

TOWN OF OAK CREEK

ORDINANCE NO. 627

AN ORDINANCE AMENDING AND MODIFYING THE OAK CREEK LAND USE CODE AT SECTIONS 17.02 AND 17.06 OF THE OAK CREEK MUNICIPAL CODE, AND DECLARING AN EMERGENCY.

WHEREAS, the Oak Creek Planning Commission held a public meeting on January 15, 2014 and forwarded a recommendation to the Oak Creek Board of Trustees on amendments to the Town of Oak Creek Land Use Code (Land Use Code) pertaining to floodplain regulations to be considered at a duly noticed public hearing; and

WHEREAS, notice of the public hearing scheduled January 23, 2014 to consider such amendments was published on January 5, 2014 in the Steamboat Pilot, a paper of general circulation in the Town; and

WHEREAS, the Oak Creek Board of Trustees held a public hearing on January 23, 2014 to consider the Planning Commission's recommendation and to hear public comments regarding the proposed amendments to the Land Use Code. No public comment was received at said public hearing; and

WHEREAS, Trustee Voorhis made a motion to approve the recommendation of the Planning Commission regarding amendments to the Land Use Code with the finding of fact that the proposed changes to the Town of Oak Creek's Land Use Code are in conformance with the purpose and intent of the Town of Oak Creek's Comprehensive Plan. Trustee Lewis seconded the motion. The motion passed unanimously.

NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Oak Creek as follows:

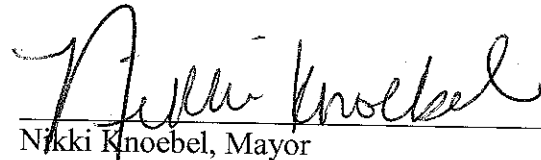
SECTION 1. AMENDMENTS. The Oak Creek Land Use Code codified as Chapter 17 of the Oak Creek Municipal Code is hereby amended as per Exhibit A attached hereto (additions are underlined, deletions are struck-through).

SECTION 2. SEVERABILITY, CONFLICTING ORDINANCES REPEALED. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. All other ordinances in conflict with the provisions of this Ordinance are hereby repealed.

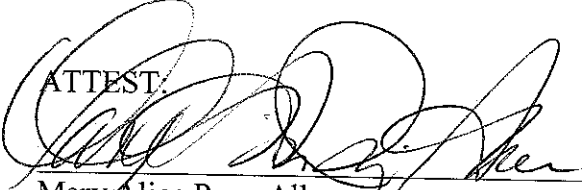
SECTION 3. EFFECTIVE DATE. Due to the need to protect public's health and safety by complying with the Colorado Water Conservation Board Rules and Regulations for Floodplains in Colorado (Rules) that require all Colorado communities to update their floodplain regulations in accordance with the revised Rules adopted January 14, 2011, this ordinance shall take effect and be in full force and effect immediately pursuant to C.R.S. § 31-16-105.

It is hereby found and declared by the Board of Trustees of the Town of Oak Creek that flooding has occurred in the past within its jurisdiction and may occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; and that in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program and in order to best address the situation described herein, it is necessary that this ordinance become effective immediately. Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

INTRODUCED, READ AND PASSED AS AN EMERGENCY ORDINANCE at a meeting of the Board of Trustees effective the 23rd day of January, 2014 and ordered published.


Nikki Knoebel, Mayor

ATTEST.


Mary Alice Page-Allen
Town Administrator/Clerk



CHAPTER 17.02**DEFINITIONS**

17.02.01	Accessory dwelling.
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17.02.010.01	Basement
17.02.011	Bufferyard.
17.02.012	Building height.
17.02.013	Channel.
17.02.014	Commercial use.
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17.02.021	Duplex.
17.02.021.01	Effective date.
17.02.021.02	FEMA.
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17.02.022	Fill.
17.02.023	Final plan submission.
17.02.024	Flood hazard permit Floodplain development permit.
17.02.025	Flood insurance rate map (FIRM).
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17.02.049.01	No-rise certification.
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17.02.051	Office.
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17.02.069	Use.
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17.02.08 Area of special flood hazard means land within the one hundred year floodplain; i.e., subject to a one percent chance of flooding in any given year.

17.02.010 Base flood elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood having a one percent chance of being equaled or exceeded in any given year. In the context of this code, base flood is used interchangeably with one hundred year flood, or one percent chance flood.

17.02.010.01 Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

17.02.013 Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries, a natural or artificial watercourse with definite bed and banks which confines or conducts flowing water either continuously or intermittently.

17.02.014.01 Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project that does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

17.02.016.01 Critical facility means a structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

17.02.021.01 Effective date means the date upon which final approval is given or other specific date as detailed in such approval and that all fees associated with the application are paid.

17.02.021.02 FEMA means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

17.02.021.03 Fence means any structure constructed of wood, metal, wire, brick, masonry, stone or other solid material that marks a boundary or area.

17.02.022 Fill means placement of materials of any kind by artificial means.

~~17.02.024 Flood hazard permit~~Floodplain development permit means the permit issued by the board of trustees prior to any construction or development in an area of special flood hazard as required by Section 17.06.012(B).
means a permit required before construction, substantial improvement, or development in an area of special flood hazard as required by Section 17.06.09(B).

17.02.026 Flood insurance study means the official report provided by the Federal Emergency Management Agency that includes flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.
~~the flood boundary floodway map and the water surface elevation of the base flood.~~

17.02.027 Flood or flooding means a general and temporary condition of partial to total inundation of normally dry land areas resulting from an unusual or rapid accumulation of runoff or surface waters from any source; or overflow of streams, rivers, or other inland waterways; or mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current.)

17.02.028 Floodplain or Flood-Prone Area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from a spillway of a reservoir, those areas contiguous with a lake, stream, or streambed whose elevation is greater than the normal water line but lower or equal to the projected one hundred year flood elevation.

17.02.029.01 Floodplain administrator means the designated individual or, in lieu of a designated individual, the town board appointed as floodplain administrator to administer, implement and enforce the provisions of the Floodplain Ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

17.02.029.02 Floodplain development permit means a permit required before construction or development begins in an area of special flood hazard to ensure that proposed development projects meet the requirements of the National Flood Insurance Program and these regulations.

17.02.029.03 Floodplain Ordinance means the ordinance contained in Section 17.06 and referred to as the town's floodplain management or special flood hazard area regulations.

~~17.02.030 Fence means any structure constructed of wood, metal, wire, brick, masonry, stone or other solid material that marks a boundary or area.~~

17.02.034.01 Letter of map revision (LOMR) means FEMA's official revision of the effective flood insurance rate map (FIRM). LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effect base flood elevations, or areas of special flood hazard.

17.02.034.02 Letter of map revision based on fill (LOMR-F) means FEMA's modification of the areas of special flood hazard shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

17.02.037 Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

17.02.049.01 No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flooding Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

17.02.066 Start of construction means and includes substantial improvement, and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the

installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

17.02.067 Structure means, generally, a walled and roofed building, including a gas or liquid storage tank, normally above ground and permanently or temporarily affixed to a site, including earth sheltered structures, open pavilions, mobile and manufactured homes, or any other structure requiring a permanent foundation.

17.02.067.01 Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

17.02.068 Substantial improvement means any repairs, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the current fair market value of the structure before that "Start of construction" of the improvement, either: This includes structures that have incurred "Substantial damage", regardless of the actual repair work performed.

A. ~~Before the improvement, repair or reconstruction is started; or~~

B. ~~If the structure has been damaged and is being restored, before the damage occurred.~~

~~For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building occurs, whether or not that alteration affects the external dimensions of the structure. The term "Substantial improvement" does not however, include:~~

A. ~~Any improvement of a structure necessary for compliance with existing state or local health, sanitary or safety code, or which are necessary to insure that the building is decent, safe and sanitary~~Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

B. ~~Any alteration of a structure listed on the National Register of Historic Places or on the Colorado State Historical Society's List of Historic Places.~~

17.02.068.01 Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State of Colorado that such facilities are subject to emergency planning requirements.

17.02.070.01 Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

chapter 17.06 Floodplain

Sections:

- 17.06.01 Statutory authorization
- 17.06.02 Findings of fact.
- 17.06.03 Purpose.
- 17.06.04 Methods of reducing flood losses.
- 17.06.05 Warning and disclaimer of liability.
- 17.06.06 General regulations.
- 17.06.07 General use restrictions.
- 17.06.08 Specific use standards.
- 17.06.09 Administration
- 17.06.010 ~~Standards for flood hazard area permit approval~~ Permit procedures.
- 17.06.011 Alteration of watercourse.
- 17.06.012 Enforcement and penalties.

17.06.01. Statutory authorization.

The regulations and procedures contained herein for flood prevention, ~~and control~~ and to minimize flood losses are adopted pursuant to, interalia, Title 29, Article 20, and Title 31, Article 23, Colorado Revised Statutes, as amended.

17.06.02. Findings of fact.

- A. The board of trustees of the town finds that there are within the town either designated floodways or areas of special flood hazard; that flooding within these areas may cause serious damage to, or destruction of real and personal property; that residents of these areas are subject to hazards that may cause loss of human life; and that imprudent use and/or occupation of these areas poses a present and future danger to the health, safety and welfare of the town's residents unless appropriate regulations are adopted concerning the use and/or occupation of these areas.
- B. The board of trustees further finds that flooding within the town is caused by the cumulative effect of obstructions to the flow of water which increases flood heights and velocities, and ~~buildings which are inadequately elevated, anchored or flood proofed~~ by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
- C. The degree of flood protection required by this code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This code shall not create liability on the part of the town, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this code or any administrative decision lawfully made there under.

~~17.17.06.03.~~ Purpose.

The purpose of these regulations is to promote the public's health, safety and general welfare and to ~~minimize flood hazards and losses~~public and private losses due to flood conditions within specific areas of the town by:

- A. Promoting sound planning and land use, and permitting only such uses within floodways or areas of special flood hazard as will not endanger the public's life, health, safety or property in times of flooding;
- B. Protect the public from avoidable financial expenditures for flood control projects, flood relief measures, and the repair and/or restoration of damaged public facilities;
- C. Prevent avoidable interruption of business and commerce;
- D. Minimize victimization of unwary home and/or land purchases, and insure that all buyers are notified that certain property is within either a designated floodway or special flood hazard area;
- E. Facilitate the management of floodways and/or special flood hazard areas by establishing requirements that must be met before additional use or development therein is permitted;
- F. Ensure that those who choose to occupy special flood hazard areas assume responsibility for their actions;
- G. Help maintain a stable tax base by providing for the controlled use and/or development of designated floodways or special flood hazard areas, so as to minimize future flood related blight; and
- H. Minimize the need for rescue and relief efforts associated with flooding.

A.

~~17.06.03.17.06.04.~~ Methods of reducing flood losses.

In order to accomplish its purposes and objectives, these regulations include provisions for:

- A. Restricting or prohibiting uses which are dangerous to the public's health, safety, welfare or property due to water or erosion hazards, or which result in increased erosion, flood heights or velocities;
- B. Controlling filling, grading, dredging and any other development activity which may increase flood damage;
- C. Requiring that any use vulnerable to flood related damage, including public facilities which serve such uses, be protected against flood damage at the time of initial construction;
- D. Controlling the alteration of natural floodways, stream channels, and other natural protective barriers which mitigate or channel floodwaters; and,
- E. Preventing or regulating construction of flood barriers which will either divert floodwaters into or increase flood hazards in other areas.

B.

~~17.06.04.17.06.05.~~ Warning and disclaimer of liability.

The degree of flood protection required by ~~this article~~these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. ~~This article~~These regulations does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. ~~This article~~These regulations shall not create liability on the part of the ~~city~~town or; any officer or employee of the ~~city~~town, or the Federal Emergency Management Agency for any flood damages that result from reliance on ~~this article~~these regulations or any administrative decision lawfully made pursuant to this article.

17.06.05, 17.06.06.

General regulations.

- A. These regulations apply to all lands within the town which are shown on the FIRM as being areas of special flood hazard and areas removed from the floodplain by the issuance of a Letter of map revision based on fill (LOMR-F) within the jurisdiction of the town.
- B. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Routt County, Colorado and Incorporated Areas," dated February 4, 2005, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be part of this code. These areas of special flood hazard identified by the flood insurance study (FIS) and attendant mapping are the minimum area of applicability of this code and may be supplemented by studies designated and approved by the board of trustees. The floodplain administrator shall keep a copy of the FIS, DFIRMs, FIRMs and/or FBFMs as such may be available on file and available for public inspection.
- A.C. A floodplain development permit shall be required to ensure conformance with the provisions of these regulations.
- B.D. Within the town, henceforth no land use or structure shall be constructed upon, located within, extended into, converted or altered if within an area of special flood hazard, without first complying with all of the requirements of ~~this code~~ these regulations and other applicable federal and state regulations. Nothing herein shall prevent the board of trustees from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.
- C.E. These floodplain regulations are not intended to repeal, abrogate, or impair any existing easement, covenant, deed restriction, or existing land use or subdivision regulation. When these regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail. Nothing in these regulations shall be construed as exempting an applicant from any other requirement of the town, or other applicable state or federal regulations.
- D.F. In the interpretation and application of these regulations, all provision contained herein shall be:
1. Considered as minimal requirements;
 2. ~~Generally~~ Liberally construed in favor of the board of trustees; and
 3. Deemed neither to limit nor repeal any other power granted to the town under law.
- E.G. These regulations shall not apply to either a nonconforming structure or use except as follows:
1. If a nonconforming structure is damaged or destroyed by any means to the extent that the restoration cost equals fifty percent or more of the fair market value of the structure before the damage occurred, as determined by the ~~board of trustees~~ floodplain administrator or their representative; that, after such a determination, any reconstruction or replacement shall be deemed new construction and shall be subject to all of the provisions of these regulations, including the requirement to apply for and obtain a ~~flood hazard permit~~ floodplain development permit.
 2. Nonconforming uses shall not be expanded upon, and, if continuously discontinued for a period of ~~six~~ nine months, they shall not be reinstated without first complying with all of

the requirements of this ~~floodplain ordinance~~ these regulations, including the requirement to apply for and obtain a ~~floodplain development permit~~ flood hazard area permit.

F.H. The provisions of the ~~ordinance codified in this section and title~~ these regulations shall not apply to any device or structure reasonably held necessary by the permit authority or its representative for the diversion of water or for flood control or prevention, so long as such device or structure has been appropriately designed and constructed in conformance with sound engineering practice so as to minimize potential flood hazard and damage.

~~17.06.06, 17.06.07.~~ **General use restrictions.**

The following use restrictions shall apply to all floodways and areas of special flood hazard areas:

- A. Prohibited Uses. Any development or alteration in, on, or over floodways or areas of special flood hazard areas shall be prohibited, if such development or alteration would alone or in combination with other uses, cause or result in (within floodway or areas of special flood hazard areas):
 - 1. The storing or processing of materials that are buoyant, flammable, explosive, radioactive, or otherwise potentially injurious to human, animal or plant life;
 - 2. The disposal of garbage or other solid or liquid waste materials;
 - 3. The potential of substantial quantities of solid debris or waste being carried downstream.
- B. Public Utilities.
 - 1. Any new or replacement water supply systems shall be designed to eliminate infiltration of flood waters into such system.
 - 2. Any new or replacement sanitary sewage system shall be designed to minimize or eliminate infiltration of floodwaters into such system, as well as discharges from the system into flood water.
 - 3. On-site waste disposal ~~containers—systems~~ shall be located so as to avoid obstructing, impairment to them or contamination of flood waters from them during flooding.
 - 4. Public utility systems shall be located so as to minimize or discourage further development within either floodways or areas of special flood hazard areas.
- C. Land Use. Any land use change, new construction or substantial improvements shall:
 - 1. ~~Be consistent with the town's need~~ constructed by methods and practices that to minimize flood damage;
 - 2. Have public utilities and facilities such as water, sewer, gas, and electrical systems located and constructed so as to minimize susceptibility to flood damage;
 - 3. Have adequate site drainage to reduce exposure to flood damage;
 - 4. Provide base flood elevation data where required;
 - 5. Have no structures, pavement or development within a designated floodplain or special flood hazard area unless it can be demonstrated that the base flood elevation is not increased;
 - 6. Have streets located above the elevation of the base flood;
 - 7. Have all new construction and substantial improvements specifically designed (or modified) and sufficiently anchored to prevent flotation, collapse or lateral movement of structures ~~and to withstand~~ resulting from hydrostatic and hydrodynamic loads, including the effects of bouyancy.

17.D. Construction materials and methods.

1. All new construction and/or substantial improvements shall be constructed only with materials that ~~is~~ are resistant to flood damage;
2. All new construction and/or substantial improvements shall be constructed only by methods and practices that minimize flood damage;
3. Where compacted fill is used as a method of elevating a structure, such fill shall extend fifteen feet beyond the exterior walls of the structure;
4. Grading and preparation of fill shall meet the standards set forth in the provisions of the section(s) dealing with "grading and excavation" of the current edition of the Uniform Building Code adopted by the town.
5. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

~~17.06.07.17.06.08.~~ **Specific use standards.**

~~Specific use standards.~~ In all areas of special flood hazard areas where flood elevation data has been provided by FEMA, or CWCB, the following standards are required:

A. Residential.

1. All new construction, reconstruction and/or substantial improvement of any residential structure, including manufactured and mobile homes, shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated on a permanent foundation to a minimum of one foot above the base flood elevation.
- ~~1-2.~~ Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a Colorado Professional Engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.
- ~~2-3.~~ The town shall not permit connection to its water system or provide water from the system to new construction and/or development unless compliance with flood plain these regulations is met.

B. Nonresidential.

1. Any new construction, reconstruction and/or substantial improvement to any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated on a permanent foundation to a minimum of one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, meet the following requirements:
 - a. Be flood proofed so that below the base flood elevation, the structure is watertight with walls impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads, as well as effects of buoyancy;
 - c. ~~Be certified by a~~ A registered professional engineer or architect that shall develop and/or review structural design, specifications, and plans for construction and shall certify tht the designs and methods of construction are in accordance with

the standards of this subsection, ~~are satisfied.~~ Such certification shall be submitted to the floodplain administrator.

2. The town shall not permit connection to its water system or provide water from the system to new construction and/or development unless compliance with flood plain regulations is met.

C. Manufactured and Mobile Homes.

1. All new construction and substantial improvements shall be elevated on a permanent foundation such that the lowest floor of the manufactured or mobile home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to one foot above the base flood elevation and are anchored to an adequately anchored foundation system to prevent resist flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
2. ~~All manufactured and mobile homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads.~~ Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be include:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured or mobile home, with two additional ties per side at intermediate locations, with manufactured or mobile homes less than fifty feet long requiring one additional tie per side;
 - b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured or mobile homes less than fifty feet long requiring four additional ties per side;
 - c. All components of the anchoring system be capable of carrying a force of four thousand, eight hundred pounds; and,
 - d. Any additions to the manufactured or mobile home be similarly anchored to prevent flotation, collapse, and lateral movement.

D. Enclosures

1. All new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
2. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

E. Floodway

- ~~i.1.~~ Since the floodway is an extremely hazardous area due to the velocity of flood water which carry debris and potential projectiles, as well as the erosion potential; the following restrictions shall apply to the floodway:
- ~~3.~~ The alteration of any channel shall be minimized, except as may be required for improvement of wildlife habitat, or public health, safety and welfare; provided, that in no instance shall such alteration result in any increase in flood levels during the occurrence of the base flood discharge;
2. Encroachments including filling, new construction, substantial improvements, placement of bridges and drainage structures and other development are specifically prohibited; unless, ~~certification by a registered professional engineer licensed in the state of Colorado is provided that demonstrates to the satisfaction of the permit authority that such an encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.~~ it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the town during the occurrence of the base flood discharge.
3. If the above is satisfied, all new construction and substantial improvements shall comply with all the applicable provisions of these regulations.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the town may permit encroachments within the adopted regulatory floodway that would increase in base flood elevations, provided that the town first applies for a CLOMR and floodway revision through FEMA.

F. Properties removed from the floodplain by fill.

1. A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F) unless such new structure or addition complies with the following:
 - a. Residential.
 - i. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the place of fill.
 - b. Nonresidential.
 - ~~i.~~ The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the place of fill.

G. Standards for critical facilities.

1. Classification of Critical Facilities.
 - a. It is the responsibility of the board of trustees to identify and confirm that specific structures in the community meet the following criteria:

- i. Critical facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.
 1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
 2. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers;
 3. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions);
 4. Designated emergency shelters;
 5. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits); and
 6. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines).
- ii. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
- iii. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the board of trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are located outside of the 100-year floodplain or are compliant with the provisions of these regulations, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the board of trustees on an as-needed basis upon request.

iv. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic or water reactive materials.

1. These facilities may include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- b. Laboratories containing highly volatile, flammable, explosive, toxic or water-reactive materials;
- c. Hazardous waste storage and disposal sites; and
- d. Above ground gasoline or propane storage or sales centers.

2. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work plan, AND the chemical(s) is/are stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered a critical facility.

3. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. Reference 29 C.F.R. § 1910 (2010), Occupational Safety and Health Standards; and 40 C.F.R. § 302 (2010), Designation, Reportable Quantities, and Notification incorporated herein by reference.

4. Specific exemptions to this category include:

- a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified profession (as determined by the town) that a release of the subject hazardous material does not pose a major threat to the public.
- c. Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

- d. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in these regulations.
 - v. At-risk population facilities include medical care, congregate care, and schools.
 1. These facilities consist of:
 - a. Elder care (nursing homes);
 - b. Congregate care serving 12 or more individuals (day care and assisted living);
 - c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children.
 - vi. Facilities vital to restoring normal services including government operations.
 1. These facilities consist of:
 - a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - b. Essential structures for public colleges and universities (dormitories, offices and classrooms only).
 2. These facilities may be exempted if it is demonstrated to the board of trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside the 100-year floodplain or are compliant with these regulations, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the board of trustees on an as-needed basis upon request.
2. Protection for Critical Facilities.
 - a. All new and substantially improved critical facilities and new additions to critical facilities located with the areas of special flood hazard shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of these regulations, protection shall include one of the following:
 - i. Location outside the areas of special flood hazard; or
 - ii. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanity facilities, to at least 2 feet above the base flood elevation.

3. Ingress and Egress for New Critical Facilities.

New critical facilities shall, when practicable as determined by the board of trustees, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

G. Standards for Land Use Changes of Major Impact.

1. All Land Use Changes of Major Impact including subdivisions and the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding and if located in a flood-prone area shall minimize flood damage
- 4-2. All Land Use Changes of Major Impact including subdivisions and the placement of manufactured home parks and subdivisions shall meet the floodplain development permit requirements of these regulations.
3. Base flood elevation data shall be generated for Land Use Changes of Major Impact including subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to these regulations.
4. All Land Use Changes of Major Impact shall have adequate drainage provided to reduce exposure to flood hazards.
5. All Land Use Changes of Major Impact including subdivision proposals and the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

18.17.06.09. Administration.

- A. This floodplain ordinance shall apply to all areas of special flood hazards within the jurisdiction of the town. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the Town of Oak Creek, dated February 4, 2005", with an accompanying flood insurance rate map (FIRM) is adopted by reference and declared to be a part of ~~this code~~ these regulations. The flood insurance study and FIRM are on file at Town Hall, 129 Nancy Crawford Blvd, Oak Creek, CO, 80467.
- B. ~~A flood hazard area permit~~ floodplain development permit shall be obtained from the ~~town board~~ floodplain administrator before any construction or development begins within any ~~areas of special flood hazard area~~. Application for a ~~flood hazard area permit~~ floodplain development permit shall be on forms furnished by the ~~county building inspector official or town clerk~~ floodplain administrator's office with other information as set out in Section 17.06.010 (A). Required information shall include, but not be limited to:
 1. ~~Complete development plans, (in duplicate) drawn to a common scale, showing the nature, location, dimension and elevations of the site in question; existing or proposed structures, fill, storage of materials, drainage facilities; as well as the location of the foregoing;~~
 2. ~~Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~
- C. Duties of the town board floodplain administrator shall include, but not be limited to:
 1. ~~Permit Review.~~
 1. Maintain and hold open for public inspection all records pertaining to the provisions of the floodplain ordinance, including actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any required floodproofing certificate.

- ~~18.1.A.1.1.2. Review, approve, or deny all applications for floodplain development permits required by adoption of these regulations. Review all development permits and land use change approvals to determine that the permit requirements of this chapter have been satisfied.~~
- ~~3. Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.~~
 - ~~4. Review all development permits and land use change approvals to determine assure that all necessary permits have been obtained from federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334) from which prior approval is required.~~
 - ~~5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of these regulations including proper elevation of the structure.~~
- ~~18.1.A.1.2.6. Where interpretation is needed as to the exact location of the boundaries of the area of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.~~
- ~~a. Review all development permits and land use change approvals to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this chapter, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.~~
 - ~~i. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.~~
 - ~~ii. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.~~
 - ~~iii. If the proposed development is a building, then the provisions of this floodplain ordinance shall apply.~~
- ~~7. When base flood elevation and floodway data has not been provided in accordance with these regulationsSection 17.06.07, the town boardfloodplain administrator shall obtain at the cost of the applicant, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements or other development in Zone A as delineated on the FIRM map are administered in accordance with Section 17.06.09 inclusive in order to administer these regulations.~~
- ~~8. Pursuant to the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the town may approve certain development in Zones A1-30, AE, AH on the town's FIRM that increases the water surface elevation of the base flood by more than one-half foot, provided that the town has first applied for a conditional letter of map revision (CLOMR), fulfills the requirements for such revisions as established under the provisions of said Section 65.12, and receives FEMA approval.~~

9. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

17.6.2-10. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

D. Information to be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level to which the structure has been floodproofed); and
 - b. Maintain the floodproofing certifications required in Section 17.06.09(D)(8), and
 - c. Maintain for public inspection all records pertaining to the provisions of this section.
3. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
4. Copies of all permits, or applications therefore, required by either federal or state agencies (includes CWCB, FEMA and the U.S. Army Corps of Engineers) for alteration of a floodplain;
5. Site drainage plan prepared by a registered professional engineer licensed in the state of Colorado;
6. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
7. Elevation in relation to mean sea level to which any structure has been floodproofed;
8. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 17.06.07.

~~17.06.08.~~17.06.010. Standards for flood hazard area permit approval~~Permit procedures.~~

A. An application for a floodplain development permit shall be presented to the floodplain administrator on furnished forms and may include, but not be limited to, plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 17.06.08 (B)

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 5. Maintain a record of all such information in accordance with the provisions of Section 17.06.09 (C)(1) and (D).
- B. Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all the provisions of these regulations and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - ~~1-3. In addition to the specific development standards and requirements contained herein, the permit authority shall determine the specific flood hazard at the site, and shall evaluate the suitability of the proposed use in relation to the projected flood hazard. In addition, although not limited to such factors, the permit authority shall consider the following factors:~~The probability that material may be swept onto other lands or downstream to the injury of others;
 - ~~2-4. The compatibility of the proposed use with existing and anticipated development;~~The ability of proposed water supply and sanitary sewer systems, as well as other utility systems to prevent disease, contamination, unsanitary or hazardous conditions during and after a flood;
 - ~~D-5. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage upon the individual owner~~The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - ~~E-6. The availability of alternative locations not subject to flooding for the proposed use;~~
 - ~~F-7. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
 8. The expected height, velocity, duration, rate of rise and sediment transport of floodwaters at the site;
 - G-9. The relationship of the proposed use to the Town of Oak Creek Comprehensive Plan, as such may be amended.
- ~~B. The existence of a flood warning system to notify downstream residents of an impending flood; and~~
- C. The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

17.06.09.17.06.011. Alteration of watercourse.

For all proposed developments that alter a watercourse within an area of special flood hazard, the following standards apply:

- A. The town clerk shall notify Routt County and the Colorado Water Conservation Board prior to any alteration or relocation of any watercourse, and submit evidence of such notification to FEMA; as well as requiring that maintenance is provided in perpetuity within any altered or relocated watercourse so that its flood capacity is not diminished. This may require the town to enter into a contractual arrangement with the applicant prior to issuance of a flood hazard area

~~permit~~Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly migrate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

- B. ~~Before altering any watercourse, the applicant shall present to the permit authority, copies of all permits or applications therefore, required by federal and state agencies (including CWCB, FEMA and the U.S. Army Corps of Engineers) for alteration of a watercourse or floodplain~~Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- C. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all Federal, sTate and local floodplain rules, regulations and ordinances.
- D. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
- E. All activities within the regulatory floodplain shall meet all application Federal, State and Town floodplain requirements and regulations.
- F. Within the regulatory floodplain, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is no more than a 0.00 foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, as evidenced b a no-rise certification, unless the community first applies for a conditional letter of map revisions (CLOMR) and floodway revision in accordance with Section 17.06.08 (E) of thee regulations.
- B.G. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

~~17.06.010.17.06.012.~~ **Enforcement and penalties.**

Prior to the issuance of a certificate of occupancy, the town's public works director~~floodplain administrator~~ shall inspect any structure covered by a flood-hazard area ~~permit~~floodplain development permit to determine that it was built in full compliance with these regulations. If it is found that development is inconsistent with the floodplain development permit, the violation and any subsequent enforcement will be undertaken pursuant to Section 17.09.03.