

## **ARTICLE VII. Zoning Districts and Standards**

### **1. Establishment of Districts**

**1.1** In order to regulate the location, height, bulk, and size of buildings and other structures, the percentage of lot which may be occupied, the size of lots, and other open spaces, the density and distribution of population, the location and uses of land, buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, the incorporated area of the Town of Empire is hereby divided into the following districts:

- R-1 Single Family Residential District
- R-2 Single Family Attached Residential District
- R-3 Multi Family Residential District
- R-C Residential- Commercial
- OS-R Open Space Recreation District
- MH Mobile Home District
- PD Planned Development District

### **2. Application of Individual Lot Regulations**

#### **2.1 General**

The regulations set forth by this Ordinance within each district shall be held to be minimum requirements and shall apply to each class or kind of structure or land, except as hereinafter provided.

#### **2.2 Use Regulations**

**2.2.1** No structure or land shall be used and no new use may be enacted and no structure shall be hereafter erected, structurally altered or relocated except for a use as permitted in compliance with the regulations hereinafter established for the district in which it is located.

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2.2.2 Use of R.V., camper and travel trailers:

2.2.2 (a) May be utilized as a temporary residence, not to exceed one year while primary residence is undergoing construction. A building permit on the primary residence is required.

2.2.2 (b) May be occupied for a period no longer than two weeks within the Town, except as provided for in 2.2.2 (a).

2.2.2 (c) Occupied R.V., camper or travel trailers may be parked on public rights-of-way for emergency purposes, up to a maximum of twenty-four (24) hours. Such parking shall not interfere with traffic visibility and safety.

**2.3 Minimum Lot Size**

No building shall be erected on a structure of less size than hereinafter specified by the regulations of the district in which such building is located. Exception is granted for pre-existing nonconforming lots.

**2.4 Density**

2.4.1 Purpose. The regulatory techniques controlling the distribution of population throughout the community are intended to achieve a practical economic and functional relationship between the use of land and its consequent impact upon traffic circulation, public utilities, community facilities and other service demands.

2.4.2 Method. In single family residential development, the density is established by the minimum required structure size. In multi-family residential development, the determination of the number of allowable dwelling units on a given property being developed shall be made by dividing the net buildable area of the parcel to be developed by the number of square feet required per dwelling unit.

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- 2.4.3 One residential structure per platted lot;  
Except as otherwise provided for multiple Family Dwellings and Planned Unit Developments and situations provided for in Article VI, Section 2, only one (1) principal residential structure shall be permitted.

## 2.5 Building Location

### 2.5.1 Setback from Streets

2.5.1(a) No building shall hereafter be erected, structurally altered, or relocated so that any portion thereof is closer to the base setback line than the minimum setback distance hereinafter specified by the regulations of the district in which it is located.

2.5.1(b) The only structures permitted within such setback area shall be necessary highway and traffic signs, public utility lines, fences, screens and mailboxes.

### 2.5.2 Offsets from adjacent property lines.

No building shall hereafter be erected, structurally altered or relocated so that any roofed or enclosed portion thereof is closer to any ground level structure line than the offset distance hereinafter specified by the regulations for the district in which it is located, except as follows:

2.5.2(a) Commercial buildings with adjoining walls shall be permitted in the R-C District only insofar as they were in existence prior to the adoption of this Ordinance. In the event of the damage or destruction of any existing connected commercial building, such building may be rebuilt only to the extent that the new structure is of the same or smaller dimensions of the original structure.

2.5.2(b) Maintenance and use of setback and offset areas. Any such required setback or offset area shall be kept clean and free from the accumulation of debris and refuse.

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**2.6 Open Space**

**2.6.1 Minimum open space per Dwelling Unit**

No building used in whole or in part for residential purposes shall be hereafter erected, structurally altered or relocated on a lot so as to reduce the usable livable open space of such lot to less than that hereinafter specified by the regulations of the district in which such building is located.

**2.6.2 Usability of required open space.**

To be considered usable, livable open space shall be readily accessible and of a size and shape which can be reasonably considered to provide for amenities and the necessities of light, air, play space, yard area, garden, etc., but shall not include parking area and drives.

**2.7 Height Restrictions**

No building shall hereafter be erected or structurally altered so that any portion thereof will exceed a height of 36 feet above the average grade of land adjacent to the structure.

**3. Zone District Schedule of Requirements**

The Schedule of Requirements includes basic bulk, setback, offset, density, and open space requirements for each zone district. Additional requirements are listed for uses permitted by special review.

**SCHEDULE OF REQUIREMENTS**

<b>Standard</b>	<b>R-1</b>	<b>R-2</b>	<b>R-C</b>	<b>R-3</b>
Minimum Lot Area (square feet)	4800	4800	4800	9600
Minimum Dwelling space (square feet)(per dwelling unit)	700	700	700	700

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<b>Standard</b>	<b>R-1</b>	<b>R-2</b>	<b>R-C</b>	<b>R-3</b>
Maximum Building or Structure Height (feet)	36	36	36	36
Maximum Height of accessory Uses	20	20	20	20
Maximum number of stories	2	2	2	2
Setback	10	10	10	10
Offset	5	5	5	5

#### 4. Single Family Residential R-1 District

##### 4.1 Intent

This district is intended to provide for the development of single family dwellings with a full compliment of accessory uses. The R-1 Single-Family Residential District is designed to accommodate single-family residential development at low density in areas within the Town of Empire that are served by public sewer and water facilities. In order to maintain the design integrity of this district, no boarding houses and no additional mobile homes will be allowed in this district

##### 4.2 Use Regulations

A building or parcel of real estate may be used for the following uses and no other:

##### 4.2.1 Principal uses permitted by right

4.2.1(a) Single Family Detached Dwellings, including manufactured homes built upon permanently attached engineered foundations.

4.2.1(b) Public parks and recreation areas

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4.2.1(c) Public and private schools – only with adequate parking as determined by the Planning Commission

4.2.2 Permitted Accessory Uses

4.2.2(a) Private garages, carports, and paved park areas

4.2.2(b) Private residential and private group outdoor recreational facilities, including but not limited to; swimming pools and tennis courts

4.2.2(c) Public utility distribution mains, lines, etc.,

4.2.2(d) Open space

4.2.2(e) Gardens

4.2.2(f) Satellite dish antennas without towers

4.2.2(g) Home Occupations, subject to the provisions of Article VIII, Section 4

4.2.2(h) Service buildings and facilities normally incidental to the use of a public park or recreation area

4.2.2(i) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

4.3 Density

4.3.1 Minimum parcel area per dwelling unit: Four thousand eight hundred (4,800) square feet.

4.3.2 Minimum square feet per dwelling: Seven hundred (700) square feet.

4.3.3 Except in situations provided for in Article VI, Section 2, only one (1) principal residential structure per lot shall be permitted.

4.4 Building Location

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4.4.1 Minimum setback:

For all streets and highway is ten (10) feet.

4.4.2 Minimum offset: five (5) feet.

**4.5 Open Space**

Minimum livable open space per dwelling unit: One thousand five hundred (1,500) square feet.

**4.6 Off-Street Parking Requirements**

As provided in Article VIII, Section 2; Two (2) spaces-440 square feet.

## 5. Single Family Attached Residential R-2 District

### 5.1 Intent

This district is intended to provide for residential development of single family attached dwellings of the duplex or townhouse type. No boarding houses and no additional mobile homes will be allowed in this district.

### 5.2 Use Regulation

A building or parcel of real estate may be used for the following purposes and no other:

#### 5.2.1 Principal uses permitted by right.

5.2.1(a) Any use permitted by right in the Single Family Residential R-1 district. If the lot in R-2 district is utilized as R-1, all R-1 requirements apply.

5.2.1(b) Single Family attached dwelling units of not more than two units per structure.

5.2.1(c) Manufactured housing built upon permanently attached engineered foundations.

#### 5.2.2 Permitted Accessory Uses.

Any Accessory use permitted in the Single Family Residential R-1 District.

### 5.3 Density

5.3.1 Minimum parcel area per structure: four thousand eight hundred (4,800) square feet.

5.3.2 Minimum square feet per dwelling unit: Seven Hundred (700) square feet

5.3.3 Except in situations provided for in Article VI, Section 2, only one (1) principal residential structure per lot shall be permitted.

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**5.4 Open Space**

Minimum livable open space per structure: one thousand two hundred and fifty (1,250) square feet.

**5.5 Off-Street Parking Requirements**

As provided in Article VIII, Section 2. Two spaces - (440) square feet per dwelling unit.

## 6. Multi-Family Residential R-3 District

### 6.1 Intent

This district is intended to provide for residential development of multi-family dwellings in areas where such development would be compatible with the surrounding uses and/or such intensive use would not create service problems. In order to maintain the design integrity of this district, no boarding houses and no additional mobile homes will be allowed in this district.

### 6.2 Use Regulations

A building or parcel of real estate may be used for the following purposes and no other:

#### 6.2.1 Principal uses permitted by right

6.2.1(a) Any uses permitted by right in the Single Family Residential R-1 District.

6.2.1(b) Any uses permitted by right in the Single Family Attached Residential R-2 District.

6.2.1(c) Multi-Family Dwellings of two (2) or more units.

6.2.1(d) Rental units for single family or multi-family dwellings.

#### 6.2.2 Permitted Accessory Uses.

6.2.2(a) Any Accessory Use permitted in the Single Family R-1 District or the Single Family Attached Residential R-2 District.

6.2.2(b) Signs, subject to the provisions of Article XII

### 6.3 Density

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6.3.1 Minimum parcel area per dwelling unit: ninety- six hundred (9,600) square feet.

6.3.2 Minimum square feet per dwelling unit: Seven hundred (700) square feet.

**6.4 Building Location**

6.4.1 Minimum setback:  
For all streets and highways ten (10) feet.

6.4.2 Minimum offset:  
Five (5) feet.

**6.5 Open Space**

Minimum livable open space per dwelling unit

6.5.1 For single family detached units: one thousand five hundred (1,500) square feet.

6.5.2 For multi-family attached units: six hundred (600) square feet per dwelling unit.

**6.6 Off-Street Parking Requirements**

As provided in Article VIII, Section 2; Two Spaces. Four hundred and forty (440) square feet per dwelling unit.

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## 7. Residential-Commercial District (R-C)

### 7.1 Intent

This district is intended to provide for the development of commercial, office, recreational, cultural, entertainment, and governmental facilities serving as a center of community activity. It is the further intent of this district to conserve and enhance the existing central business area for the benefit of the community as a whole, while still preserving the historic nature of the Town by permitting the continuation of single family residences within the commercial center.

### 7.2 Use Regulations

A building or parcel of real estate may be used for the following purposes.

#### 7.2.1 Principal uses permitted by right.

The following principal uses shall be permitted; provided however, any use with a substantial impact to the Town, including, but not limited to uses that increase the level of parking by 50% or more, as determined by the zoning officer, shall require operational plans as provided in Article V, Section 6, pg 34.

7.2.1(a) Any use permitted by right in the Single Family Residential R-1 District, so long as such use is in compliance with all other general and specific requirements of this and any other applicable Town ordinance.

7.2.1 (b) Any use permitted by right in the Single Family Attached Residential R-2 District, so long as such use is in compliance with all other general and specific requirements of this and any other applicable Town ordinance.

7.2.1(c) Any use permitted by right in the Multi-Family Residential R-3 District, so long as such use is in compliance with all other general and specific requirements of this and any other applicable Town ordinance.

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7.2.1(d) Mixed use - A combination of commercial and multi-family use

7.2.1 (e) Boarding Houses

7.2.1(f) Retail

7.2.1(g) Customer service establishments

7.2.1(h) Business and professional offices

7.2.1(i) Churches

7.2.1(j) Public office and service buildings

7.2.1(k) Hotels and Motels

7.2.1(l) Bed and Breakfast

7.2.2 Permitted Accessory uses

7.2.2(a) Any Accessory use permitted in the Single Family Residential R-1 District, Single Family Attached Residential R-2 District, Or Multi-Family Residential R-3 District.

7.2.2(b) Signs, subject to the provisions of Article XII

7.2.2(c) Parking and service areas.

7.2.2(d) Office, storage, power supply, and other structures or uses clearly incidental to and commonly associated with the operation of Principal uses permitted by right.

### 7.3 Limitations of External Effects of Uses

7.3.1 No use or activity shall be permitted to produce hazardous conditions or noxious influences such as noise, vibration, heat, glare, radiation, fumes, smoke or other

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pollutant to a degree detrimental to existing or prospective adjacent uses, or to existing or prospective development of the community.

7.3.2 All fuel, raw materials and products stored outdoors shall be enclosed by a solid fence or wall adequate to conceal such fuel, raw materials and products from adjacent residential and commercial property, consistent with all applicable safety codes..

**7.4 Density**

Minimum parcel area per dwelling unit: four thousand eight hundred (4,800) square feet.

**7.5 Building Location**

7.5.1 Minimum setback:  
For all streets and highways ten (10) feet.

7.5.2 Minimum offset: five (5) feet

7.5.3 Minimum open space commercial use is:  
20%. Including parking areas.

**7.6 Off-Street Parking Requirement** - As provided in Article VIII, Section 2, pg 76.

**7.7 Off-Street Loading Requirements** – As provided in Article VIII, Section 3, pg 78.

**8. Mobile Home District**

**8.1 Intent**

8.1.1 The Mobile Home District M-H is to provide guidelines for site improvements to mobile home parks to assure that any future changes or occupancy shifts take

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place in a planned, orderly manner, and to provide such regulatory controls as will ensure a harmonious relationship between mobile home park and adjoining residential uses.

8.1.2 These standards are designed for the purpose of promoting a low-medium density, quiet environment for mobile home parks.

## **8.2 Use Regulations**

A building or parcel of real estate may be used for the following purposes and no other:

8.2.1 Principal uses permitted by right.

8.2.1(a) Single Family Mobile Home Dwellings

8.2.1(b) Any uses permitted in R-1 and R-2 districts.

8.2.2 Permitted Accessory Uses.

8.2.2(a) Any accessory uses permitted in R-1 and R-2 Districts.

8.2.2(b) Common uses and uses accessory to mobile home dwelling units, including recreation facilities for the use of residents of the park only, management offices, laundry facilities, tenant storage lockers, parking areas and garbage and trash disposal facilities.

## **8.3 Maximum area, location and Restrictions of Mobile Home Parks**

8.3.1 No size increase in the existing mobile home parks within the Town shall be permitted.

8.6.1 Any replacement mobile homes shall meet current HUD standards.

8.3.3 Location of mobile homes restricted.

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Mobile homes in the Town may be parked only in a licensed mobile home park, and shall not encroach upon streets or right of ways, with the following exceptions:

8.3.3(a) Emergency parking. Mobile homes or travel campers may be parked on public rights-of-way for emergency purposes, up to a maximum of twenty-four (24) hours. Such parking shall not interfere with traffic visibility and safety.

#### **8.4 Internal relationships**

##### **8.4.1 Mobile home spaces.**

8.4.1(a) Each mobile home shall be contained within a space having a minimum area of twelve hundred (1,200) square feet for single width mobile homes, and a minimum area of twenty four hundred (2,400) square feet for double width or expandable mobile homes.

8.4.1(b) Each mobile home must have a space number clearly displayed and visible from the street.

##### **8.4.2 Distances between structures and use.**

8.4.2(a) Minimum setback: ten (10) feet.

8.4.2(b) Minimum offset: five (5) feet.

8.4.2(c) Permanent buildings and structures used as common facilities and dwelling units other than mobile homes shall conform to the setback and offset requirements of the district in which they are the primary principal use.

8.4.2(d) The minimum distance between mobile homes shall be ten (10) feet side to side, eight (8) feet end to side, and six (6) feet end to end.

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8.4.2(e) An unobstructed access of at least three (3) feet must be provided to the back door of each mobile home.

8.4.2(f) No additional mobile home sewer or water hook-ups will be permitted within any mobile home park in the Town of Empire.

8.4.2(g) The space between the lower edge of the mobile home unit and the ground or stand shall be completely enclosed with suitable and uniform material which shall conform to the applicable uniform code and Town Ordinance.

8.4.3 Restrictions on Accessory Uses.

8.4.3(a) Porches and sheds may be located anywhere within a mobile home space and must conform to offset and setback. No flammable materials may be stored in bulk in any shed or porch.

8.4.3(b) Sheds may not exceed the height of the mobile home on the same structure.

8.4.4 Open space.

8.4.4(a) The minimum livable open space per dwelling unit is 20% of the total structure size.

8.4.4(b) The minimum livable open space for dwellings other than mobile homes shall be the same as the district in which the dwelling is the primary principal use.

**8.5 Park Layout Standards**

8.5.1 Streets

8.5.1(a) The mobile home park shall be serviced by a street system, constructed and maintained in compliance with all Town requirements and which provides safe and convenient access from abutting public streets or roads to all mobile home spaces.

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8.5.1(b) Street and utility design.

All interior streets shall be not less than twenty (20) feet in constructed width.

8.5.2 Parking

8.5.2(a) A minimum of two (2) off street parking spaces having a combined minimum area of four hundred forty (440) square feet shall be maintained for each mobile home space. Parking shall allow for continuous access for emergency vehicles, not to be less than 20 feet in width.

8.5.3 Nonresidential uses.

No part of any park shall be used for nonresidential purposes, except as otherwise permitted by this Ordinance.

8.5.4 Water supply.

The water supplies for the mobile home park shall be that provided by the Town. The water system shall be connected by pipes to all service buildings and all mobile home spaces. Individual water service connections shall be provided to all service buildings and all mobile home spaces. Each water service valve shall contain individual valves below frost depth (not less than five (5) feet and with valve boxes measured according to grade).

8.5.5 Sewage and Waste disposal.

8.5.5(a) Compliance with regulations. All plumbing in the mobile home park shall comply with the plumbing laws and health regulations of the State, County, and the Town.

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8.5.5(b) Connection to all facilities required. All waste and sewer lines must be connected to the Town's sewage system

8.5.5(c) Refuse disposal system required. A central storage area for collection and disposal of refuse shall be provided in the park. Containers shall comply with state and local regulations. Dumpsters shall be fenced or screened.

8.5.5(d) Electricity and natural gas. Electrical installation shall comply with all state and local electrical codes and ordinances. Where natural gas is provided, installations shall comply with all applicable state, county and Building Code requirements.

8.5.5(e) Fire protection: mobile home parks shall be kept free of litter, rubbish and other flammable materials, and conform to the Town's adopted fire codes as amended.

#### 8.5.6 Management.

8.5.6(a) Enforcement of regulations. The owner or operator of the mobile home park shall arrange for the management and supervision of the mobile home park so as to enforce or cause compliance with the provisions of this Section.

8.5.6(b) Maintenance. The owner, operator or attendant of the mobile home park shall assume full responsibility for maintaining all facilities in good repair and condition.

8.5.6(c) Management duties. It shall be the duty of the site manager, together with the owner or operator, to:

- Maintain the park in a clean, orderly and sanitary condition at all times.
- Ensure that the provisions of this section are complied with and enforced and report promptly to the proper authorities any violations of law.

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- Provide for the payment of all license fees required by Town ordinance or other laws.
- Provide snow and trash removal and fencing.

## **8.6 Licensing and Inspection**

8.6.1 License required. It shall be unlawful for any person to operate any mobile home park within the limits of the Town unless he or she holds a valid Town business license issued annually by the Town in the name of such person for the specific mobile home park.

8.6.1 (a) The fee will be accompanied by a site plan which will show utility locations, mobile home locations with addresses, and accessory structure locations on the property.

8.6.2 License transfer. Every person holding a Town business license for a mobile home park shall give notice in writing to the Town within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile park. A new application for transfer of the license and a new ownership fee shall be collected if the Mobile Home Park is in compliance with all applicable provisions of this section and regulations issued hereunder.

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## 9. Planned Development District (PD)

### 9.1 Intent

The Planned Development (PD) District is established to encourage innovations in residential, commercial, industrial, and recreational development by allowing for mixed land uses, variations in development densities, and variety in the type, design, and layout of buildings in a manner not allowed under traditional zoning. The PD District provides a means for clustering development and allowing for the preservation of open space, more effective land utilization, and for more cost-effective and efficient extensions of infrastructure. The PD District is intended to provide a means for developing tracts of land into building and use complexes with a continuity of design and development. Any tract of land that is intended to be developed with multiple zoning shall be a (PD) district.

### 9.2 PD Requirements

- 9.2.1 The PD shall be consistent with the intent and policies of the Comprehensive Plan.
- 9.2.2 The PD shall be designed in such a manner that it protects the environmental assets of the area including considerations of elements such as plant and wildlife, streams and storm drainage courses and scenic vistas.
- 9.2.3 The planned development's relationship to and compatibility with its surroundings shall be considered in order to avoid adverse effects caused by traffic circulation, building height or bulk, lack of screening, or intrusions on privacy.
- 9.2.4 The PD design and construction plans shall take into account characteristics of soils, slopes and potential geological hazards, in a manner intended to protect the health, safety, and welfare of potential users of the PD. These aspects of the plan must be accompanied by a detailed soil engineering report on the suitability of the area for the intended use and the necessary precautions needed to bring the area to a state of structural soundness before building permits may be issued.

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- 9.2.5 Design and construction of the PD shall include adequate, safe, and convenient arrangements for pedestrian circulation, roadways, driveways, off-street parking, and loading space.
- 9.2.6 The mixture of uses and densities in a PD shall be determined on a case-by-case basis. The applicant must demonstrate the positive benefits to the Town of the PD District classification versus a traditional single-district zone classification.
- 9.2.7 The plans for the proposed planned development shall indicate the particular portions of the project that the developer intends to develop under various use categories. Densities, averages, and permitted uses shall be detailed for all development areas within the PD. A summary chart indicating development standards applicable to the entire PD and/or separate areas within the PD will be required.
- 9.2.8 The total parking requirements of the PD will not exceed the sum of the parking that would be required for each use. However, all the parking required for each district does not have to be provided within that district, and total parking requirements may be reduced if the developer demonstrates to the Town using industry standards that the total number of spaces are not needed within the PD.
- 9.2.9 Planned open spaces within the PD, including those spaces being used as public or private recreation sites, shall be protected by adequate covenants running with the land, or by conveyances or dedications.
- 9.2.10 A minimum of twenty-five percent (25%) of the total PD area shall be devoted to open-air recreation or other usable open space (public or quasi-public). "Usable open space" shall be defined as open area designed and developed for use by the occupants of the development or by others for uses including, but not limited to, recreation, courts, gardens, parks and walkways. The terms shall not include space devoted to streets, parking and loading areas. Open space percentages within separate land use areas of a PD may vary from the 25% figure, but the total amount of open area must equal 25% of the overall acreage. This amount of open space may include any publicly dedicated land for parks and open space.

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9.2.1.1 Traffic circulation shall be determined by review of each Planned Development. The PD must have an adequate internal street circulation system. Public streets must serve all planning areas, and meet minimum Town construction standards for use by police and fire department vehicles for emergency purposes. Each nonresidential structure or use in the PD must provide off-street loading spaces, loading berths, service courts, or accesses for delivery and service vehicles.

### 9.3 PD Approval Process

9.3.1 Where PD zoning already exists on a parcel, the development shall conform to all standards and restrictions specified in the Site Development Plan (SDP). Subdivision of the property may be required, as well as an approved improvements agreement with the Town. If the PD consists of a Preliminary PD Plan, final approval of a SDP must be obtained prior to commencement of development and issuance of building permits.

9.3.2 Where a PD zoning does not exist on a structure or structures and the PD designation is desired, the developer must first apply for an amendment to the zoning classification per Article III Section 6. Consideration of the zoning amendment request (rezoning) can occur simultaneously with consideration of the proposed PD preliminary plan. Sketch plan approval is necessary prior to preliminary PD approval. In approving any rezoning to a PD district, the Planning Commission and Town Board must find that:

- the PD as described in the preliminary plan conforms to the policies and intent of the Empire Comprehensive Plan,
- the application is complete,
- the project is in the best interest of the residents of Empire,
- the project does not place an unreasonable financial burden on the Town, and
- the intent of applicable ordinances in the Town are met.

9.3.3 Review Bodies

9.3.3(a) Sketch Plan, Town Zoning Officer

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9.3.3(b) Preliminary PD, Town Zoning Officer, public hearing before the Planning Commission, public hearing before the Town Board. Approval of the preliminary PD establishes the PD Zone district. Upon final approval by the Town Board, the Preliminary PD shall become a Final Development Plan.

9.3.3(c) Final PD, Town Zoning Officer, Planning Commission public hearing, Town Board review.  
All public hearings must be duly noticed and posted according to Article III, Section 7.

9.3.4 Amendments to PD Plans

Amendments to PD plans may be made under the following conditions:

9.3.4(a) Minor changes in locations, site, bulk of structures, height or character of building may be authorized by the Planning Commission if required by circumstances not foreseen at the time the Final Development Plan was approved.

9.3.4(b) All other changes in use, any rearrangement in structures, or changes in the provision of open space must be approved by the Town Board. The Applicant shall submit revised plans to the Planning Commission. After review by the Planning Commission and upon recommendation to the Town Board, the Town Board in its discretion, shall approve, deny or modify the amendment.

9.4 **Submission Requirements**

The Town Planning Commission will detail the submission requirements for each submittal stage. Additional items may be requested by the Town at each stage of the process.

9.5 **Enforcement and Modifications of PD Provisions**

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9.5.1 To further the mutual interest of the residents, occupants, and owners of a planned development and of the public in the preservation of the integrity of the plan, the provisions of the plan relating to the use of land and the location of common open space shall be in the best interests of the Town as determined by the Town Board, and shall be enforceable in law or in equity by the Town without limitation on any powers or regulation otherwise granted by law.

9.5.2 All provisions of the PD shall run in favor of the residents, occupants, and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and, to that extent, said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or in equity by residents, occupants, or owners acting individually, jointly, or through an organization designated in the plan to act on their behalf. However, no provisions of the plan shall be implied to exist in favor of residents, occupants, and owners except as to those portions of the plan which have been finally approved.

9.5.3 All those provisions of the plan authorized to be enforced by the Town may be modified, removed, or released by the Town, subject to the following:

9.5.3(a) No substantial modification, removal, or release of the provisions of the plan by the Town shall be permitted except upon a finding by the Town, following a public hearing called and held in accordance with the provisions of this Ordinance, that the modification, removal, or release is consistent with the efficient development and preservation of the entire planned development, does not affect in a substantially adverse manner either the enjoyment of land adjacent from the planned development or the public interest, and is not granted solely to confer a special benefit upon any person.

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