

CHAPTER 6: CRITICAL AREAS

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CHAPTER 6: CRITICAL AREAS

Section 6.1

Section 6.1

PURPOSE

There are certain lands in Teller County that have the potential to pose hazards to property and human life and safety because of physical characteristics including floodability, geology, vegetation, or soils conditions. There are other lands in Teller County, such as unique land formations, wildlife habitat, and old Native American sites, railroad sites, and mining sites that are valuable natural, cultural, or historic resources that should be protected and preserved for the use, enjoyment, and benefit of the present and future people of the County. The purposes of *Chapter 6 Critical Areas* are: (1) to help ensure that development on potentially hazardous lands is accomplished in a manner that protects the safety of inhabitants and minimizes environmental and aesthetic impacts; (2) to help provide for the protection of the County's wildlife and riparian areas, and other natural, historical, or cultural resources; and (3) to help preserve ambient air quality and water quality and quantity, in order that the County's healthy and attractive mountain environment, as well as for its economic vitality, may be maintained and enhanced.

A. **Critical Areas.** Teller County has identified and designated certain areas of the County as Critical Areas of environmental or cultural and historic concern. These are:

1. Flood hazard areas
2. Geologic or geological hazard areas
3. Wildfire hazard areas
4. Wildlife habitat impact areas
5. The Historic Preservation (HP) Overlay Zone District
6. The National Monument Protection (NP) Overlay Zone District
7. The Environmental Health (EH) Overlay Zone District

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ENVIRONMENTAL DESCRIPTION

When submittal of an Environmental Description is required by these Regulations, Applicant shall submit it at the Pre-Submittal Meeting (see *Section 3.4.B*). The Environmental Description shall include (1) a written description of the general environmental and other Critical Area characteristics of the site, addressing, at a minimum, items A.1 through A.8 below; and (2) a site and topographic map or maps, or other graphic information, at a scale sufficient to clearly depict them. The purpose of such information is to provide a general overview of the potential effects of the proposed development on the physical characteristics of the site and contiguous, adjoining, and adjacent properties, and to ascertain whether one or more specific *Section 6 Critical Area* studies or other

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type of environmental impact assessment may be necessary.

A. Contents. Items to be considered in the Environmental Description include the following:

1. Topography, especially areas greater than 30% slope.
2. Water features and riparian areas, including streams and ponds, wetlands, floodplains, and natural drainage features.
3. Geology and soils of the site, considering especially any areas of geologic hazard and unusual geological features.
4. Primary vegetation and plant communities.
5. Wildlife species and wildlife habitat, including habitat designation according to Colorado Division of Wildlife mapping.
6. Wildfire hazard area designation(s).
7. Archaeological and other historic sites.
8. Other elements of the site that contribute to its environmental and other Critical Area characteristics.

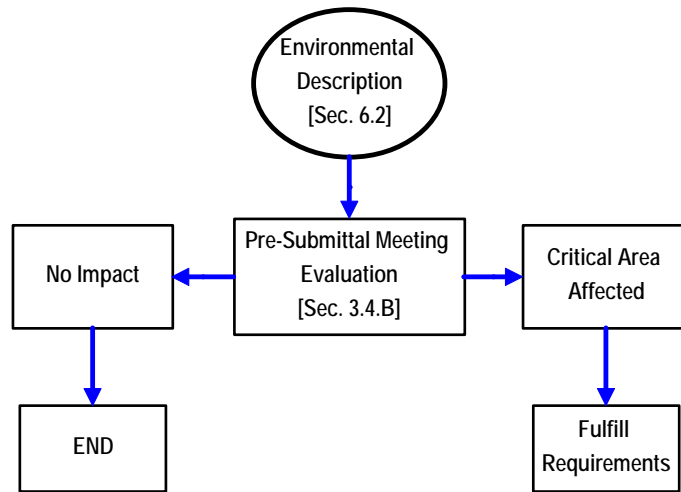
B. Determination. Determination of the need to fulfill specific *Chapter 6* Critical Area requirements or provide further environmental assessment(s) shall be given to the Applicant in writing pursuant to the Pre-Submittal Meeting. Such determination will be based on the degree to which the following are present in the application:

1. An ecological unit or land form, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse, or other natural land form feature is substantially altered.
2. A wildlife habitat, feeding, calving, or nesting ground is directly or indirectly affected.
3. Native grasses, trees, shrubs, or other vegetative cover is substantially altered or removed.
4. Avalanche, landslide, siltation, settlement, flood, or other major land form change or hazard to health and safety may result.
5. Toxic or thermally abnormal substances are discharged; or use of herbicides or pesticides is involved; or substantial smoke, gas, steam, dust, or other particulate matter is emitted.
6. Any process which results in odor beyond the property boundaries

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that may be objectionable or damaging is involved.

7. Any waste treatment, cooling, or settlement pond is required, or transportation of solid or liquid wastes from the site to a treatment or disposal site is required.
8. Substantial volumes of solid or liquid wastes are discharged.
9. Demand on existing or planned sewage disposal, storm drainage, or other utility systems is increased to a level which is likely to cause an adverse impact on the environment.
10. Any process which generates noise levels beyond the property boundaries that may be offensive or damaging is involved.
11. Substantial numbers of people are displaced, or a substantial increase in population results.
12. Local established traffic patterns are altered, or a substantial increase in traffic volume or transit service needs results.
13. A use is a part of a larger project which, at any future stage, may involve any of the impacts listed above.



**Section 6.3
FLOOD HAZARD AREAS**

Section 6.3

Flood Hazard Areas are those areas subject to periodic inundation which could potentially result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base — all of which adversely affect the public health, safety and general welfare.

The hazards and losses associated with flooding are compounded by the

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cumulative effect of allowing development and other obstructions to be placed in Areas of Special Flood Hazard. Buildings that are inadequately elevated, flood-proofed, or otherwise protected, may be damaged and contribute to the magnitude of loss. Obstructions can increase flood elevations and velocities, and, if not properly anchored, may cause damage downstream and in adjoining and/or adjacent areas.

The following regulations have been adapted from the model *Flood Damage Prevention Ordinance* (Version D) prepared by the Federal Emergency Management Agency (FEMA) that is intended to comply with the National Flood Insurance Program (NFIP) requirements found at Title 44, Code of Federal Regulations (CFR), Section 60.3(d).

Section 6.3.1 General Provisions

Section 6.3.1

A. Purpose. The State of Colorado has delegated to local jurisdictions the responsibility for adopting regulations designed to minimize public and private losses associated with flooding. Specifically, it is the purpose of *Section 6.3* of these Regulations to:

1. Help protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public infrastructure, facilities, and utilities including water and gas mains, electric, telephone and sewer lines, streets and bridges located in Areas of Special Flood Hazard;
6. Help maintain a stable tax base by providing for the sound use and development of Areas of Special Flood Hazard so as to minimize future flood blight areas;
7. Help ensure that potential buyers are notified that property is in an Area of Special Flood Hazard; and,
8. Help ensure that those who occupy the Areas of Special Flood Hazard assume responsibility for their actions.

B. Methods of Reducing Flood Losses. In order to accomplish its purposes, these Flood Hazard Area regulations rely on the following methods:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which

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6.3.1.B.1**

result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

C. Lands to Which These Regulations Apply. These regulations shall apply to all construction and alterations proposed on land within Teller County designated by FEMA as “Areas of Special Flood Hazard” (or “Special Flood Hazard Areas”). These Areas of Special Flood Hazard are depicted on Flood Insurance Rate Maps (FIRM) published by FEMA in conjunction with the NFIP, dated September 25, 2009, as such maps may be subsequently revised and replaced by FEMA. Associated discharge and water surface elevation data is published in a scientific and engineering report entitled, "The Flood Insurance Study for Teller County," also dated September 25, 2009, or as may be subsequently revised and replaced by FEMA. The County Planning Department shall keep all documents on file and available to the public. The Flood Insurance Study contains detailed flood profile and discharge data for Fountain Creek, East Fork Fountain Creek, Loy Gulch, and Trout Creek, and partial discharge data for Paint Pony, East Fork Paint Pony and Lovell Gulch. The FIRM maps provide approximate floodplain information for various other streams in the County. [*am.* BOCC 01-14-10 (01)]

D. Activities to Which These Regulations Apply. No structure or land shall hereafter be constructed, located, extended, converted or altered within an Area of Special Flood Hazard without fully complying with the terms of these Flood Hazard Area regulations and other applicable regulations. In addition to buildings, Teller County interprets this provision broadly to include all construction and alterations including accessory buildings, fences (except barbed wire), retaining walls, grading, filling, and other development activity (see *Section 6.3.2 Definitions*).

E. Enforcement and Penalties. Any person, individual, firm, corporation, partnership, or other entity, engaging in development in a designated or

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regulated Flood Hazard Area who does not obtain a permit pursuant to these Regulations, who does not comply with Permit requirements, who acts outside the authority of the Permit, or who otherwise violates any of the provisions of these Flood Hazard Area Regulations, may be enjoined by Teller County from engaging in such development and may be subject to such other enforcement and criminal or civil liability as may be prescribed by law.

- F. Interpretation.** In the interpretation and application of these Regulations, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and, (3) deemed neither to limit nor repeal any other powers granted under State statutes.
- G. Warning and Disclaimer of Liability.** The degree of flood protection required by 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 man-made or natural causes. These Regulations do 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. These Regulations shall not create liability on the part of Teller County, any officer or employee of thereof, or FEMA, for any flood damages that result from reliance on these Regulations or any administrative decision made thereunder.

Section 6.3.2 Definitions

Section 6.3.2

Unless specifically defined below, or elsewhere in the Teller County Land Use Regulations, words or phrases used in *Section 6.3 Flood Hazard Areas* of these Regulations shall be interpreted so as to give them the meaning they have in common usage and to give these Regulations their most reasonable application. The definitions below may not be fully consistent with other definitions provided in these Regulations and, therefore, as used in *Section 6.3* they shall apply only to *Section 6.3*.

- A. Appeal.** A request for a review of the Teller County Floodplain Administrator’s interpretation of any provision of these Regulations, or a request for a Variance.
- B. Area of Shallow Flooding.** A designated AO or AH zone on the Teller County FIRM with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- C. Area of Special Flood Hazard.** The land within the floodplain subject to a one-percent or greater statistical probability of flooding in any given

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year. Also referred to as “Special Flood Hazard Area,” “Flood Hazard Area,” or simply “floodplain.”

- D. **Base Flood.** The flood having a one-percent statistical probability of being equaled or exceeded in any given year. Also referred to as the “100-year flood” because the statistical probability of occurring is “once in a hundred years.”
- E. **Base Flood Elevation.** The water surface elevation, expressed in feet above mean sea level, of the Base Flood. Informally, may also be expressed as depth, in feet above streambed.
- F. **Basement.** Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.
- G. **Building.** (1) A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or (2) a manufactured home; or (3) a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the provisions of *Section 6.3* and other sections of the Land Use Regulations, and all other applicable Federal, State and local statutes, laws, codes, resolutions, ordinances, and regulations. “Building” does not mean a gas or liquid storage tank or a recreational vehicle, park trailer, or other similar vehicle, except as described above.
- H. **Conditional Letter of Map Revision (CLOMR).** FEMA’s comment on a proposed project that would affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective Base Flood Elevations. The CLOMR describes the revisions that could be made to the FEMA map in the future, after the modification is in place and functioning effectively. The CLOMR also states whether the completed project would be in compliance with the minimum floodplain management requirements of the NFIP. A CLOMR may precede a Letter of Map Revision (LOMR), and may be a FEMA requirement in certain circumstances.
- I. **Crawlspace.** A solid perimeter wall foundation, or other enclosure below the lowest floor elevation, used to elevate a structure. Formerly considered by FEMA (prior to 2002), for the purpose of Special Flood Hazard Area regulation, to be the same as a basement. See *Section 6.3.4.B.3* for situations where below-grade crawlspace construction in the Special Flood Hazard Area may be allowed.
- J. **Development.** Any man-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the Area of Special Flood Hazard.

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- K. Elevation Certificate.** A form published by FEMA used to certify the elevation of the lowest floor (including basement) of all new and substantially improved structures, or simply the elevation of the reference level of a building, as required under these Regulations. (Refer to *Section 6.3.3.A.3 Information to be Obtained and Maintained* and *Section 6.3.3.B Floodplain Development Permit.*) The Elevation Certificate is to be completed by a State of Colorado Licensed Professional Land Surveyor, or Registered Professional Architect or Engineer, licensed in the State of Colorado, who is authorized to certify elevation information. A “preliminary” Elevation Certificate, based on information provided in construction drawings, may be required prior to construction. A revised final Elevation Certificate is required when construction is complete. See also “Preconstruction Survey.”
- L. Existing Construction.** For the purposes of determining rates, structures for which the "start of construction" commenced before the publication date of the Flood Insurance Study for Teller County (September 30, 1988). May also be referred to in *Section 6.3* as “legally existing construction” or “legally existing structures.”
- M. FEMA (Federal Emergency Management Agency).** The Federal agency under which the NFIP is administered.
- N. Finished (Habitable) Area.** An enclosed area having more than 20 linear feet of finished walls (paneling, etc.) or used for any purpose other than solely for parking of vehicles, building access, or storage.
- O. Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters; (2) The unusual and rapid accumulation or runoff of surface waters from any source; (3) mudflow; or (4) collapse or subsidence of land along the shore of a lake or similar body of water, as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, that results in a flood as defined above.
- P. Flood Insurance Rate Map (FIRM).** The official set of maps published by FEMA delineating both the Special Flood Hazard Areas and Risk Premium Zones. (See *Table 6-1 Teller County Flood Hazard Area Designations* below.)

Table 6-1 Teller County Flood Hazard Area Designations	
Flood Hazard Area - 100-Year Flood Insurance Risk Rate Zones	Meaning
≥500-year flood boundary	Minimal Flood Hazard Area
Between 100-year and 500-year flood boundaries	Moderate Flood Hazard Area
≤100-year flood boundary:	Special Flood Hazards Area

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Zone A	Subject to inundation by the 100-year flood. <u>Base flood elevations not known.</u> Mandatory flood insurance (as required by the Flood Disaster Protection Act [1973] and National Flood Insurance Reform Act [1994]).
Zone AE	Subject to inundation by the 100-year flood. <u>Base flood elevations known.</u> Mandatory flood insurance (as required by the Flood Disaster Protection Act [1973] and National Flood Insurance Reform Act [1994]).
Zone AH	Subject to inundation by 100-year shallow flooding (ponding, sheet flow on sloping terrain); average depths between one and three feet. <u>Base flood elevations known.</u> Mandatory flood insurance (as required by the Flood Disaster Protection Act [1973] and National Flood Insurance Reform Act [1994]).
Zone AO	Does not appear on Teller County maps.
Zones X	Identified as areas of moderate or minimal hazard from the principal source of flooding in the area. Includes: (1) areas of 500-year flood, or areas of 100-year flood with average depths of less than one foot or drainage areas less than one square mile, or areas protected by levees from 100-year flood; (2) areas outside the 500-year flood. <i>Note:</i> Buildings could be flooded by severe, concentrated rainfall coupled with inadequate or failed local drainage. <i>Local stormwater drainage systems are not normally considered in a Flood Insurance Study.</i> Flood insurance is available but not required by FEMA.
Zone D	Does not appear on Teller County maps.

Sources: (1) Teller County Flood Insurance Rate Map set; (2) Department of Natural Resources *et al.*, "Flood Hazard Mitigation Plan for Colorado," February, 1998.

- Q.** **Flood Insurance Study.** An official examination, evaluation, and determination of flood hazards published by FEMA. The report includes flood profiles, the water surface elevations of the Base Flood, and the Flood Boundary-Floodway Map.
- R.** **Floodplain.** Any land area susceptible to being inundated by water from

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any source. See “Flood or Flooding.” River valleys, dry washes, alluvial fans, areas subject to high water tables, and low-lying areas where water may accumulate are common floodplain indicators. The Floodway and the Flood Fringe are components of the Floodplain. (See *Figure 6-1 The Floodplain* below.)

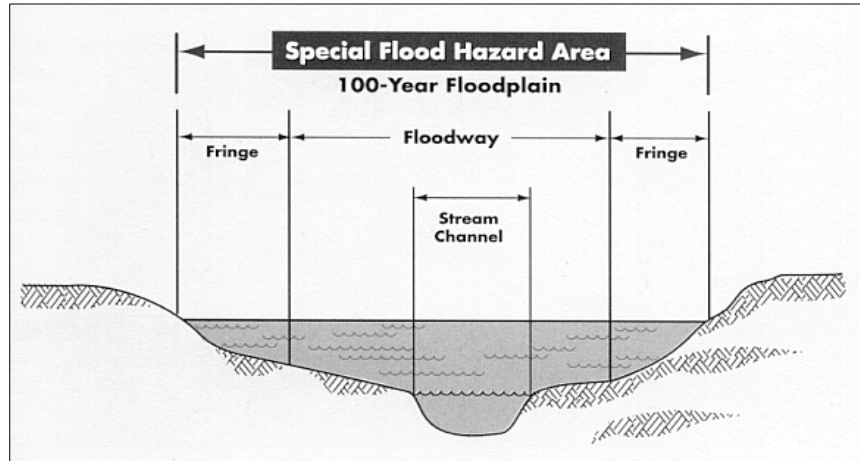


Figure 6-1 The Floodplain

- S. **Floodplain Study.** A hydrologic and hydraulic analysis performed by a Registered Professional Engineer licensed in the State of Colorado, for the purpose of generating Base Flood Elevation data as required in *Section 6.3.4.A.4 Subdivision Proposals*. Distinguish from Hydraulic Analysis (see definition).
- T. **Flood Prone Area.** Any land area susceptible to being inundated by water from any source, the water surface elevations of which have not been determined by detailed engineering study. Flood Prone Areas are equivalent to general Special Flood Hazard Areas designated “Zone A” on FIRMs, and to “Flood Prone Areas” on the U.S. Geological Survey Flood Prone Area Maps.
- U. **Floodproofing.** Generally, any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate the risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents (*e.g.* waterproofing, elevating the structure, anchoring, installing openings to equalize hydrostatic pressure, *etc.*). More specifically, in these Regulations the term Floodproofing is reserved to describe the practice of making watertight and impermeable to the passage of floodwaters those portions of a structure below the Base Flood Elevation. In Teller County only non-residential buildings can be floodproofed. Residential structures must meet the elevation requirements of *Section 6.3.4.B.1 Residential Construction* or *Section 6.3.4.C.2 Areas of Shallow Flooding (Residential)*.
- V. **Floodproofing Certificate.** A form published by FEMA used to certify

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compliance with the floodproofing standards stipulated in these Regulations. The Floodproofing Certificate is to be completed by a Registered Professional Engineer or Architect, licensed in the State of Colorado, who is authorized to certify such information. (Refer to *Section 6.3.3.A.3 Information to be Obtained and Maintained*, *Section 6.3.3.B Floodplain Development Permit*, and *Section 6.3.4 Provisions for Flood Hazard Reduction*.)

- W. Floodway.** The channel of a river or other watercourse and the adjoining and/or adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. More specifically, the Floodway is defined hydraulically as the theoretically constrained cross-sectional area (and associated width) of a stream channel, plus any adjoining and/or adjacent land areas, required to convey the base flood without cumulatively increasing the water surface elevation more than one foot, relative to an unconstrained situation. Floodways are typically defined using hydraulic models that simulate the effect of allowing the flood fringe to be “filled” until the allowable increase in water surface elevation (one foot) is reached (*i.e.*, “equal conveyance reduction”). Note that the “one-foot increase” allowed here is only for the purpose of defining the floodway. See *Section 6.3.4.C* for specific regulations concerning proposed modifications to a floodway, which allow for *zero* increase in the water surface elevation anywhere within the Floodplain. If the Floodway is not identified on the FIRM map, it is considered to be identical to the designated floodplain. However, in no instance shall the floodway-flood fringe boundary be closer than 25 feet to the natural streambank.
- X. Floodway Fringe or Flood Fringe.** Those areas denoted on the FIRM that are adjoining and/or adjacent to the Floodway and within the 100-year Floodplain. Development and other forms of encroachment may be permitted in the Floodway Fringe under certain circumstances.
- Y. Freeboard.** An additional amount of height above the Base Flood Elevation used as a factor of safety (*e.g.*, two feet above Base Flood Elevation) in determining the level at which a structure’s lowest floor must be elevated or floodproofed to be in accordance with State or local floodplain management regulations. In Teller County, there is no additional freeboard requirement above the Base Flood Elevation.
- Z. Historic Structure.** Any building that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Federal Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or (c) individually listed in the State of Colorado inventory of historic places; or (d)

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individually listed on any certified or approved local inventory of historic places.

- AA. **Hydraulic Analysis.** An analysis performed by a Registered Professional Engineer licensed in the State of Colorado, for the purpose of demonstrating compliance with the Floodway encroachment standards provided for at *Section 6.3.4.C.1 Floodways*, or Floodway Fringe encroachment standards provided for at *Section 6.3.4.C.3 Extensive Alteration of the Floodway Fringe*. Also referred to as a “No-Rise Analysis.”
- BB. **Letter of Map Amendment (LOMA).** An amendment to the FIRM that establishes that a property is not located in a Special Flood Hazard Area, usually because it has otherwise been demonstrated that the existing FIRM map is inaccurate in some way. A LOMA is sometimes also used to verify that a proposed development may be in close proximity to, but not within, a Special Flood Hazard Area. A LOMA is issued only by FEMA. (Refer to *Section 6.3.3.B.3.d Permit not Required.*)
- CC. **Letter of Map Revision (LOMR).** An official amendment to the FEMA map. A LOMR may change flood insurance risk zones, floodplain boundary delineations, planimetric features, or Base Flood Elevations. A LOMR is issued by FEMA; however, any request for a LOMR must be approved by Teller County. A LOMR is typically required when a floodplain is altered or when new data (*e.g.*, from a Floodplain Study) is provided. See also “Conditional Letter of Map Revision (CLOMR).”
- DD. **Lowest Floor (Bottom Floor).** The lowest floor of the lowest enclosed area. Includes all habitable and potentially habitable space, including unfinished basements. (See definition of “Basement.”) An unfinished or flood resistant enclosure usable solely for parking vehicles, building access, or storage in an area other than a basement (*e.g.*, garage, entryway, enclosure around an elevated structure) 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 requirement of Section 60.3 of the NFIP regulations (*i.e.*, anchoring, hydrostatic equalization, and floodproofing requirements specified in *Section 6.3.4 Provisions for Flood Hazard Reduction*. or elsewhere in these Regulations).
- EE. **Manufactured Home.** A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days. The term "manufactured home" does not include "recreational vehicles" unless they are used as described above.

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- FF.** **Manufactured Home Park or Subdivision.** A parcel, or contiguous parcels of land created through subdivision, where three or more manufactured homes are affixed, either for rent or for sale, where facilities (including any of the following: utilities, streets, final site grading, or the pouring of concrete pads) have been constructed to service the homes.
- GG.** **Manufactured Home Park or Subdivision, Existing.** A manufactured home park or subdivision completed before the publication date of the Flood Insurance Study for Teller County.
- HH.** **Manufactured Home Park or Subdivision, Expansion of Existing Facility.** The development of additional manufactured home sites within or contiguous to an existing manufactured home park or subdivision.
- II.** **Manufactured Home Park or Subdivision, New.** A manufactured home park or subdivision completed on or after the publication date of the Flood Insurance Study for Teller County.
- JJ.** **New Construction.** Structures for which the “Start of Construction” (see definition) commenced on or after the publication date of the Flood Insurance Study for Teller County.
- KK.** **Preconstruction Survey.** A rudimentary survey performed by a State of Colorado Licensed Professional Land Surveyor prior to construction for the purpose of establishing a “building envelope” to ensure that a proposed structure is properly located on a site to ensure compliance with the elevation requirements of these Regulations. See *Section 6.3.3.B.1.g Submittal Requirements*.
- LL.** **Recreational Vehicle.** A vehicle that is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- MM.** **Special Flood Hazard Area.** See “Area of Special Flood Hazard.”
- NN.** **Start of Construction.** The date a Building Permit is issued for either new construction or substantial improvement, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 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. For the purpose of establishing “start of construction,” permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the

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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 other purposes, these activities may be considered permanent construction.) 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.

- OO. Structure.** A walled and roofed building or manufactured home that is principally above ground.
- PP. Substantial Damage.** 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 before the damage occurred.
- QQ. Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (a) any 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 to ensure safe living conditions; or (b) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- RR. Variance.** A grant of relief from the requirements of these Flood Hazard Regulations that permits construction in a manner that would otherwise be prohibited by these Regulations.
- SS. Violation.** The failure of a structure or other development to be fully compliant with these Flood Hazard regulations. A structure or other development constructed without an Elevation Certificate, Floodproofing Certificate, or other evidence of compliance with these Regulations is presumed to be in violation until such time as that documentation is provided.

Section 6.3.3 Floodplain Administration

- A. Floodplain Administrator.** The Planning Director, or the Planning Director's designee, is hereby authorized to function as the Floodplain Administrator, responsible for implementing and administering these *Section 6.3 Flood Hazard Area* regulations. Specific duties and responsibilities of the Floodplain Administrator include the following:

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1. **Permit Review.** In cooperation with the Planning Department, Building Department, and other departments and agencies involved in reviewing development activities, review development permit applications to determine if proposed development could potentially be within a Flood Hazard Area and subject to these Regulations. If so, require that a Floodplain Development Permit application be submitted and ensure the following:
 - a. That the requirements of these Regulations have been satisfied.
 - b. That all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required.
 - c. That it can be determined whether the proposed development is located in the floodway. If located in the floodway, ensure that the encroachment provisions of *Section 6.3.4.C.1.a Floodways* are met.
2. **Use Other Base Flood Data.** When Base Flood Elevation data has not been provided in accordance with *Section 6.3.1.C Lands to Which This Section Applies*, the Floodplain Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and Floodway data available from any Federal, State, or other source (*e.g.*, Floodplain Study). Where Base Flood Elevation data from these other sources is used, all new construction, substantial improvements, or other development in Zone A (*i.e.*, where Base Flood Elevation data is **not** known) are administered in accordance with *Section 6.3.3 Information to be Obtained and Maintained*, and *Section 6.3.4.B Specific Standards* where Base Flood Elevation data **is** known.
3. **Obtain and Maintain Information**
 - a. 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, whether or not the structure contains a basement. Verification of elevation shall be provided by the Applicant's State of Colorado Licensed Professional Land Surveyor, or Registered Professional Architect or Engineer, licensed in the State of Colorado and qualified to practice in this area of expertise, in the form of an Elevation Certificate.
 - b. For all new or substantially improved floodproofed structures: (1) verify and record the actual elevation (in relation to mean sea level) to which the structure has otherwise been floodproofed; and (2) maintain the floodproofing certifications required in *Section 6.3.4.B.3 Openings and Enclosures Below Lowest Floor*.

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- c. Maintain for public inspection all records pertaining to the provisions of these Regulations.

4. Where Watercourses are Altered

- a. 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.
- b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

- 5. Interpret FIRM Boundaries.** Make interpretations, where needed, as to the exact location of the boundaries of the Areas of Special Flood Hazard (by way of example **only**, where there appears to be a conflict between a mapped boundary and actual field conditions). The person, individual, firm, corporation, partnership, or other entity contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in *Section 6.3.5 Appeal or Variance Request*.

B. Floodplain Development Permit. A Floodplain Development Permit shall be obtained before beginning any type of construction or development in any Special Flood Hazard Area, and before seeking any other development permit, including a Building Permit. (Refer to *Section 6.3.1.D Activities to Which These Regulations Apply*.) An application for a Floodplain Development Permit, and associated supporting materials, is required whenever, in the opinion of the Floodplain Administrator, a proposed development activity appears to be in a Flood Hazard Area, even if it is subsequently determined that it is not.

1. Submittal Requirements

- a. **Completed Permit Application Form.** The Floodplain Development Permit application form, obtained from the Teller County Planning Department.
- b. **Avoidance Statement.** A statement clearly describing the reason why development in a Special Flood Hazard Area is necessary.
- c. **Flood Insurance Rate Map (FIRM).** A photocopy, in duplicate, of that portion of the FIRM encompassing the vicinity of the proposed development activity, adjusted to scale and with property boundaries and proposed structures superimposed onto the Map.

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- d. **Site Plan.** Two copies of a scale drawing depicting property boundaries, proposed improvements, the approximate boundaries of the Flood Hazard Area. At a minimum, the Site Plan shall be drawn to a level of detail consistent with that required for a Minor Building Permit application (*Section 7.3.B Particular Requirements: Minor Building Permit Site Plan*) enhanced with the following supplemental information.
- (1) **Approximate boundaries of the Flood Hazard Area.** This information can be obtained from the Flood Insurance Rate Maps, and shall be adjusted to scale and superimposed on the Site Plan.
 - (2) **Existing structures.** All existing structures shall be depicted, including retaining walls, fences, and drainage structures, within 100 feet of the boundaries of the Flood Hazard Area.
 - (3) **Alterations.** The extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed development shall be depicted and described using notes.
 - (4) **New Obstructions.** Any proposed construction activity, including buildings, retaining walls, fences, drainage structures, fills, and storage of materials, which could affect the hydraulic capacity of the Floodway shall be depicted and described using notes.
 - (5) **Elevations.** Building floor elevations (with respect to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures shall be depicted. Where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above it shall be shown. For **nonresidential structures**, the elevation to which the structure shall be floodproofed as required in *Section 6.3.4.B.2 Nonresidential Construction* shall be indicated.
 - (6) **Other information.** As may be required by the Floodplain Administrator.
 - (7) **Note.** It is strongly advised, **but not required**, that the Site Plan be prepared by a licensed professional. Upon completion of construction, an Elevation Certificate verifying the actual elevation of the lowest

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floor to be no lower than allowed **is required** to be submitted by a State of Colorado Licensed Professional Land Surveyor, or Registered Professional Architect or Engineer, licensed in the State of Colorado, authorized to certify elevation information (refer to *Section 6.3.3.A.3 Information to be Obtained and Maintained*). A “Preconstruction Survey” is also required (see *Section 6.3.3.B.1.g*, below).

- e. **Mitigation Measures.** A narrative description and technical specifications shall be provided that demonstrate, as applicable, compliance with *Section 6.3.4 Provisions for Flood Hazard Reduction* of these Regulations concerning anchoring, building elevation, hydrostatic equalization, floodproofing, and other mitigation measures. Certain standards may require that a Registered Professional Engineer or Architect, licensed in the State of Colorado, certify that the proposed measures are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the Base Flood. Permit approval may be contingent on agreement to submit an Elevation Certificate or Floodproofing Certificate upon completion of construction, that verifies the actual elevation of the lowest floor or elevation to which the structure is otherwise floodproofed.

- f. **Other Construction Specifications.** A narrative description and technical specifications for any proposed filling, dredging, grading, channel alterations, material storage, water supply systems, or wastewater treatment facilities not otherwise specifically mentioned in *Section 6.3.4 Provisions for Flood Hazard Reduction* shall be provided. All new and replacement public and private infrastructure or facilities including electrical, gas, sewer, septic, or water systems within or across a Flood Hazard Area shall be designed by a Registered Professional Engineer licensed in the State of Colorado and certified that the Flood Hazard Area has been appropriately considered in order to minimize or eliminate flood damage, infiltration of flood waters into the system, or contamination of any kind. Further, all Colorado Department of Health regulations regarding design and construction of such infrastructure or facilities shall be followed.

- g. **Preconstruction Survey.** A “Preconstruction Survey” is required prior to construction to ensure that the proposed structure is located within a suitably defined “building envelope” so that, accounting for architectural design, the

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completed structure will satisfy the elevation requirements of these Regulations (*Section 6.3.4.B Specific Standards*). Prior to construction, verification that such a building envelope has been staked on the property shall be demonstrated by submitting a written statement prepared by the licensed professional conducting the survey, along with a “preliminary” Elevation Certificate, based on information provided in construction drawings. A revised Final Elevation Certificate will be required when construction is complete. If the precise location of the structure has not been determined at the time of application, submittal of the Elevation Certificate may be a condition of final permit approval in order to allow for review and determination by the Floodplain Administrator.

- h. Floodproofing Certificate.** If required, a completed form published by FEMA certifying compliance with the floodproofing standards stipulated in these Regulations shall be provided (refer to *Section 6.3.3.A.3 Information to be Obtained and Maintained*; *Section 6.3.3.B Floodplain Development Permit*; and *Section 6.3.4 Provisions for Flood Hazard Reduction*). The Floodproofing Certificate shall be completed by a Registered Professional Engineer or Architect, licensed in the State of Colorado, who is authorized to certify such information.
- i. Hydraulic Analysis.** If, in the opinion of the Floodplain Administrator, the proposed development appears to be located within the Floodway, the Applicant shall submit a Hydraulic Analysis, prepared by a Registered Professional Engineer licensed in the State of Colorado and qualified to practice in this area of engineering, in order to determine whether the proposed development is in fact located in the Floodway, and, if so, to ensure that the requirements of *Section 6.3.4.C.1 Floodways* concerning encroachment are satisfied. A Hydraulic Analysis may also be required if other deliberate alterations are proposed to the Floodway (see *Section 6.3.4.C.1 Floodways*), and in certain circumstances (in combination with a Floodplain Study) where Base Flood Elevation data does not exist (see *Section 6.3.4.A.4 Subdivision Proposals*). A Hydraulic Analyses must meet the technical standards established by the Colorado Water Conservation Board, to which it must be submitted for review and approval.
- j. Floodplain Study.** Under certain circumstances, a Floodplain Study may be required for the purpose of generating Base Flood Elevation data (see *Section 6.3.4.A.4 Subdivision Proposals*). A Floodplain Study must meet the

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technical standards established by the Colorado Water Conservation Board, to which it must be submitted for review and approval.

- k. **FEMA Map Revision Application.** In the event that it is necessary to request an official amendment or revision to the FIRM map (*e.g.*, when a floodplain is altered or when new data from a Floodplain Study is provided), the Applicant shall prepare and submit the appropriate NFIP map change application (typically either for a LOMA or LOMR, see *Section 6.3.2 Definitions*) for approval by the Teller County Floodplain Administrator and submittal to FEMA. (See also *Section 6.3.3.B.3.d Permit Not Required.*)
 - l. **Other.** Applicant shall submit other materials as may be required by the Floodplain Administrator in order to determine if appropriate design and performance standards have been met.
 - m. **Waiver of Submission Requirements.** The Floodplain Administrator may waive part, but not all, of the submission requirements imposed by these Regulations. Applicant shall petition for such waiver. The petition shall state and document which specific portion of the submission requirements does not apply to the development; or how full compliance with the submission requirements would be unreasonably burdensome; or that the proposed development will not have a substantial impact on the surrounding area. Such a waiver may be granted upon a written determination by the Floodplain Administrator that (1) the information to be submitted is sufficient to arrive at a permit decision in full compliance with the law and these Regulations; and (2) that the proposed development will not have a substantial impact on the surrounding area.
2. **Evaluation Standards.** Floodplain Development Permit applications shall be evaluated by the Floodplain Administrator to determine if proposed activities, and associated application materials, comply with all of the technical standards and procedures specified in these Regulations.
3. **Determination.** Approval or disapproval of a Floodplain Development Permit application shall be issued by the Floodplain Administrator based on an evaluation of the applicable standards set forth in *Section 6.3.4. Provisions for Flood Hazard Reduction* and elsewhere in these Regulations, and all applicable Teller County and other building code requirements.
- a. **Notification.** Notification of approval may be provided to the Applicant either implicitly by issuing associated

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- development permits (*e.g.*, subdivision approval, Building Permit, *etc.*) or, if necessary, by separate letter. Notification of disapproval shall be provided to the Applicant in writing.
- b. **Conditions May Attach.** Permit approval may be contingent upon certain conditions, including agreement to submit an Elevation Certificate or Floodproofing Certificate upon completion of construction that verifies that the actual elevation of the lowest floor or elevation to which the structure is otherwise floodproofed is no lower than allowed.
 - c. **Expiration.** The Floodplain Development Permit shall expire at the end of twelve months from its issuance if construction has not begun (see *Section 6.3.2 Definitions: "Start of Construction"*).
 - d. **Permit Not Required.** If, after reviewing the Floodplain Development Permit application, it is determined that the proposed development appears not to be within an established Area of Special Flood Hazard, the Floodplain Administrator may either (1) terminate further review of the proposal under the provisions of these Flood Hazard Area regulations; or (2) direct the Applicant to apply for a Letter of Map Amendment (LOMA) to obtain formal verification from FEMA that the proposed development is not within an Area of Special Flood Hazard. In either case, the action shall be recorded and maintained for review according to the provisions of *Section 6.3.3.A.3 Information to be Obtained and Maintained.*
4. **Fee Authorized.** A fee for processing a Floodplain Development Permit application is hereby authorized. Refer to the fee schedule established by Resolution of the Board of County Commissioners for the exact amount.

Section 6.3.4 Provisions for Flood Hazard Reduction

- A. **General Standards.** In all Areas of Special Flood Hazard, **regardless of whether Base Flood Elevation data has otherwise been provided**, the following standards shall apply to all new construction and substantial improvements:
- 1. **Anchoring**
 - a. **New Construction and Substantial Improvements.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting anticipated hydrostatic and hydrodynamic loads.

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b. **Manufactured Homes.** All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and be capable of resisting anticipated hydrostatic and hydrodynamic loads. This requirement is **in addition to** applicable State and local anchoring requirements for resisting wind forces. Specific requirements include:

- (1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
- (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
- (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (4) Any additions to the manufactured home be similarly anchored.

2. **Construction Materials and Methods.** All new construction and substantial improvements shall be constructed:

- a. With materials and utility equipment resistant to flood damage (typically satisfied by elevating such equipment above the Base Flood Elevation).
- b. Using methods and practices that minimize flood damage.
- c. With electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. **Utilities**

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c. On-site waste disposal systems shall be located to avoid

impairment to them or contamination from them during flooding.

4. Subdivision Proposals

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public and/or private infrastructure, utilities and facilities such as roads, sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development that contains at least 50 lots or five acres (whichever is less). Note that “other proposed development” includes single-family residences and manufactured home parks within Flood Hazard Areas, if such development is proposed on a parcel five acres or larger. Base flood elevation data is typically generated utilizing generally accepted engineering methods (*i.e.*, Floodplain Study).

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B. Specific Standards. In addition to the General Standards (*Section 6.3.4.A*) which apply to all new construction and substantial improvements proposed in Areas of Special Flood Hazard, **regardless of whether Base Flood Elevation data has otherwise been provided**, the following specific standards apply in all Areas of Special Flood Hazard where Base Flood Elevation data has otherwise been provided (see *Section 6.3.1.C Lands to Which This Section Applies* and *Section 6.3.3.A.2 Use of Other Base Flood Data*).

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the Base Flood Elevation.
- b. Below-grade crawlspace construction, both new and substantial improvement, may be allowed in the Special Flood Hazard Area, provided the standards listed in *Section 6.3.4.B.3 Enclosures Below the Lowest Floor*, are satisfied.
- c. **Note.** Detached garages and other uninhabitable accessory buildings are generally not considered “Substantial Improvements” (see *Section 6.3.2 Definitions*) and are therefore not required to comply with the elevation requirements of these Regulations. However, a Floodplain

Development Permit application must still be submitted for such structures, as other standards may apply.

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2. **Nonresidential Construction.** New construction and substantial improvement (see *Section 6.3.2 Definitions*) of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the Base Flood Elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - c. Be certified by a Registered Professional Engineer or Architect, licensed in the State of Colorado, that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications, typically in the form of a Floodproofing Certificate, shall be provided to the Floodplain Administrator as set forth in *Section 6.3.3.A.3 Information to be Obtained and Maintained.*

3. **Enclosures Below the Lowest Floor**
 - a. **General.** For all new construction and substantial improvements, fully enclosed areas below the lowest floor (e.g., crawl spaces and enclosures around mobile homes or other elevated structures), which are subject to flooding, shall comply with the following standards:
 - (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (2) Those portions of the building below the Base Flood Elevation must be constructed with flood-resistant materials, utilizing methods and practices that minimize flood damage.
 - (3) The electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities constructed, are designed and located so as to prevent water from entering or accumulating within the

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components during conditions of flooding.

- (4) The areas below the lowest floor that 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. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or Architect, licensed in the State of Colorado, or meet or exceed the following minimum standards:
 - (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, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- b. Specific Standards for Below-grade Crawlspace Construction.** In addition to the general standards listed in a above, below-grade crawlspace construction shall comply with the following standards:

- (1) The interior grade of the crawlspace shall be no lower than two feet below the lowest adjacent grade.
- (2) The height of the crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, shall not exceed four feet at any point.
- (3) An adequate drainage system shall be provided that removes floodwaters from the interior of the crawlspace (e.g., sump pump).

Refer to FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas* for additional technical guidance.

4. Manufactured Homes

- a. Manufactured homes shall be anchored in accordance with *Section 6.3.4.A.1.b Anchoring*.
- b. All manufactured homes or those to be substantially improved shall conform to the following requirements:

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- (1) Manufactured homes placed, to be placed, or to be substantially improved on a site (a) outside of a manufactured home park or subdivision, (b) in a new manufactured home park or subdivision, (c) in an expansion to an existing manufactured home park or subdivision, or (d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the Base Flood Elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (2) Manufactured homes placed, to be placed, or to be substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in (1) above shall be elevated so that either (a) the lowest floor of the manufactured home is at or above the Base Flood Elevation, or (b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. **Recreational Vehicles.** Recreational vehicles shall either (1) be on the site for fewer than 180 consecutive days; (2) be fully licensed, operable, and ready for highway use; or (3) meet the permit requirements and elevation and anchoring requirements for manufactured homes.

C. **Special Standards.** In addition to the General and Specific Standards provided in *Sections 6.3.4.A and B*, which may or may not apply to *Section 6.3.4.C*, the following additional standards shall apply to the following special categories of construction and substantial improvements proposed within Areas of Special Flood Hazard:

1. **Floodways.** Floodways are areas within Areas of Special Flood Hazard. Since the floodway is extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - a. Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless certification by a registered Professional Engineer or Architect, licensed in the State of Colorado, is provided (*i.e.*, by performing a Hydraulic Analysis) demonstrating that

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encroachments shall not result in any increase in flood levels anywhere within the Floodplain during the occurrence of the Base Flood discharge.

- b. If *Section 6.3.4.C.1.a* above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of *Section 6.3.4 Provisions for Flood Hazard Reduction*.

2. Areas of Shallow Flooding (AO/AH Zones). Located within Areas of Special Flood Hazard are areas subject to shallow flooding. These Areas have special flood hazards associated with Base Flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is typically characterized by ponding or sheet flow. Accordingly, the following special provisions shall apply:

- a. **Residential Structures.** All new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Teller County FIRM (at least two feet if no depth number is specified).
- b. **Non-residential Structures.** All new construction and substantial improvements shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Teller County FIRM (at least two feet if no depth number is specified), or;
 - (2) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- c. **Zones AH or AO.** Within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures is required.
- d. **Certificate Required.** A Registered Professional Engineer or Architect, licensed in the State of Colorado, shall submit an Elevation Certificate or a Floodproofing Certificate to the

Floodplain Administrator demonstrating that the Standards of *Section 6.3.4.C* are satisfied.

3. **Extensive Alteration of the Floodway Fringe.** The minimum standards of these Flood Hazard regulations do not strictly prohibit the placement of fill material, or other substantial development, within Areas of Special Flood Hazard, as long as such activity otherwise satisfies the requirements of these Regulations. However, invoking the general purpose of these Regulations to minimize losses associated with flooding (*Section 6.3.1.A*), as well as the specific authority to interpret these Regulations (*Section 6.3.1.F*), the Floodplain Administrator may require a Hydraulic Analysis if, in his or her opinion, substantial alterations are proposed that could have an adverse impact on property or life, either upstream, downstream, or adjoining and/or adjacent to the proposed activity. In such circumstances, the following standards apply in addition to other applicable standards stipulated elsewhere in these *Section 6.3 Flood Hazard Areas* regulations:
- a. Encroachment into the Floodway Fringe, including fill, new construction, substantial improvements, and other development, shall be prohibited unless certification by a Registered Professional Engineer or Architect, licensed in the State of Colorado, is provided (*i.e.*, by performing a Hydraulic Analysis) demonstrating that encroachments shall not result in any increase in flood levels, anywhere within the Floodplain, during the occurrence of the Base Flood discharge; or, alternatively:
 - b. Encroachment into the Floodway Fringe may be allowed if the standards established for approval of a LOMR can be satisfied, especially those requiring the mitigation of impacts to adjoining and/or adjacent properties. (Refer to NFIP regulations.)

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Section 6.3.5 Appeal or Variance Request

The Board of Adjustment shall hear and decide Appeals and requests for Variances from the requirements of these *Section 6.3 Flood Hazard Areas* regulations pursuant to the requirements of *Chapter 1, Section 1.14 Appeal or Request for Review* of these Regulations.

A. Conditions for an Appeal or Variance Request

- 1. The Board of Adjustment shall hear and render judgment on an Appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these *Section 6.3 Flood Hazard Areas* regulations.

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2. Generally, Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the evaluation standards described in *Section 6.3.5.B* below have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the Variance increase.
3. Variances may be issued for the repair or rehabilitation of historic structures listed on the National Register of Historic Places, State Inventory of Historic Places, or local inventory of historic places upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. [*am.* BOCC 01-14-10(01)].
4. Variances shall not be issued within any designated floodway if any increase in flood levels during the Base Flood discharge would result.
5. Variances shall only be issued upon the following determinations:
 - a. That the Variance is the minimum necessary, considering the flood hazard, to afford relief;
 - b. That there has been a showing of good and sufficient cause;
 - c. That failure to grant the Variance would result in exceptional hardship to the Applicant; and
 - d. That granting the Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
6. Any Applicant to whom a Variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the Base Flood Elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

B. Evaluation Standards. In ruling on Appeals and Variances, the Board of Adjustment shall consider all technical standards specified in other sections of these Flood Hazard Areas regulations, as well as the following relevant factors:

1. The danger that materials may be swept onto other lands to the injury of others;

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2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity of the facility to be situated at a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with the existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public infrastructure, utilities and facilities such as sewer, gas, electrical, and water systems, streets, roads, culverts, and bridges.

C. Conditions May Attach. Upon consideration of the factors noted above, the intent of these Flood Hazard Area regulations, and the standards for a Flood Hazard Area Variance, the Board of Adjustment may attach such conditions to the granting of a Variance as it deems necessary to further the purposes of *Section 6.3 Flood Hazard Areas*, including collateralization pursuant to a Development Agreement, Subdivision Improvements Agreement, Performance Bond, or other such agreement deemed appropriate by the County Attorney.

D. Notice shall be given. Any Applicant to whom a Variance is granted shall be given written notice that the structure will be permitted to be built with its lowest floor below the Base Flood Elevation and that the cost of flood insurance will be commensurate with increased risk from the reduced lowest floor elevation.

E. Records shall be kept. The Floodplain Administrator shall maintain a record of all actions involving an Appeal and shall report Variances to

FEMA upon request.

Section 6.4 GEOLOGIC HAZARD AREAS

Geologic hazard areas include steep slopes, rockfall and avalanche hazard areas, landslide areas, debris fans, talus slopes, flood-prone areas, areas susceptible to ground subsidence or soil settlement, lands containing expansive soils and rocks, areas with corrosive or erodible soils and rock, areas of potential radiation hazard, and various “environmental clean-up” hazards. The Colorado Geological Survey (CGS) has determined much of Teller County to be particularly erosion-prone [See: Colorado Geological Survey, *Solving Land-Use Problems*, no date, p.7]. Development in some hazard areas has the potential to cause significant impacts to the environment, including loss of soil and vegetation cover, that can increase runoff and consequent erosion and sedimentation thereby posing a hazard to life and property.

When the Standards for approval of a development permit application require that Geologic Hazard Areas be satisfactorily addressed, the provisions of *Section 6.4 Geologic Hazard Areas* apply.

- A. **Purpose.** These regulations are intended to help ensure that development is placed to avoid geologic hazard areas whenever possible. When it is not possible, mitigation techniques shall be used to reduce or minimize the potential impacts of these hazards on the occupants of the property and, as applicable, the occupants of adjoining and/or adjacent properties. Development in areas with slopes in excess of 30% poses a particular hazard from erosion and soils instability, may compromise buildability, and creates substantial visual impacts from steep roads and excessive road cuts. Teller County recommends that, in areas with excessive slopes, the Planned Unit Development process be used in order to accomplish a more creative development of the land than would be allowed by following conventional zoning requirements.
- B. **Mapping and Reports.** Site mapping, soils reports, geologic reports, and analysis of geologic hazards shall conform to the standards of the CGS and the Natural Resources Conservation Service, and shall be prepared by a professional geologist or Registered Professional Engineer licensed in the State of Colorado with the particular expertise to map and evaluate geologic hazards and assess their potential impacts on a proposed development.
- C. **Submittal Requirements.** For development proposed in a geologic hazard area, or suspected geologic hazard area as determined by the Planning Director during the Pre-Submittal Meeting, unless adequate site information exists, Applicant shall submit formal geologic and soils maps and reports for the site, and an analysis of all its geologic hazards. The Planning Director shall refer subdivision development permit applications and, in his or her discretion, other development permit applications to the CGS for review and comment.

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1. **Special Review Use Permit Applications.** As determined by the Planning Director, depending on the location and nature of the proposed use relative to actual or potential geologic hazards, and the potential impacts of the proposed use, Applicant may be required to provide the materials described in *Section 6.4.C.2* and/or *Section 6.4.C.3* below.
2. **Subdivision or Planned Unit Development Sketch Plan Applications.** Applicant shall submit documentation demonstrating that the development is capable in concept of complying with the Standards of *Section 6.4.D.* Such documentation includes the following:
 - a. **Map or Maps.** A map or maps of the property that depicts the general locations of soils and geologic hazards in relationship to development areas and also those portions of the property that contain slopes in excess of 30%. The map or maps shall depict contours at a minimum of 10-foot intervals.
 - b. **Report.** A brief general report describing whether the development proposal avoids geologic hazards or intends to mitigate them. If mitigation is intended, a general description of that mitigation shall also be provided.
3. **Subdivision or Planned Unit Development Preliminary Plan Applications.** Maps and reports submitted with the Preliminary Plan shall provide a specific analysis demonstrating that the development will comply with the Standards of *Section 6.4.D.* Such analysis includes the following:
 - a. **Site Analysis Map or Maps.** A site analysis map or maps of the property depicting the locations of geologic hazards regulated by *Section 6.4* in relation to planned development areas. An accurate survey of those portions of the property with slopes of 30% or more, prepared at two-foot contour intervals, shall also be provided.
 - b. **Impact Evaluation.** An evaluation of the potential impacts of the geologic hazards on the proposed development and on any property surrounding the subject property. This includes an evaluation of any recent activity associated with the geologic hazards and a written opinion as to the degree of severity of the potential geologic hazards.
 - c. **Report.** A complete report identifying how the proposed development will comply with the Standards of *Section 6.4.D.*, including proposed hazard mitigation and avoidance measures.

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4. **Subdivision Final Plat Applications.** Substantial changes made to an approved Preliminary Plan at Final Plat may, at the discretion of the Planning Director, be re-referred to the CGS.
5. **CGS Review Fees.** Payment of the Colorado Geologic Survey review fee is the sole responsibility of the Applicant, and shall be paid according to the fee schedule established by CGS at the time of submittal of a development permit application.

D. Standards. The County shall not approve any development permit if the proposed development is either (1) in an identified geologic hazard area, or (2) in a potential geologic hazard prone area, in each case, unless the Applicant submits adequate evidence prepared by a professional geologist or Registered Professional Engineer licensed in the State of Colorado with particular expertise in mapping and evaluating geologic hazards and assessing their potential impacts on development, that: (1) the proposed development is not in a geologic hazard area; or (2) the proposed development, in addition to the slope requirements of its zone district, if any, meets the following standards:

1. **Protection.** Provision has been made to help protect the long-term health, welfare and safety of the public from geologic hazard to life, property, and associated investments.
2. **Disclosure.** Identified or potential geologic hazard areas appears as a disclaimer on all final plats, and states the nature of the geologic hazard and the general area and specific lots potentially affected.
3. **Financial Burden.** The proposed development will not create a potential future financial burden on existing or future residents of the area or community.
4. **Safety of Structures.** Structures designed for human occupancy and sites designed for human use are or will be constructed so as to help prevent danger to human life or property.
5. **Permitted Land Uses.** Permitted land uses (uses by right or uses that have received final approvals from the County), including public improvements which serve such uses, will help avoid or mitigate geologic hazards at the time of initial construction.
6. **Impact of Man-made Changes.** Man-made changes associated with the proposed development will not cause or intensify adverse natural conditions within a geologic hazard area.
7. **Recommendations of CGS.** Recommendations of the CGS regarding appropriate avoidance or mitigation techniques are followed.

E. Slope Calculations. The slope or gradient of a site, for the purpose of establishing minimum lot size and permitted density, or for determining whether a steep slope geologic hazard may exist, shall be calculated using the following method:

1. Using either published topographic maps or a topographic survey prepared by a State of Colorado Licensed Professional Land Surveyor, determine the maximum change in elevation (Dh) measured from the highest and lowest points along the perimeter of the parcel. Recognizing that some sites have extreme topography that may distort these calculations (e.g., shear cliffs on one side of the parcel), the Planning Director may establish alternative points of measurement that result in a more representative determination of slope.
2. Compute the slope or gradient (g), expressed as a percentage, by dividing the change in elevation (Dh) by the horizontal distance (d) between the points of measurements, *i.e.*:

$$g = (Dh / d) \times (100)$$

Section 6.5 WILDFIRE HAZARD AREAS

Certain lands in Teller County have been identified by Federal, State, and County fire protection and emergency services agencies as having high potential to pose wildfire hazards to human life and property. While the causes of wildfire are many, in Teller County threats from over-vegetation, the naturally occurring number of lightening strikes, human activities in the National Forest and elsewhere, and increased development of private lands surrounded by or adjoining and/or adjacent to State and Federal land, are real.

When the Standards for approval of a development permit application require that Wildfire Hazard Areas be satisfactorily addressed, the provisions of *Section 6.5 Wildfire Hazard Areas* apply.

A. Purpose. These Regulations are intended to help ensure that development avoids Wildfire Hazard Areas whenever possible. When it is not possible to avoid these areas, these Regulations provide Standards to minimize the potential impacts of these hazards on the occupants of the property and, as applicable, the occupants of adjoining and/or adjacent properties.

1. **Time of Initial Development.** Except as may otherwise be approved and collateralized in phases by the Board of County Commissioners for a phased project, all provisions for the reduction or elimination of wildfire hazards, including roads, water supply and delivery system, “defensible space,” and other fire protection and mitigation measures, will occur at the time of initial

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development, and, as necessary, be adequately collateralized.

B. Submittal Requirements. If in an area identified as having Moderate, High, Severe, or Extreme Fuel Hazard according to the map(s) contained in the Teller County Community Wildfire Protection Plan adopted June 2, 2005 by the Teller County Board of County Commissioners, or if in a subdivision specified in that Plan as having a Category II or III Property Loss Hazard rating; or if in an area subsequently determined by the County to be potentially wildfire hazard prone, Applicant shall provide either:

1. Evidence prepared by a professional forester that the proposed development is not in a Moderate, High, Severe, or Extreme Fuel Hazard area or having a Category II or III Property Loss Hazard rating; **or**
2. Evidence that the Standards of *Section 6.5.C* are met.

C. Standards

1. Hazards Minimized. The development is designed to minimize conditions that compromise public health and safety and help protect private property, and ensure by enforceable means, either public or private, that these conditions will be maintained. Techniques to minimize these hazards include the following:

- a. Incorporating appropriate location-specific “defensible space” fuel modification requirements into protective covenants or other development documents (see *Figure 6-2: Creating Defensible Space* following). “Defensible space” requirements may include ensuring that:
 - (1) Trees and brush are cleared around buildings, and the clearance maintained.
 - (2) Grasses are kept mowed to a maximum of four inches.
 - (3) Ground litter around structures is removed.
 - (4) The structure of surrounding foliage is kept pruned to prevent “fuel ladders.”
 - (5) Trees are thinned to provide adequate crown separation.
 - (6) The recommendations of the Teller County Community Wildfire Protection Plan for that area are followed.
- b. Modifying or designing structures in terms of roof materials, screening of vents, and the enclosure of decks, eaves and overhangs.

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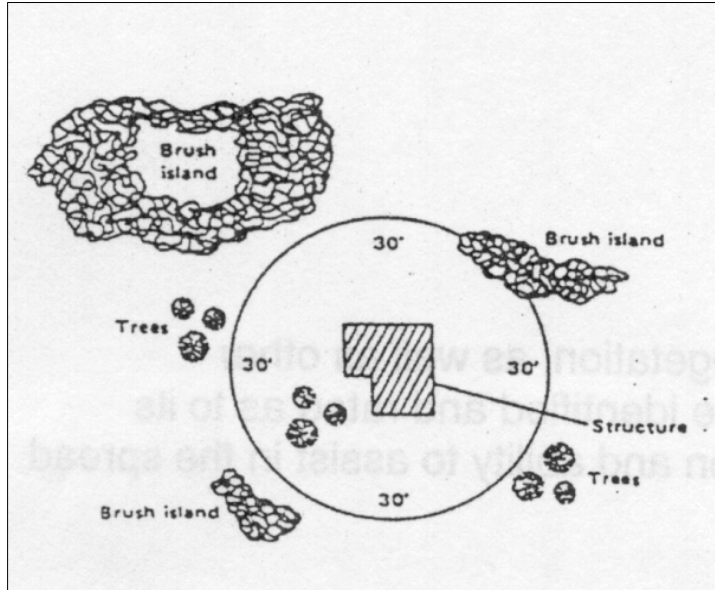


Figure 6-2: Creating Defensible Space

- c. Constructing exterior walls of fire retarding materials.
- d. Providing emergency water supplies.
- e. Siting structures to compensate for hazardous conditions associated with slope and aspect (see *Figure 6-3: Slope and Aspect Compensation Example* below).

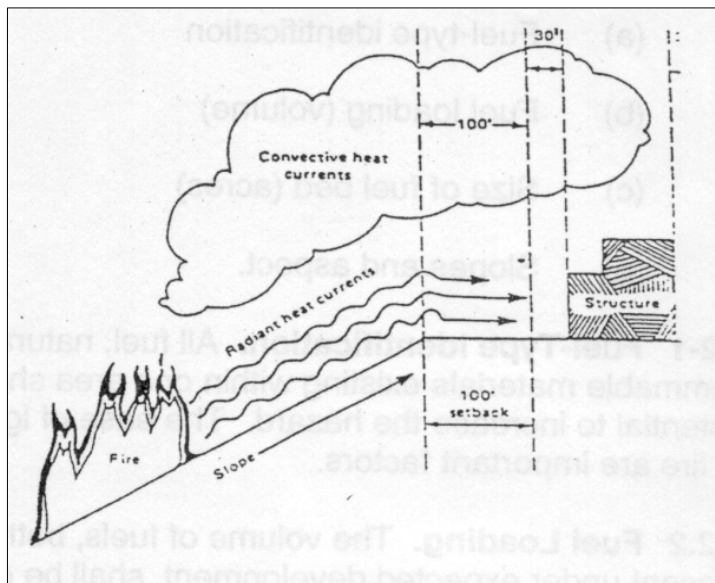


Figure 6-3: Slope and Aspect Compensation Example

- f. Other such mitigation measures as may be recommended by a professional forester and approved by the local Fire Protection District or in instances where the proposed

development lies outside of any District boundaries, by the Teller County Fire Marshall or his or her designated representative.

- g. Otherwise ensuring that the recommendations of the Teller County Community Wildfire Protection Plan for that area are followed.

2. **Adequate Roads and Firebreaks.** The development has provided adequate roads for access by fire trucks, fire fighting personnel, and other safety equipment, as approved in writing by the local Fire Protection District, or in instances where the proposed development lies outside of any District boundaries, by the Teller County Fire Marshall or his or her designated representative.

3. **Adequate Water Supply and Facilities for Fire Suppression.** The development has provided a legal, adequate, and dependable supply of water for fire suppression, and the system for its delivery, as approved in writing by the local Fire Protection District, or in instances where the proposed development lies outside of any District boundaries, by the Teller County Fire Marshall or his or her designated representative.

4. **Referral Agencies.** The specific recommendations, if any, of the Colorado State Forest Service and local Fire Protection District, or in instances where the proposed development lies outside of any District boundaries, the Teller County Fire Marshall or his or her designated representative, are incorporated into the development plan. In the event that there are no specific recommendations, the following shall apply:

a. **Colorado State Forest Service Guidelines and Standards.** The Colorado State Forest Service “defensible space” and “firewise construction” guidelines for wildfire protection and mitigation are followed.

b. **Teller County Fire Code / National Fire Protection Association.** Requirements for fire protection under the Teller County Fire Code (or other such fire code as may be properly adopted by the Fire Protection District in which the development is located in accordance with Teller County Ordinance No. 10) and National Fire Protection Association standards for protection of life and property from wildfire are met (*c.f.*, NFPA 299, “Standard for Protection of Life and Property from Wildfire,” August, 1991) If these requirements and Standards conflict with recommendations of the Colorado State Forest Service or a local Fire Protection District, or in instances where the proposed development lies outside of any District boundaries, the Teller County Fire Marshall or his or her designated

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representative, the more stringent provision(s) shall apply.

5. **Disclosure.** Identified Moderate, High, Severe, or Extreme Fuel Hazard area or an area subject to Category II, III, IV Subdivision Crown Fire Hazard area, wildfire hazard areas appear as a disclaimer on all final plats, and state the nature of the wildfire hazard, and the general area and specific lots potentially affected.

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WILDLIFE HABITAT IMPACT AREAS

When the Standards for approval of a development permit application require that Wildlife Habitat Impact Areas be satisfactorily addressed, the provisions of this *Section 6.6 Wildlife Habitat Impact Areas* apply.

- A. **Purpose.** The purpose of *Section 6.6* is to help protect and maintain wildlife in Teller County by identifying wildlife habitat and appropriate avoidance, minimization, and mitigation techniques that adequately protect wildlife species and their habitats.

1. Development permit applications for development in Moderate Low, Moderate, High, or Very High wildlife habitat impact areas shall be submitted to the Colorado Division of Wildlife for review and comment
2. Identified wildlife activity areas, if of sufficient size, should be considered viable candidates for open space, if any, otherwise required by these Regulations to be provided by an Applicant.

- B. **Submittal Requirements.** If the proposed development is identified as occurring in one of the following mapped and identified potential wildlife impact areas the following related information shall be submitted with the development permit application unless waived by the Planning Director during the Pre-Submittal Meeting.

Section 6.5.C.5

1. **For Low Impact Area**

- a. A map showing the location of the proposed development site, including a complete and accurate legal description.
- b. A short narrative explaining the relationship of wildlife impacts to the development, as shown by the maps.

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2. **For Moderate Low, Moderate Impact Areas**

- a. A map showing the location of the proposed development site, including a complete and accurate legal description.
- b. A completed Potential Wildlife Impact Worksheet developed

from the Map of Significant Wildlife Habitat and related individual species habitat maps presented in the undated document, “Colorado Division of Wildlife Composite Map of Significant Wildlife Habitat - Teller County, Colorado,” or similar Worksheet and/or document subsequently prepared by the CDOW.

- c. Where impacts are identified, Applicant shall also provide a written wildlife mitigation plan that reflects the specific mitigation measures recommended in the “Colorado Division of Wildlife Composite Map of Significant Wildlife Habitat - Teller County, Colorado” document, or similar document subsequently prepared by the CDOW.

3. For High or Very High Impact Areas

- a. **Wildlife Impact Map(s)**. A map or maps prepared at an easily readable scale by a qualified wildlife professional showing:

- (1) The location of the proposed development site, with complete and accurate legal description and the total acreage of the parcel.
- (2) The relationship of the site to surrounding topographic and land use features.
- (3) The nature and density of the proposed development or land use change.
- (4) Proposed building locations and arrangements.
- (5) A legend, title of the project, scale, north arrow, and date, including revision dates if applicable.
- (6) Existing structures and landscape features including the name and location of all water courses, ponds, and other bodies of water.
- (7) Such additional information as may be required by Staff, the Planning Commission, or the Board of County Commissioners.

- b. **Wildlife Impact Report**. A written and graphic report prepared by a qualified wildlife professional containing:

- (1) A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of the effect of such land use change upon identified wildlife habitat.
- (2) An analysis of the effect of the proposed development

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6.6.B.2.b**

activity or land use change upon those wildlife species identified.

- (3) A wildlife mitigation plan detailing how the Applicant will specifically mitigate any adverse impacts to wildlife habitats created by the proposed development. Mitigation measures are to include those given in the undated “Colorado Division of Wildlife Composite Map of Significant Wildlife Habitat - Teller County, Colorado” document, or similar document subsequently prepared by the CDOW.
- (4) A map or other pertinent information to illustrate the impact upon wildlife of the proposed development.

C. Standards

1. **Impact Specific Mitigation.** Mitigating measures are targeted to the specific wildlife impact brought about by a particular development. (By way of example **only**, destruction of deer winter range by development cannot be mitigated by constructing brush piles for rabbits.)
2. **Specific Mitigation Measures**
 - a. **Moderate Low or Moderate Impact Areas.** The specific mitigation measures recommended by the Colorado Division of Wildlife in the undated “Colorado Division of Wildlife Composite Map of Significant Wildlife Habitat - Teller County, Colorado” document are followed. Where the Division of Wildlife has subsequently recommended measures not appearing in the aforementioned document, the most recent recommendations shall prevail.
 - b. **High or Very High Impact Areas.** The specific mitigation measures presented in Applicant’s wildlife mitigation plan are approved by the Colorado Division of Wildlife.

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6.6.B.3.b.(3)**

Section 6.7

NATIONAL MONUMENT PROTECTION (NP) OVERLAY ZONE DISTRICT

- A. Purpose.** The purposes of these National Monument Protection Overlay Zone District regulations are to:
1. Help protect the Florissant Fossil Beds National Monument from physical encroachment; and
 2. Mitigate the visual impacts of development activity within the Overlay Zone District in order to help protect the visual quality of

the corridors entering the National Monument.

B. Mapping and Uses. The National Monument Protection Overlay Zone is a zone district as specifically depicted on the Teller County Official Zone District Map, and generally encompasses any road entering the Florissant Fossil Beds National Monument for a distance of one-quarter mile along said roads from the Monument boundary, and to a depth of 200 yards on either side of the road right-of-way line. Except as modified below, Permitted Uses (uses-by-right), Special Review Uses, Temporary Uses, and Site Development Standards shall be the same as for the specific underlying zone district. (See *Chapter 2, Section 2.9.6 National Monument Protection Overlay Zone District (NP)*).

1. General Restrictions. Tree cutting, land clearance, grading, construction or placement of new structures, and major rehabilitation of legally existing structures are not permitted except through a specifically approved Site and Development Plan for the site.

C. Submittal Requirements

1. General. The general submittal requirements for all development permit applications pursuant to *Section 3.2 Minimum Contents of Applications* of these Regulations.

2. Site Plan. A site plan prepared in accordance with *Section 7.4 Site Plans for Applications Other than Building Permit*.

D. Review of Applications. The submission of an application for approval of development in the National Monument Protection Overlay Zone District, determination of its sufficiency, Staff review of, and notice and scheduling of a public hearing for the application shall comply with the procedures established in *Section 3.4 Common Procedure for Review of Applications*.

1. Action by the Planning Commission. Approval, approval with conditions, or disapproval of the proposed development in the National Monument Protection Overlay Zone shall be pursuant to *Section 3.4.F.1.a Planning Commission Decision* and the Standards of *Section 6.7.E Standards*.

E. Standards

1. Consistent with Master Plan. The proposed use is consistent with the purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) or map(s).

2. Compatibility. The proposed use is appropriate for its proposed location and compatible with the character of surrounding land uses.

3. Zone District Standards. The proposed use complies with the

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Standards of the underlying zone district and any Standards applicable to the particular use.

4. **Design Minimizes Adverse Impact.** The design of the proposed use minimizes adverse impacts including air quality and visual impact of the proposed use on adjoining and/or adjacent lands. Furthermore, the proposed use avoids significant adverse impact on other surrounding lands in terms of trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.
5. **Design Minimizes Environmental Impact.** The proposed use minimizes environmental impacts and does not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
6. **Site Development Standards.** The proposed use complies with the appropriate Standards in *Chapter 4 Infrastructure*, *Chapter 5 Site Development*, and this *Chapter 6 Critical Areas* of these Regulations, and the special requirements for the National Monument Protection Overlay Zone District in *Section 6.7.B.1.*
7. **Purpose of this Overlay Zone District.** The proposed use meets the expressed purposes of the National Monument Protection Overlay Zone District.
8. **Other Provisions.** The proposed use complies with all Standards imposed on it by all other applicable provisions of these Land Use Regulations including use, layout, and general development characteristics.

Section 6.8

HISTORIC PRESERVATION (HP) OVERLAY ZONE DISTRICT

- A. **Purpose.** The purpose of these Historic Preservation Overlay Zone District regulations is to help protect those existing land uses which constitute, when concentrated, parts of Teller County's historical background. They apply only to development within 100 yards of any specifically designated site, whether designated by a Federal, State, or local agency, within the Overlay Zone District.
- B. **Mapping and Uses.** The Historic Preservation Overlay Zone is a zone district overlay as depicted on the Teller County Official Zone District Map. Except as modified below, Permitted Uses (uses-by-right), Special Review Uses, Temporary Uses, and Site Development Standards shall be the same as for the specific underlying zone district. (See *Chapter 2, Section 2.9.5. Historic Preservation Overlay Zone District (HP).*)
 1. **Signs.** Within a distance of 100 yards from any Federal, State, or locally designated historic site, signs and billboards are prohibited,

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with the exception of an appropriate site marker.

2. **1891 Mining District.** Any ability to mine in the Mining District established in 1891, if carried out in accordance with the provisions of these Land Use Regulations, shall not be impaired.
3. **Cripple Creek Mining Overlay District.** Where provisions of *Section 6.8 Historic Preservation (HP) Overlay Zone* may conflict with provisions of *Section 2.9.3 Cripple Creek Mining Overlay District (CCMOD)* and *Appendix A Cripple Creek Mining Overlay District* of these Regulations, the provisions of *Appendix A* shall prevail.
4. **General Restrictions.** Tree cutting, land clearance, grading, construction or placement of new structures, and major rehabilitation of legally existing structures are not permitted except through a specifically approved Site and Development Plan for the site.

C. **Submittal Requirements**

1. **General.** The general submittal requirements for all development permit applications pursuant to *Section 3.2 Minimum Contents of Applications* of these Regulations.
2. **Site Plan.** A site plan prepared in accordance with *Section 7.4 Site Plan for Applications Other than Building Permit*.

D. **Review of Applications.** The submission of an application for approval of development in the Historic Preservation Overlay Zone District, determination of its sufficiency, Staff review of, and notice and scheduling of a public hearing for the application shall comply with the procedures and Standards established in *Section 3.4 Common Procedure for Review of Applications*.

1. **Action by the Planning Commission.** Approval, approval with conditions, or disapproval of the proposed development in the Historic Preservation Overlay Zone shall be pursuant to *Section 3.4.F.1.a Planning Commission Decision* and the Standards of *Section 6.8.E Standards*.

E. **Standards**

1. **Consistent with Master Plan.** The proposed use is consistent with the purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) or map(s).
2. **Compatibility.** The proposed use is appropriate for its proposed location and compatible with the character of surrounding land uses.
3. **Zone District Standards.** The proposed use complies with the Standards of the underlying zone district and any Standards

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- applicable to the particular use.
4. **Design Minimizes Adverse Impact.** The design of the proposed use minimizes adverse impacts including air quality and visual impact of the proposed use on adjoining and/or adjacent lands. Furthermore, the proposed use avoids significant adverse impact on other surrounding lands in terms of trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.
 5. **Design Minimizes Environmental Impact.** The proposed use minimizes environmental impacts and does not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
 6. **Site Development Standards.** The proposed use complies with the appropriate Standards in *Chapter 4 Infrastructure*, *Chapter 5 Site Development*, and this *Chapter 6 Critical Areas* of these Regulations, and the special requirements for the Historic Preservation Overlay Zone District in *Section 6.8.B*.
 7. **Purpose of this Overlay Zone District.** The proposed use meets the expressed purposes of the Historic Preservation Overlay Zone District, and will not substantially adversely affect, or conflict with, the historical character of the area.
 8. **Other Provisions.** The proposed use complies with all Standards imposed on it by all other applicable provisions of these Land Use Regulations including use, layout, and general development characteristics.

Section 6.9

ENVIRONMENTAL HEALTH (EH) OVERLAY ZONE DISTRICT

For the purpose of addressing an area-wide environmental health problem, the Teller County Environmental Health Officer may from time to time request approval of an Environmental Health Overlay Zone District. The specific uses, use restrictions, density, parcel size, or dimensional limitation of each such District may vary, depending on the nature of the environmental health concern sought to be addressed. Implementation of an Environmental Health Zone Overlay District (EH) shall not waive other requirements of the Teller County Building Code or other applicable Federal, State and local statutes, laws, codes, resolutions, ordinances, and regulations. (See *Chapter 2, Section 2.9.4 Environmental Health Overlay Zone District (EHO)*.)

Section 6.8.E.4

A. Ute Lakes Environmental Health Overlay Zone

1. **Background.** The private Ute Lakes Fishing and Recreation Club

was created in the 1920's; lots vary from ± 7,500 square feet to over two acres in size and are served by individual wells. Protective Covenants and Conditions recorded at Book 247, Page 501 in the public records of Teller County, restricts use of Ute Lakes residential structures to summer use only, and as a fishing and summer resort. When Teller County initially adopted zoning and subdivision regulations, an R-1 Residential Zone District was assigned to Ute Lakes without special consideration of its existing non-conforming lot sizes. Over time, use of cesspools, or non-vaulted or pit privies (some of which are closer to wells than allowed by State health regulations or the Teller County Sewage Disposal Regulations), together with lack of a safe means for kitchen waste disposal, has resulted in the presence of exposed raw sewage and other environmental health hazards.

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2. **Purpose.** The purpose of the Ute Lakes Environmental Health Overlay Zone District is solely to (1) remediate an existing Teller County environmental health hazard by (2) establishing an expedited review procedure to allow Administrative Variances from the 15-foot R-1 Zone District setback requirements in order to construct bathroom and/or kitchen additions to existing residences in connection with the installation of an individual sewage disposal system (ISDS) on a separate parcel pursuant to Appendix B of the Teller County Sewage Disposal Regulations.

- a. **Who May Apply.** Owners of parcels in the Ute Lakes Subdivision who wish to install an ISDS on Ute Lakes Fishing and Recreation Club, Inc. Property.

3. **Mapping, Uses, Dimensional Limitations**

- a. **Mapping.** The area of the Ute Lakes Environmental Health Overlay Zone District is described as follows: Those parcels of land described in the Vacation Plat of Ute Lakes Club as recorded in the records of Teller County, Colorado in Plat Book G, Pages 139-141 and as amended by the Subdivision Exemption Plat of Lots 3&4, Block D Ute Lakes Subdivision #1 recorded in the records of Teller County, Colorado under Reception No. 49787, as well as the balance of property described as the South half of the Northwest quarter, the South half of the Northeast quarter, the Northeast quarter and that portion of the South half of said section 18 lying North of the following described line: Commencing at the Southwest corner of said section 18, run thence Northerly along the West line of Said section 18, 2283.89 feet to the point of beginning of the line hereby described; Thence angle right 93° 00' 19" Easterly, 3468.48 feet; thence angle right 86° 46' 45" Easterly, 700.00 feet; Thence angle left 93° 13' 15" Northerly, 373.77 feet; thence angle right 64° 12' 50" Northeasterly, 618.17 feet; thence

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angle right 29° 00' 25" Easterly, 635.00 feet to intersect the East line of said 18 at a point 2479.22 feet Northerly on said East line from the southeast corner of said section 18, (a.k.a. Ute Lakes Subdivision).

- b. **Uses.** Uses within the Ute Lakes Environmental Health Overlay Zone District are those of the R-1 Zone District except that residential structures are restricted solely to summer residential use as a fishing and summer resort.
- c. **Dimensional Limitations.** Variances shall not be granted for parcels of sufficient size and physical characteristics to meet the setback requirements of the R-1 Zone District and the requirements of the Teller County Sewage Disposal Regulations for an on-site individual septic system, or for parcels created after December 1, 2001.

4. **Submittal Requirements.** The application for approval of a Ute Lakes Environmental Health Overlay Variance shall contain the materials specified in *Section 3.2 Minimum Contents of Application*, and the following:

a. **Survey.** A full boundary survey of the site, together with that portion of the separate site upon which the ISDS will be located, prepared by a State of Colorado Licensed Professional Land Surveyor and showing existing and proposed features and those physical limitations of the underlying zone district that are relevant to the review of the proposed Ute Lakes Environmental Health Overlay Zone District Variance.

b. **Supporting Evidence**

(1) **Ute Lakes Fishing Club.** Applicant shall provide notarized and recorded written permission from the Ute Lakes Fishing Club for use of its property for ISDS purposes. The approval letter shall include a provision that will allow the individual parcel owner to comply with the Teller County Sewage Disposal Regulations.

(2) **Teller County Environmental Health Department.** Applicant shall provide evidence that application has been made for a Teller County ISDS Permit, and that such Permit has been, or will be, granted by the Teller County Environmental Health Department in compliance with the requirements of the Teller County Sewage Disposal Regulations.

5. **Review of Applications.** The submission of an application for approval of a Ute Lakes Environmental Health Overlay Zone

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Variance, determination of its sufficiency, Staff review of, and the determination of the Planning Director shall comply with the procedures established in *Section 3.4 Common Procedure for Review of Applications*. Mailed and posted notice shall be given pursuant to *Section 3.3. Notice to the Public*. The Planning Director shall render a decision either to approve, approve with conditions, or disapprove the Ute Lakes Environmental Health Overlay Zone Variance based on the standards of *Section 6.9.A.6 Standards* below.

6. Standards

- a. **Special Circumstances Exist.** One or more of the following circumstances or conditions exist with respect to the specific piece of property: (a) exceptional narrowness, shallowness or shape; (b) exceptional topographic conditions; (c) other extraordinary and exceptional situation or condition of the property
- b. **Dimensional Limitations Conditions Are Met.** The special circumstances of *Section 6.9.A.6.a* together with the requirements of *Section 6.9.A.3.c* prohibit both the structure and the installation of the ISDS on the same parcel.
- c. **Prior Approvals Have Been Given.** Approval for an ISDS in this location has already been granted by the Ute Lakes Fishing and Recreation Club and the Teller County Environmental Health Department.
- d. **Public good.** Granting the Ute Lake Environmental Health Overlay Zone District Variance is not detrimental to the public good.
- e. **Variance Will Not Impair the Zoning Plan and Regulations.** Granting the Ute Lake Environmental Health Overlay Zone District Variance will not impair the intent and purpose of the zoning plan and the zoning regulations.

7. General

- a. **Limit of Applicability.** Granting of the Ute Lake Environmental Health Overlay Zone District Variance deemed to authorize only the particular development for which it is issued, and shall run with the land for the time period specified below.
- b. **Time Limitations.** The Ute Lake Environmental Health Overlay Zone District Variance shall expire three years from the date of granting if no Building Permit has been issued to

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establish the use authorized by the Variance, or on the date an issued Building Permit expires. Permitted time frames do not change with successive owners. Upon written request, one extension of the expiration date may be granted by the Planning Director for a period not to exceed six months for good cause shown. No request for an extension of the expiration date shall be considered unless a written application requesting the extension is submitted to the Planning Director no later than 30 days prior to the date the Variance is to expire. Failure to so submit an application for an extension within the time limits established by this Section preclude such extension.

- c. **Subsequent Development Permits.** Development under the Ute Lake Environmental Health Overlay Zone District Variance can not be carried out until the Applicant has secured all other development permits required by these Regulations and other applicable Federal, State and local statutes, laws, codes, resolutions, ordinances, and regulations. A Ute Lake Environmental Health Overlay Zone District Variance does not ensure that the development approved under it will receive subsequent approval for other applications for development unless the relevant and applicable portions of these Regulations and all other applicable Federal, State and local statutes, laws, codes, resolutions, ordinances, and regulations are met.
- d. **Amendment to Variance.** A Ute Lake Environmental Health Overlay Zone District Variance may be amended, extended, varied or altered only pursuant to the standards and procedures for its original approval pursuant to this Section.
- e. **Conditions and Restrictions.** The Planning Director may, in approving a Ute Lake Environmental Health Overlay Zone District Variance, impose restrictions and conditions on the approval as the Planning Director determines are required by the general goals, objectives and policies of the applicable legislatively adopted Teller County master plan(s) or map(s) and these Land Use Regulations in order to prevent, or to minimize, adverse effects from the Variance on other lands in the neighborhood or on the general health, safety, and welfare of the County.
- f. **Maintenance of Record.** The Planning Director shall maintain a record of all actions involving a Ute Lake Environmental Health Overlay Zone District Variance.

**Section
6.9.A.7.b**

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