be used which will duplicate or be confused with the names of existing streets. All street naming shall be subject to approval by the Town Streets that are extensions of or obviously in alignment with existing streets shall bear the same name.

10.2.6.5 Streets shall have such curbs, gutters, sidewalks, culverts and pavements as may be required by the Town. These streets shall be constructed to specifications as established by the Town and shall be depicted on profile street plans.

10.2.6.7 Street Widths and Grades: Maximum and minimum street widths and grades shall be according to the design standards following:

<u>Type</u>	<u>R.O.W. Width</u>	<u>Curve Radius</u>	<u>Max. Profile Grade</u>	<u>Min. Profile Grade</u>
Local Streets	50 ft.	100 ft.	7%	.003%
Collector Streets	90 ft.	300 ft.	7%	.003%
Arterial Streets	100 ft.	300 ft.	7%	.003%

10.2.6.8 Intersections: Street curb intersections shall be rounded by radii of at least 15 feet. Where the smallest angle of intersection is less than 60 degrees the above minimum radii shall be increased.

10.2.6.9 Intersections of more than two streets shall be avoided.

10.2.6.10 Intersecting collector and local streets shall not empty into the same side of an arterial street at intervals of less than 240 feet unless it can be

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shown that it is in the public interest to have such intersections closer together.

10.2.6.11 When a subdivision abuts and controls access to public lands or existing streets, access shall be provided in the form required by the public agency involved. When a subdivision abuts private lands, the Town may require the developer to provide access thereto.

10.2.6.12 Alleys open at both ends may be required in commercial and industrial zone districts. The minimum width of alleys shall be 20 feet.

10.2.7 Street Signs - Must meet current Colorado Department of Transportation (CDOT) Miscellaneous and Signing (M&S) standards.

10.2.8 Streets Lights – Must meet current Colorado Department of Transportation (CDOT) Miscellaneous and Signing (M&S) standards.

10.2.9 Curb and Gutter – Must meet current Colorado Department of Transportation (CDOT) Miscellaneous and Signing (M&S) standards.

11 Excavation Permits

11.1 No person shall excavate on public property within the Town of Empire without first acquiring an excavation permit from the town clerk.

11.2 Contractors must supply proof of liability insurance before an excavation permit can be issued.

11.21 In lieu of liability insurance, private individuals may submit a letter assuming full responsibility for the excavation.

11.3 There will be a fee for the excavation permit which will be set by resolution, and revised as necessary, by the Empire Board of Trustees.

11.31 The Empire Board of Trustees can, upon request from private individuals, waive the fee.

11.4 Applicants are required to locate all underground utilities before they begin excavation.

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